



11th February 2011

The Secretary
Department of Sustainability, Environment, Water, Population and Communities
GPO Box 787
Canberra ACT 2601
By Email: media@environment.gov.au

Attention: Robyn Kruk AM

Reference Number: 2011/5821

Dear Secretary Kruk

Title of Referral

Apex Energy NL/Exploration (mineral, oil and gas - non-marine)/within the Wollongong LGA of the southern Sydney Basin/NSW/Illawarra coal seam gas exploration drilling and gas monitoring program

I call on the Department for this project to revoke all local government, state government and federal government approvals immediately for this project.

My reasons and supporting comments and documentation are attached.

With the local, state, federal, and international concern currently for coal seam gas mining including the clandestine practices used, the only logical outcome today for this referral application is caution. Many people have stated Coal Seam Gas (CSG) is "Today's asbestos" and the "precautionary approach rule" MUST be evoked here.

Sadly, one cannot fear that investigations and committee's into topics of this nature have not become mere rubber stamps for mining, petroleum and other vested interests in a growing pattern of abuse of the committee system in order to suppress community input into many projects and/or topics including the environment in the name of "we consulted".

I look forward to your concurrence with my submission.

Yours sincerely

Greg Petty
130 Walker Street (PO Box 92)
Proud member
Phone: (0407) 473 889
Website: www.gregpetty.com.au

Independent Candidate Heathcote
Helensburgh NSW 2508 Australia
John Hatton Independent Team
Facsimile: (02) 4271 3009
Email: greg@gregpetty.com.au

Distribution: As per list
Encloses: Appendix 1

DISTRIBUTION

The Hon Tony Burke MP

Minister for Sustainability, Environment, Water, Population and Communities

PO Box 6022

House of Representatives

Parliament House Canberra ACT 2600

Tel: (02) 6277 7640 Fax: (02) 6273 6101

By Email: Tony.Burke.MP@aph.gov.au

The Hon Greg Hunt MP

PO Box 6022

House of Representatives

Parliament House Canberra ACT 2600

Tel: (02) 6277 2276 Fax: (02) 6277 8446

By Email: Greg.Hunt.MP@aph.gov.au

The Hon. Kristina Keneally MP

Premier of New South Wales

Governor Macquarie Tower

Level 39, 1 Farrer Place, SYDNEY NSW 2000

Tel: (02) 9228 5239 Fax: (02) 9228 3934

By Email: premier@nsw.gov.au

Mr Barry O'Farrell MP

Leader of the Opposition

Parliament House

Macquarie Street

SYDNEY NSW 2000

Tel: (02) 9230 2270 Fax: (02) 9221 8208

By Email: LOP@parliament.nsw.gov.au

The Hon. Tony Kelly MLC

Minister for Planning

Level 34 Governor Macquarie Tower

1 Farrer Place

Sydney NSW 2000

Tel: (02) 9228 3999 Fax: (02) 9228 3988

By Email: planning@lpma.nsw.gov.au

Mr Frank Sartor, MP

Minister for Climate Change and the Environment, and Minister Assisting the Minister for Health (Cancer)

Level 35 Governor Macquarie Tower

1 Farrer Place

SYDNEY NSW 2000

Tel: (02) 9228 5811 Fax: (02) 9228 5499

By Email: office@sartor.minister.nsw.gov.au

The Hon. Catherine Cusack MLC

Shadow Minister for Climate Change and Environmental Sustainability

Parliament House

Macquarie Street

Sydney NSW 2000

Tel: (02) 9230 2915 Fax: (02) 9230 2385

By Email: catherine.cusack@parliament.nsw.gov.au

APPENDIX 1

Environment assessment and approval process

The Department's website defines the “**Environment assessment and approval process**” as “A person must not take an action that has, will have or is likely to have a significant impact on any of the matters of environmental significance without approval from the Australian Government Minister for the Environment, Heritage and the Arts (the Minister)”.

In this regard, it would therefore be incumbent on a submission to raise sufficient doubt as to the reports lodged in support of a prospective report. I tender that doubt.

1) The consideration of cumulative impacts to *Pultenaea aristata*. Given the chance (used in the broadest sense of the word as we have no measure of 'error' in the hydrological studies), that the recent extension (longwalls 20-40) could result in changes to the hydrology of upland swamps, there is little understanding of how those changes may affect *Pultenaea aristata* populations. It's important to note that although the species occurs throughout the mine extension area and to a lesser extent within Sydney Catchment Authority/National Parkes & Wildlife Service lands (e.g. Dharawal), that area constitutes the core of its entire population.

introduce disease that may cause the species to decline, or All equipment will be subject to wash down procedures which will remove soil which may contain disease.

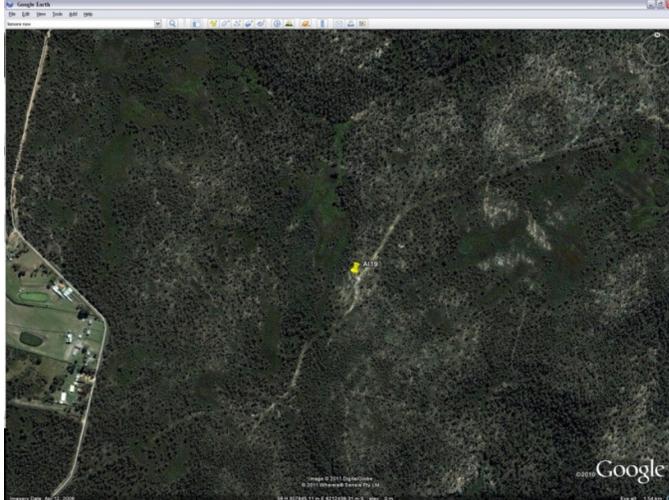
The environmental assessment (EA) by Olsen (p.31) notes this species as “common along the access track and at the [AI19] borehole site...” and then says “only a small proportion” will be affected by the borehole and the 5m wide access track. Since they provide no estimation of the number of plants that will be removed along Fire Trail 9A for the 5m wide road (plus passing bays big enough to allow large truck to pass each other) where is the basis for this “small proportion” affected? Olsen also says “...No other threatened plants were recorded **or are considered likely to occur** within the disturbance footprint”. Since the report from Niche Environment & Heritage (Appendix II) only mentions other threatened plant species once (see their Fig 4) it's hard to see how they justify that statement. Going by their Fig 4 it is quite possible that one or more cryptic or ephemeral plant species may occur at the borehole site or along the track. It is common environmental assessment practice to consider species which may not be evident at the time of survey.

On a general note, we can already see the effects of declining health and vigour in plant specimens throughout the riparian corridor, and that's after some substantial rain. Left undisturbed, this corridor would be a refuge for and a source of genetic material which would serve to restock adjacent areas after say prolonged drought. Given depleted resources in the most low-lying, moister part of the sites, this ecological function is potentially depleted.

I understand a national study of *Cryptostylis hunteriana* was completed earlier this year and to quote participants “I would eat my hat if *Cryptostylis hunteriana* had been recorded at that site”.

2) consideration of cumulative impacts on threatened fauna species. Although most of those listed below are relatively mobile (Grey-headed flying fox, E Bristlebird, E Ground Parrot, Regent Honeyeater, Large-eared Pied bat), localised cumulative impacts on more sedentary species (especially Giant Burrowing frog) may be significant if individuals or populations are discovered within or near the proposed footprint. For this reason the proponent should be required to reduce as far as possible local impacts on surface water contamination, disturbances to soil and leaf litter, and disruptions to water flows in local creeks and waterways, especially if there are seepage lines in hanging swamps nearby. Cumulative impacts on Southern brown bandicoot are also possible, from additional vehicle traffic and additional lights and noise during the periods around dusk and before dawn (if work is permitted). Have construction of access tracks to the points been considered in the EIA?

The other concern we can see from a quick glance and a quick look at Google earth is the location of AI19 within 40m of an upland swamp. See attached screen dump from Google Earth.



Similarly, AI10 was moved some 50 metres because it was located on the upland swamp. Solution, move it 80 metres away, but then only across a 5 metre road. Do they realise retention ponds will be adjacent to the upland swamp?

Only one error in the applicant's submission needs to be established to invalidate the submission. With more appropriate time, additional errors in the applicants can be established; the short time frame for submissions denies that opportunity.

Why are these lands so critical?

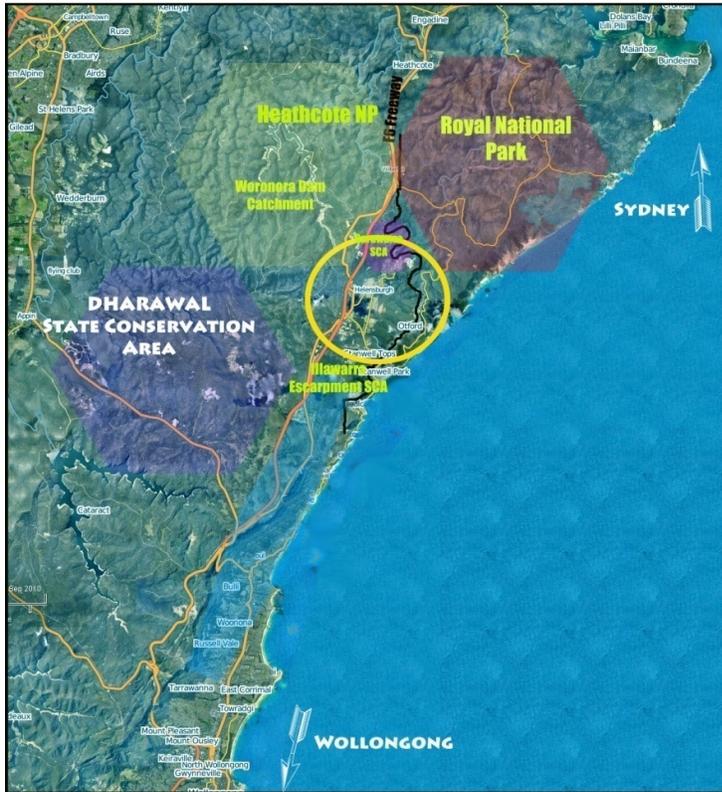
To understand this, the surrounding area and current concerns need to be appreciated.

The area contains the following:

- Royal National Park
- 7d Lands recognized by the 1994 Commission of Inquiry as environmentally sensitive
- Garrawarra State Conservation Area
- Heathcote National Park
- Dharawal State Conservation Area
- Illawarra Escarpment State Conservation Area
- Woronora Dam – home of Sydney's drinking water supply
- Woronora Dam Catchment Area
- Waratah Rivulet – already scene of acknowledged failed "mining practices"

The 7d Lands recognized by the 1994 Commission of Inquiry as environmentally sensitive were ruled by the Commissioner not to be reconsidered until appropriate environmental studies were conducted. As this has never happened despite repeated call, the review panel must implement that recommendation immediately. Flawed desktop studies are no match for independent studies, free of developer nominated Environment Consultants.

The following map shows the area and proximity of the places mentioned.



I would be happy to escort the Department on a tour of the area, with appropriate local authority from the various departments's to understand fully the issues involved and how inappropriate this mining operation is.

Background of Public Submissions ALL ignored

For time immortal, this area has been subject to submission after submission.

I call on EPBC to consider ALL previous submissions opposing inappropriate development in this area including:

- 1994 Helensburgh Commission of Inquiry;
- various rounds of submissions from 1995 to 2009 to Wollongong City Council on the rezoning of 7d lands at Helensburgh, Otford and Stanwell Park;
- over 3,000 submissions against the 2010 Willana Report; and
- the latest submissions in response to the Wollongong City Council "Preliminary Review Report" which total over 18,500 submissions.

There are now total well over 45,000 submissions on these environmentally sensitive lands.

I also refer Department of Planning to Premier Keneally's decision to stop the Tillegra Dam in the face of 2,800 submissions against that project.

I quote "The project is not in the public interest" and "...the precautionary principle should be invoked..." and "...uncertainty about the impacts of the project..." and "...is of the view that the proposal is not in the public interest and should be refused..."

If 2,800 submissions can mobilize a Premier to stop a dam, Department of Planning must apply the same

principles used by Premier Keneally in the Tillegra Dam and STOP this project entirely - construction has not started on Sydney Catchment Authority lands and NOW is the time to make sure it NEVER happens.

Submission Period

A two week period for submissions on such an important issue is clearly not in the public interest. In the interest of transparency, I ask the Secretary to rule

- 1) Immediate stop work on the mining project;
- 2) independent studies recommended by the 1994 Helensburgh Commission of Inquiry be implemented;
- 3) such studies to be conducted by an independent organisation acceptable to the author; and
- 4) the costs of the studies be borne by Apex Energy NL.

NSW Coal and Gas Strategy

NSW Department of Planning has released a scoping paper seeking input to guide the preparation of a NSW Coal and Gas Strategy. This is one of three investigations into mining in this area.

Minister Kelly has commented “need to undertake careful planning for the future of the coal mining and coal seam gas industries in NSW, due to this continuing international demand” and “We want to ensure that growth of the industry is not at the expense of environmental qualities, and that the coal industry is able to co-exist with other industries such as agriculture.”

The report states “Concerns about the subsidence impacts of mining, principally in the Illawarra Region, both on the natural environment (rivers, creeks, swamps, and other sensitive features), and consequently Sydney’s water supply, and major infrastructure”.

This is the area under your consideration. The government knows it and does nothing about it.

These issues are certainly worth fighting to preserve, imagine fracking Woronora Dam for international demand!

Has Minister Kelly already rejected the first community group planning proposal (see link below) over these very same lands? It is hard to believe NSW DoP is serious about public input when the Departments Southern Region Director stated the Otford Protection Society Inc document would “create a precedent”. Mr. Petty asks “Is the Planning Minister against the environment? Is the Strategy window dressing in the name of appearances for public consultation?”

A stakeholder reference group has also been established to assist in developing the strategy. The group does NOT have any direct representation for NSW residents.

The government needs to hear the pleas of mums and dads to stop the plundering of NSW’s heritage and natural beauty for international demand.

What will the monetary and social impact be to Heathcote, NSW, and indeed Australia?

Otford Protection Society Incorporated Planning Proposal

The community prepared a Planning Proposal covering these lands.

The document may be sighted at:

<http://www.otfordeco.com/planning/GatewayApplicationfor2508.pdf>

Project Map incomplete

The map tendered in support of the application covers an area near Lilydale. Interestingly no bore holes are shown in this area. Maps obtained from the internet shows future wells in this area. The bore holes will be adjacent to Royal National Park, the world's oldest National Park.

Visit to Waratah Rivulet

Ten community representatives visited the mining damage at Waratah Rivulet. I would be happy to forward a link to the video produced for SCA that documents the mining damage. Without your intervention, the next video will be the damage caused by this application unless the project is stopped.

NL Status

Mining Leases are being created to companies with NL. What guarantee's does the public have the company will exist when problems occur. Will they provide a billion dollar guarantee as security? Imagine who would be paying for restoration works on the Waratah Rivulet then!

Conclusion

Clearly the notation that any mining under rivers, creeks, and dams is totally unacceptable and wrong! Dr. Bob Young, recognized as Australia's foremost expert on rock strata, articulated this without reservation.

Why is it a community member can assemble a panel of experts to highlight the problems that the mining industry and government refuse to hardly acknowledge?

Did the mining company award itself a mining restoration excellence award for the damage it caused?

Who are the unlisted No Liability mining company's given these petroleum leases?

Will they exist in years to come to acknowledge let alone compensate for the irreversible damage they will inevitably cause?

Case in point, Waratah Rivulet, within a stone's throw of this application! A tributary of the Woronora Dam, home of Sydney's drinking water.