

Our reference: ED09/1483  
Contact: Joshua Gilroy, (02) 6883 5317

Dr Ian Holland  
Committee Secretary  
Standing Committee on Environment, Communications and the Arts  
PO Box 6100 Parliament House  
CANBERRA ACT 2600

19 OCT 2009

Dear Dr Holland

I am writing in relation to your letter dated 1 October 2009 regarding a submission from Dr Pauline Roberts to the "Inquiry into mining in the Murray-Darling Basin" being undertaken by the Senate Standing Committee on Environment, Communications and the Arts.

Thank you for providing the Department of Environment, Climate Change and Water (DECCW) with the opportunity to respond to the comments made by Dr Roberts in her submission.

The submission raises a number of issues regarding the regulation and monitoring of mining and mine exploration works within NSW. The submission for the most part correctly identifies that in NSW, mining and mineral exploration are regulated by three primary agencies, the NSW Department of Industry and Investment (DII), the NSW Department of Planning (DoP) and DECCW. The roles of each of the agencies are specific and best reflect the skills of each of the agencies.

I would like to address and clarify three issues which are particularly relevant to the role and responsibilities of DECCW.

### **Subsidence as a Key Threatening Process**

- a) *"The NSW government lists subsidence from long wall mining as a key threatening process and yet DECCW continues to grant Environment Protection Licences (EPL) to operate coal mines".*

The *Threatened Species Conservation Act 1995* (the Act) lists subsidence from long wall mining as a Key Threatening process as it is a potential consequence of long wall mining. The Act also lists five specific threat abatement strategies. The listing of activities does not in itself prevent the activity from occurring but identifies that extra precautions are required.

DECCW carefully reviews any proposed long wall mining activities in NSW and has a key role in the review of Subsidence Management Plans, which are required by DII for the operation of underground mines.



## **The Regulatory Approach of DECCW in Relation to Mining**

DECCW has in place programs to check compliance by holders of environment protection licences and takes appropriate action when non-compliances are identified. Non-compliances are identified by a number of mechanisms including unannounced inspections by DECCW staff, audits by DECCW staff, self notification by companies, notification by other Government agencies and reports and complaints by members of the public.

Dr Roberts cited a discharge of turbid water from Moolarben Coal Mine as an example of DECCW's unwillingness to follow up reports of non-compliance. Moolarben is a relatively isolated site. Nevertheless, following a complaint being made to DECCW's Environment Line on 10 June 2009 officers from our Bathurst Regional Office were on site the same day collecting evidence. This investigation is continuing.

With respect to court action, DECCW recently prosecuted Werris Coal and one of the Directors for a pollution of water offence. The company and the Director both pleaded guilty to the offence and the Company was fined \$49,000.

Regarding the reference to Delta Electricity's coal fired power station at Wallerawang, DECCW has had various programs in place since 2007 to deal with water quality issues involving turbidity, salinity and, more recently, heavy metals. In regard to turbidity, Delta installed a treatment plant within the timeframe designated by DECCW. Negotiations with Delta Electricity are ongoing in relation to salinity and heavy metals.

I can assure you that DECCW is willing to tackle any serious acts of non-compliance by licence holders, regardless of industry type.

Should you have any enquiries regarding this matter, please do not hesitate to contact me or have your staff contact Mr Joshua Gilroy, Director North West, on (02) 6883 5317.

Yours sincerely

**LISA CORBYN**  
**Director General**