



28 February, 2019

Emeritus Professor Jim Galvin
Chair, Independent Panel for Mining in the Catchment
c/o Office of Chief Scientist and Engineer
By email

Dear Prof Galvin,

Re: Initial report from the Independent Expert Panel for Mining in the Catchment

Thank you for the opportunity to comment on this report.

Firstly, Illawarra Residents for Responsible Mining maintains that the water catchment of the largest city in the driest inhabited continent on earth is no place for mining. This area should be set aside to protect the catchment, reservoirs and dams. It should be protected to the centre of the earth. We call for a permanent ban on mining in the Special Areas and a moratorium on mining in the broader catchment while detailed, transparent, government-directed scientific studies are carried out, assessment is undertaken and an adequate regulatory and management framework is put in place for the long term security of Greater Sydney's drinking water.

As such, while the report provides a valuable summary of mining activities of two of the mines operating in the Special Areas and welcomed information on the details of these two mines, we are concerned that it just confirms what previous studies have shown – that the water catchment is being irrevocably damaged by longwall mining and that the regulatory regime is grossly inadequate to protecting this important area.

We are disappointed with the timing of the release of the report. Prof Galvin signed the report on 12 November. It was not released to the public until a few days before Christmas. Whatever the reason for the delay, it undermines the credibility of the government and respective departments' commitment to an open and transparent process of examination of mining in the catchment.

The aspect of social license for mining in the catchment is a glaring omission from this process. While we respect that the Panel's Terms of Reference were limited to a scientific and technical examination, social license has been raised in the past by the Chief Scientist when she wrote in the May 2014 report *On measuring the cumulative impacts of activities which impact ground and surface water in the Sydney Water Catchment* "Finally, it is important to recognize that many of these issues have a value dimension – that is, the features to be protected and the level of impact to be tolerated are not items that can be identified through a purely scientific enquiry. These are conversations that must be held with the community..." We would submit that the community of Greater Sydney, were they to be presented with unbiased facts about activities in the catchment, would affirm that they value water over coal mining and that the catchment should be for catching and storing water, and furthermore that mining poses unacceptable risks to this area.

Regarding specific matters raised in the report, we submit the following points.

- **Lack of data** - It is untenable that mining is continuing in the catchment and expansions are being entertained by the Dept of Planning and Environment (DPE) when there is inadequate baseline data to measure impacts. The report recommends flow monitoring for a minimum of four years in advance of mining activities. Given rain and climate cycles we would see a minimum of 10 years of baseline data as a requirement to draw any kind of credible conclusion.
- **Uncertainty over modeling** – The report mentions limitations and uncertainties of the modelling a number of times. (eg p. 81, p 126). We share the Panel's concerns. Mining expansion by trial and error has no place in Greater Sydney Water Catchment.
- **Cumulative impacts not accounted for** – The report acknowledges that cumulative impacts can occur over long time scales (p. 13). Yet mining expansion continues unchecked in the Special Areas without an understanding of its cumulative impacts. What will be the effects of today's mining in 20 years time? In 50 or 200 years time? Climate change and an increased population will place additional pressures on the water supplies. Future generations will bear the impacts of the current failure to protect the catchment.
- **Limitations of TARPS** – The report makes a valuable point regarding the limitations of TARPS - they "clarify the seriousness of events that have already occurred rather than early signaling to prompt intervention". This is a serious limitation indeed and is even more concerning because TARPS are widely employed as the way to manage mining induced damage to the water catchment. Gujarat NRE in the 2012 Land and Environment Court case "Illawarra Residents for Responsible Mining Inc VS Gujarat NRE" attested that a longwall mining machine cannot be stopped mid-panel. Given this statement it is difficult to understand what

intervention could even be possible in the case of a serious incident of damage occurring. The Panel should consider what interventions are even possible.

- **Uncertainty over whether the mines have appropriate water licenses**
- The Panel states that the “government should verify that sufficient entitlements are retained... to cover surface losses” (p. 128). It is odd that the Panel was not able to verify this and undermines confidence in the regulatory regime.
- **Lack of clarity and confusing statements about water loss** - There is no clear statement about how much water is being lost from the catchment from the two mines examined. Moreover, information provided is confusing and could be construed as misleading. Summary 3.4 (p 54) cites total daily water inflow into Dendrobium mine workings as approx 7.55 ML per day. However, on p. 127 an average of around 3ML/day is cited being diverted into the Dendrobium mine workings. If the 3 ML/day figure is an average of a number of years – years in which mining has been expanding – surely the higher figure is the one which is relevant.
- **Extent of mining in the Metropolitan and Woronora Special Areas**
The figure of 25% given on p 15, Item 1.3 seems very low and I would question the accuracy (assuming we are referring to first workings, as well as longwall mining). Furthermore, it is disappointing that this information is over 5 years old, derived from a 2013 study by GHD. The Panel needs to be resourced to provide up to date information.
- **Misleading claims about remediation of longwall mining induced damage** – Item 5.1.3, p 96 describes the appalling attempts by Metropolitan to mend the damage their longwall mining has caused to Waratah Rivulet, using what looks like supermarket grade Polyfiller as “Successful application of [grouting] technology at Waratah Rivulet”. This is a ridiculous statement. Moreover, who is going to maintain the application of this “technology” in 50 years time? In 100 years time? In 200 years time? This kind of damage is irreparable and must stop.
- **No definition of “negligible”** - The report refers to the requirement in mining approvals for damage to be “negligible”, but like the approvals themselves, the report fails to define “negligible.”
- **Independence of experts** – Exec Summary, p 3 talks about the current approach by DPE, an approach endorsed by the Panel, that “requires mining operators to.... engage independent experts..”. If the mine is engaging experts, they are not truly independent. The Panel would not need to look far to find examples of mining operators shopping around for a second report when the first report does not support their application. Experts need to be fully independent, appointed and paid by government from funds provided by the miners as part of their application.
- **Short comings of the proponents and the dangers of self-regulation**
– Even if a regulatory framework may appear on the surface to be strong, there are proponents who are not well resourced and who don’t make it a priority to comply with conditions of approval. Gujarat NRE/Wollongong

Coal's 2012 Preliminary works approval provides examples of this. The Panel's report overlooks the fact that mines are largely self-regulating. Government oversight is minimal and much of what passes for monitoring and enforcement of compliance involves a combination of firstly, self-reporting by the mines and, secondly, bureaucrats, who never leave their Sydney offices, ticking boxes.

- **Lack of clarity on responsibilities beyond the life of the mine** – The Monitoring and Performance recommendations, p 129, advocate surface flow monitoring to be continued until consequences have stabilized of the mine is “considered... to be closed”. Moreover, the report states that assessment of impacts and consequences should continue “beyond the life of the mine”. Who is responsible for this? The report is unclear. If the mining companies are to have any responsibility for this – and surely it should be these companies rather than the taxpayer – this needs to be guaranteed by a security deposit or similar. How long should monitoring continue? Would it be 25 years, 50 years? 100 years? What if the consequences do not stabilize? For example, if a fault is breached consequences may escalate over time. Corporations are structured to minimize risk and it is unrealistic to expect corporate responsibility for ongoing monitoring. The impacts should be avoided in the first place.
- **The coordinating role of DPE is not working** - The report appears to support the coordinating role of DPE in the approval of mining Major Projects. We submit that this approach has failed; where the Greater Sydney Water Catchment is involved, Water NSW should have the final say in whether or not a project goes ahead.
- **The report is innocent to the political landscape** – We respect the limitations of terms of reference of the panel however need to point out that science and engineering does not occur in a vacuum. Mining governance and regulatory processes have been corrupted in the past. Mining corporations and lobbyists are major donors to both major political parties in the state of NSW. Until corporate political donations are banned, there is potential for corruption in any aspect of the approvals process and regulatory framework.

In summary, we would like to repeat the position that **no** level of mining-induced impact is acceptable to Great Sydney Water Catchment. We call for a permanent ban on mining in the Special Areas and a moratorium on mining in the broader catchment.

Yours sincerely,

Kaye Osborn
On behalf of Illawarra Residents for Responsible Mining Inc
info@irrm.org.au