



14 December 2011

Mr Sam Haddad
Director General
NSW Department of Planning and Infrastructure
GPO Box 39
SYDNEY NSW 2000

Dear Mr Haddad

Warkworth Project

As you are aware, the Commission held a public meeting for this project proposal on 10th and 11th November 2011. Since that meeting the Commission has held two meetings with senior officers of the Department to discuss issues of concern with the draft approval and conditions.

It is clear from these discussions, and the oral submissions from both objectors and company officials at the public meeting, that the combined Mt Thorley-Warkworth operation falls well short of best environmental management practice. It is equally clear that there is a history of failure to deliver on commitments made pursuant to previous approvals.

It is the view of the Commission that, for this project proposal to have any prospect of approval, changes will be required to some of the draft conditions annexed to the Assessment Report. The five main areas of concern are outlined below for your information. Your officers are aware of the detail of these areas of concern and of some other matters of lesser significance.

(i) Best Management Practice

This will need to be imposed supported by strong audit requirements and appropriate sanctions for failure to meet the required standards and/or timelines. Ideally these sanctions would be framed so as to limit progress of the mine toward sensitive receptors unless the standards and/or timelines are met.

Specific areas of concern are noise, dust, light, blasting and rehabilitation. Sufficient detail on each of these will need to be available in the conditions so that there is clarity for the company, community and regulator(s). Given the concerns evident with this project proposal, strict conditions imposed at source would appear to be a necessary adjunct to any receiver-based limits – particularly for noise and dust.

For noise, the proposed night limit is questionable. Attention will also need to be given to requirements for performance during temperature inversions. The current situation in which no limits apply during such conditions is not acceptable.

Appropriate noise attenuation will need to be fitted to all plant and equipment and the time frame for achieving this will need to be shortened. Conditions will need to specify maintenance of the noise attenuation equipment supported by regular independent audit over the life of the project.

Consideration should also be given to providing additional protection for the Bulga community from noise impacts from the Mt Thorley operations.

For dust, the imposition of a rigorous real-time dust management system is essential. This also needs to be supported by independent audit and regular review to determine whether modifications could further lessen community impacts.

The Commission notes that some improvements to dust suppression should follow relocation of water supplies closer to the point of use, but this will achieve little if not combined with operational requirements for appropriate use in conjunction with other avoidance and suppression activities.

(ii) Production Limits

The practice of seeking approval for production volumes in excess of those likely to be achieved means that an operator may be able to comply with regulatory limits based in whole or in part on these production volumes without needing to minimise their adverse effects on the community. There are three potential areas for consideration. First, imposing Best Management Practice via at-source controls; second, tying limits to production levels wherever this would reduce community impact; and third, imposition of realistic production limits in the approval.

(iii) Wallaby Scrub Road

Two significant issues need to be resolved. One is the alternative access for emergency vehicles (primarily Rural Fire Service) and the other is the requirements and timetable for upgrades to intersections that will carry increased traffic as a result of any closure of Wallaby Scrub Road. Both of these will need to be specified in sufficient detail for the Commission to be satisfied that the arrangements are unequivocal and binding.

(iv) Offsets

The project proposal involves setting aside the earlier Deed of Agreement establishing offsets. The Commission notes the uncertainty associated with security for the proposed replacement areas and the fact that 750ha is yet to be identified. Given the history it is difficult to see how the new proposal can be accepted without these issues being resolved to a level where there is certainty about the identity of the offsets, their future security and the enforceability of any conditions related to them.

(v) Voluntary Planning Agreement (VPA)

The Commission is of the view that any VPA will need to be negotiated between the proponent and Singleton Council with the Department to act as arbiter if agreement cannot be reached within 6 months of any approval.

The Commission's understanding is that the Department will undertake further work on these issues with a view to refining the draft conditions for discussion with the Commission. If you or your officers wish to discuss this course of action please contact Ms Paula Poon on (02) 9383 2101 to arrange this.

Yours sincerely



Dr Neil Shepherd AM
Chair, Warkworth Project Commission