

“Reclaiming our Valley”

Hunter Communities Network

PO Box 14 Singleton 2330

Senate Environment and Communications Reference Committee
Parliament House
Canberra ACT 2600

ec.sen@aph.gov.au

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Submission

**Inquiry into the rehabilitation of mining and resources projects as it relates to
Commonwealth responsibilities**

The Hunter Communities Network is an alliance of community based groups and individuals impacted by the current coal industry and concerned about the ongoing rapid expansion of coal and coal seam gas exploration and mining in the region.

We wish to submit the following information relating to the impacts of coal mining on water resources, human health and biodiversity in the Hunter Region and recommendations for reform of the regulatory process relating to mine rehabilitation.

In 2016 Hunter Communities Network commissioned Energy and Resource Insights to conduct a study of the approved final mine voids in the Hunter and other parts of the state that will be left in the landscape in perpetuity.

The report, ‘The Whole Truth’ is attached with this submission. The study reported that there are at least 45 final voids covering a total area of 6,050 ha either planned or approved in NSW.

There is widespread concern about the retention of large toxic water bodies in the landscape. The mine rehabilitation bonds required in NSW do not cover the ongoing management of these environmental problems after mine closure.

The approval of final voids is a cost shifting exercise from the mining industry onto the environment and future generations. The sterilisation of potentially productive land is not factored into the costs benefits analysis of the mining approvals process in NSW.

The significant environmental legacy of over 30 large final voids in the Hunter Region has not been assessed in regard to the cumulative impact on groundwater and surface water sources.

Recommendations made by the Independent Expert Science Committee under the assessment of the EPBC Act water trigger are generally very weak and often ignored.

The NSW Government is regularly approving that biodiversity offsets for matters of national environmental significance (MNES) be achieved on mine rehabilitation. It is concerning that the Federal Department of Environment has agreed to these high risk decisions.

The ability to successfully reconstruct critically endangered ecological communities on mine rehabilitation has not been proven. Rehabilitation bonds and conservation bonds in NSW do not provide adequate investment to ensure that the proposed biodiversity outcomes are ever achieved.

Coal mining expansion in the Hunter and Western coalfields has caused increasing loss of the Grassy Box Gum Woodland CEEC and habitat for the critically endangered Regent Honeyeater and Swift Parrot. The biodiversity offset strategies have been particularly poor for these MNES.

Mine rehabilitation is not an appropriate offset for the on-going loss of these matters.

Recommendations to the Inquiry:

1. Establish a Commonwealth Environmental Protection Authority (EPA)

A Commonwealth EPA could best facilitate and manage Australia's approach to mine closure and rehabilitation. The EPA should have direct carriage of EPBC conditioning and national standards and the necessary reforms for improved regulation of the mining industry in Australia.

2. Asset Transfers

The Commonwealth should explore mechanisms to ensure that the financial and technical capacity of purchasers to deliver their rehabilitation responsibilities. These liabilities should be tested and vetted to protect the public interest. This could be achieved under the ASIC Act – where an additional public interest test could be applied covering closure and rehabilitation liabilities and the buyers technical and financial capacity to meet their liabilities.

3. Financial Reporting:

We recommend mandatory disclosure of the following items;

- Timeframe to closure for each mine asset;
- Total estimated cost of closure for each;
- The mine closure risk assessment for each asset;
- The rehabilitation bonds and financial assurance held as an offset;
- Investment to date in progressive rehabilitation

For ASX listed companies, changes could be made to ASX listing rules, however, given the public interest aspect that would apply to both private and public companies, it is preferable that changes are made to the *Corporations Act* to ensure wide coverage of mining and resource companies.

4. EPBC conditioning for mines impacting on (MNES).

To ensure that approved mines have the lowest possible impact on MNES, rehabilitation related conditions must be applied to these projects through the EPBC Act. This includes:

- The proponent must submit a full life of mine and closure plan at the approvals stage which includes rehabilitation strategies designed to specifically protect at risk MNES,
- The proponent must submit a progressive rehabilitation plan including rehabilitation targets designed to enhance the protection of the at risk MNES during the mine's operational life
- The Commonwealth should require an independent assessment of the closure cost estimate based on the closure plan that informs the relevant jurisdictions level of FA with specific reference to protecting the MNES,
- The final landform and land use must reflect the lowest possible residual impact on the at risk MNES and mandate that voids are backfilled and out of pit waste rock dumps and tailings storage facilities are eliminated where these landforms have a demonstrable residual impact on MNES.

5. Abandoned Mines:

The Commonwealth could demonstrate national leadership on the abandoned mines issue through the establishment of a National Abandoned Mines Commission loosely based on Canada's National Orphaned Abandoned Mine Initiative (NOAMI). This Commission would be charged with furthering the implementation of the Strategic Framework for Managing Abandoned Mines in the Minerals Industry through the Standing Committee on Energy and Resources under the Coalition of Australian Governments.

6. National Standards:

We strongly recommend that the Commonwealth commits to working with the state and territories to develop a set of national standards covering the following six issues:

- Adequacy of financial assurances
- A final land form and land use policies
- Adequacy of legal requirements requiring progressive rehabilitation and best practice mine closure planning
- Closing loopholes that allow indefinite 'care and maintenance'
- Assessment regimes around sale of aging mine assets to minnows

- Adequacy of monitoring and enforcement regimes including strong legal penalties for non-compliance
- Investigation of state and territory mine rehabilitation strategic plans designed to deliver a coordinated approach that maximizes local employment and minimizes long-term environmental legacies

7. Review by the Federal Treasury into State and Territory liabilities.

Given the extent of exposure of taxpayers and state and territory treasuries and balance sheets to the combination of abandoned mines liabilities and inadequate financial assurances, we believe there is a legitimate role for the Commonwealth Treasury to undertake;

- An assessment of the overall financial liability stemming from both abandoned and operating mines under the various state schemes
- An assessment of the risk these liabilities pose to state and territory treasuries and balance sheets, and
- The identification of remedies and risk mitigation strategies through policy, program and legislative reform

Thank you for the opportunity to raise these important issues. We invite the Senate Committee to visit the Hunter Region to view the extent and intensity of coal mining impacts on the environment and local communities. The challenge for adequate mine rehabilitation on this scale needs much tighter regulation and oversight.

We would welcome the opportunity to present to a Senate Hearing in the Hunter.

For more information about this submission please contact

Bev Smiles
Convenor