

**Submission
No 115**

**INQUIRY INTO PLANNING SYSTEM AND THE IMPACTS
OF CLIMATE CHANGE ON THE ENVIRONMENT AND
COMMUNITIES**

Name: Bronwyn Wannan
Date Received: 30 November 2023

Planning system and the impacts of climate change on the environment and communities

Executive Summary

That Portfolio Committee 7 inquire into and report on how the planning system can best ensure that people and the natural and built environment are protected from climate change impacts and changing landscapes.

The flaws in the planning system are many and I refer below to some of those flaws which confirm a complete failure of the planning system in reference to the Bowdens Project at Lue and its impacts on climate change, communities and the environment in particular:

- 1. The entire amount of average 924 megalitres per year of water to be caught on the mine site in “excluded works dams” is unlicensed and has not been acknowledged or assessed by DPE Water, NSW Department of Planning or the Independent Planning Commission. There are mines and other projects in NSW that are using contaminated water that is exempt from licensing and entirely unassessed. As we move forward these supplies of contaminated water will be impacted by climate change resulting in the environment and communities being adversely affected by the lack of planning and accounting for this contaminated water.**
- 2. Water caught in excluded works dams has not been assessed. [Interpreting excluded works dams.pdf \(nsw.gov.au\)](#)**
- 3. How much water is caught each year in NSW in excluded works dams?**
- 4. DPE Water or NRAR did not confirm that appropriate licences were held by the Applicant.**
- 5. No flow rates were recorded in Lawsons Creek to enable assessment of impacts to the Community.**
- 6. The Community has unsuccessfully made submissions in response to the EIS, argued at CCC meetings, and attempted to engage with NSW DPE, DPE Water, NRAR and Members of Parliament regarding the unlicensed water catch and use by Bowdens and its likely impact on other water users both with Riparian rights and water access licenses.**

Please see submission no [0114a Mrs Bronwyn Wannan.pdf \(nsw.gov.au\)](#) (re Entitlements and Licensing) and [0114 Mrs Bronwyn Wannan.pdf \(nsw.gov.au\)](#) (re Water Quality) and submitted to the Inquiry into current and potential impacts of gold, silver, lead and zinc mining on human health, land, air and water quality in New South Wales.

These submissions summarise the fact that Bowdens do not hold and are unlikely to hold the water licenses they require for the mine they propose at Lue and the failure of the NSW Planning System to identify and confirm that fact and to ensure those licenses were available prior to assessment and recommendation. Submission 114 disputes the statements by NSW

DPE, IPC and Bowdens regarding the quality of water in Lawsons Creek. Water contamination by metals mines cannot be reversed or prevented.

Neither the IPC nor NSW DPE have confirmed the amounts of water needed for the project or where that water will come from.

See below the transcript of Mr Clay Preshaw stating incorrectly that water quality issues were thoroughly assessed.

CLAY PRESRAW: In my view, the water quality issues were thoroughly assessed and were a major component of our assessment, and we relied on a number of experts—as you mentioned, independent experts but also the expertise within government, within DPE Water and EPA—where relevant. So my answer to that question is, yes, I believe the issues around water quality have been thoroughly and comprehensively assessed [Transcript - Uncorrected - PC 2 - Mining impacts inquiry - 27 October 2023.pdf \(nsw.gov.au\)](https://www.nsw.gov.au/transcript-uncorrected-pc-2-mining-impacts-inquiry-27-october-2023.pdf)

No attempt has been made by NSW Department of Planning to protect the water resources of NSW and ensure their availability for the environment and the communities that rely on those resources.

The IPC is not concerned with the “merits” or benefits of a project but is concerned with legislation and policy and should not have made those decisions during the caretaker period.

Please see below an excerpt of the transcript of the recent hearing held on Friday 27 October 2023 Legislative Council Page 19 UNCORRECTED PORTFOLIO COMMITTEE NO. 2 – HEALTH.

The Hon. EMILY SUVAAL: Can you detail for us—and I note that you canvassed some of this in your opening statement—the work that is done during the consent process to ensure monitoring and health standards?

*MARY O'KANE: That work is primarily done in its detail by the department as part of the assessment report that I referred to. They will check with the appropriate agencies and they will check that what is proposed by the applicant complies with the legislative and policy frameworks that I mentioned. They will note that and write it into the assessment report. If it doesn't comply but can be conditioned, they'll propose a condition, explaining in the assessment report what happens. When the situation comes to us, when we get the assessment report, we'll check that they've done that. We're effectively their checking process—checking and then weighing up the various issues to come to a final conclusion. We'll be looking through to see that every piece of the puzzle— **every piece of legislation and every piece of policy**—has been appropriately considered on that monitoring issue, or whatever issue is under consideration at that time.*

The Hon. EMILY SUVAAL: Did you have anything to add, Dr Williams?

PETER WILLIAMS: Just to say that we have to be satisfied that, as Professor O'Kane has mentioned, all statutory and discretionary requirements have been properly considered at the assessment stage and that all additional information that comes to us during the hearing process is all before us as well. We have to balance those submissions but, fundamentally, we have to ensure that the effective Government policy and the relevant guidelines, standards and controls are all satisfied as part of our decision.

The Hon. EMILY SUVAAL: What work is done after the consent to monitor?

MARY O'KANE: The department or the relevant agency will be doing that. As I said, we step out at the point where we hand down the statement of reasons with the associated conditions.

Mr McClure stated when questioned by Committee Members during the previous Health Inquiry that “All of our water is licensed.” This statement is incorrect as was pointed out to Mr McClure. All the rainfall and runoff (surface water) caught on the mine site (av 924 ML per year is unlicensed).

Ms CATE FAEHRMANN: Mr McClure, a significant quantity of the water that you will be taking is rainfall runoff from what I understand are 59 existing dams that are on the area of land within the project site. The vast majority of the water that you will be taking is unlicensed. Is that correct?

*ANTHONY McCLURE: No, that's not correct. **All of our water is licensed.** One last point to make on that item, as I mentioned before, our water take—and this has been the intention of our company right from the beginning—will not affect environmental flows and will not affect agriculture in the region. We're very pleased that we've been able to, on the whole, basically achieve that—albeit with slight differences in the numbers as we go forward but, fundamentally, that's what we set out to achieve and we have achieved it.*

Ms CATE FAEHRMANN: I'll have to put questions on notice to you and other witnesses because of time, but I dispute your 1,800 megalitres—saying all of that water is licensed. I'll deal with that later.

ANTHONY McCLURE: It's in the reporting.

Ms CATE FAEHRMANN: It's not in the approval that I have before me, the IPC statement of reasons for decision. The water licences held by Bowdens is nowhere near 1,800 megalitres here.

ANTHONY McCLURE: I don't think that's right.

Ms CATE FAEHRMANN: Mr McClure, are you comfortable with the fact that one of the conditions of consent for your mine is for the children of Lue to get their blood tested for levels of lead? ...

[Transcript - Uncorrected - PC 2 - Mining impacts inquiry - 27 October 2023.pdf \(nsw.gov.au\)](#) (Pg 3-4)