

Submission
No 3

**INQUIRY INTO ENVIRONMENTAL PLANNING AND
ASSESSMENT AMENDMENT (TERRITORIAL LIMITS)
BILL 2019**

Organisation: Groundswell Gloucester

Date Received: 9 December 2019



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Re: NSW Parliament Inquiry on the Environmental Planning and Assessment Amendment (Territorial Limits) 2019

To whom it may concern

The community of Gloucester, along with the mid-coast regional communities, MidCoast Council and other bodies fought long and hard to stop the Rocky Hill coal mine (Gloucester Resources Ltd) from proceeding. We won. Climate change was a breakthrough factor in the judgement by Judge Preston. This Bill is extremely distressing for the thousands in our long-suffering communities, especially given that the MidCoast Council recently passed a Climate Emergency Declaration. This distress and disbelief is accentuated by the massive bushfire disasters we are all living through, as well as rivers running dry and incalculable losses of wildlife and ecosystems.

For the government to be considering such a backward step, at this critical time in the history of our climate emergency, is not only irresponsible - it is also culpable.

Groundswell Gloucester oppose the Environmental Planning and Assessment Amendment (Territorial Limits) Bill and urge the Government and the parliament to deal properly with the climate change context of New South Wales' coal industry.

With the Land and Environment Court judgment by Judge Preston on 11.2.2019 regarding the Rocky Hill court case, Preston found that (697) "The Project will be a material source of GHG emissions and contribute to climate change." Furthermore (699)....."Wrong time because the GHG emissions of the coal mine and its coal product will increase global total concentrations of GHG's at a time when now what is urgently needed, in order to meet generally agreed climate targets, is a rapid and deep decrease in GHG emissions. These dire consequences should be avoided". (Gloucester Resources Ltd v Minister For Planning - (2019) NSWLEC 7) 8.2.2019

The above reasons regarding Scope 3 emissions is why the whole Bill should be scrapped.

During the "critical decade" for climate change (as dubbed by the Australian Government's Climate Commission in 2011), which comes to an end in 2020, NSW production of saleable black coal has reached 1,485 million tonnes cumulatively. When burnt this coal is estimated to have produced 3.5 gigatonnes of carbon dioxide from 2010-2018.

It is irresponsible for the Government to propose blinkering a planning authority from considering one of the environmental impacts of a development, and contrary to the spirit of the Environmental Planning and Assessment Act and established case law.

The Government introduced this Bill without consulting the public. The contribution of New South Wales coal to climate change is a matter of public interest that concerns us all and Clause 14 (2) of the Mining SEPP has never been the sole reason a coal mine has been refused. The Rocky Hill and Bylong coal projects were both refused primarily because of their local environmental impacts.

Nevertheless, since the Rocky Hill judgement in February, mining companies have been for the first time providing in-depth information about the climate change context of new coal mines. This is information planning authorities need, and the public needs. Ignoring the climate change impact of New South Wales coal mines isn't going to stop those impacts occurring.

The consideration of downstream greenhouse gas emissions from burning coal produced in NSW mining projects has been part of NSW's State Environmental Planning Policy (Mining, Petroleum and Extractive Industries) (the Mining SEPP) since it was created in 2007. The relevant clauses are 14 (1) (c) and 14 (2).

The inclusion of downstream emissions in the policy came as a result of a November 2006 Land and Environment Court decision (Gray v Minister for Planning) setting aside the Government's assessment of the new Anvil Hill coal mine in the Upper Hunter which found that downstream greenhouse emissions should have formed part of the environmental assessment.

Though they've been part of the material considered in weighing up the environmental impacts of coal mines for twelve years, it has only been since the judgement in the Rocky Hill case (Gloucester Resources v Minister for Planning) in February this year that it began to be treated seriously.

In the wake of Rocky Hill, the Independent Planning Commission sought more detailed information from mine proponents about how their downstream emissions fit into the global climate change context. The Commission began to ask proponents to situate coal mining projects in the context of the Paris climate agreement and global mitigation efforts.

In August the United Wambo coal mine expansion was approved with a condition requiring the coal to only be sent to countries that are signatories of the Paris Agreement or who have equivalent climate action measures underway.

In September, the IPC refused approval for the proposed Bylong coal mine, citing downstream greenhouse gas emissions in its decision.

In the wake of that decision, the NSW Minerals Council launched a public campaign to wind back the downstream emissions clause, a measure it had been lobbying for throughout the year.

Ministerial diaries show that the Planning Minister met the Minerals Council on 18 September, the same day the Independent Planning Commission published its decision to refuse approval to the Bylong coal mine.

In October, while unprecedented spring bushfires burned in the state's north, the Planning Minister introduced the Environmental Planning and Assessment Amendment (Territorial Limits) Bill 2019, to amend the Act and the Mining SEPP to wind back the role of downstream emissions in planning decisions.

With all the previous decisions, the information above and the current state of the climate emergency we are all now faced with, getting worse into the future, it would be reprehensible for this bill to be presented, let alone voted on.

In the view of thousands of people and their communities in NSW, this bill is a retrograde and irresponsible step that puts our environments and global reputation in climate action at severe risk.

With our wildlife perishing, disastrous fire conditions and severe, unprecedented drought - the climate change aspects of any planning decisions and legislations needs to be enhanced greatly. Diminishing them is a sign of a diminished and climate-denying government. You are all better than that.

What we need is strong climate change actions and policies as a matter of urgency.

Groundswell Gloucester strongly request the right to provide a witness to the inquiry on the 6th February 2020 at The Macquarie Room, Parliament House, Sydney. We await your confirmation.

yours sincerely

Julie Lyford OAM
Chair Groundswell Gloucester