

6 August 2018

Megan Dawson

Team Leader
Resource Assessments - Planning Services
Department of Planning and Environment
GPO Box 39
SYDNEY NSW 2001

Dear Ms Dawson

RE: United Wambo Open Cut Coal Mine Project - Response to IPC Review

I refer to your email to Singleton Council dated 25 July 2018 requesting feedback from Council on the proponent's response to the Independent Planning Commission Review of the United Wambo Open Cut Coal Mine Project. This letter forms Council's feedback in relation to that review.

Voluntary Planning Agreement

Section 2.2.1 of the Response to the IPC Review identifies a revised Capital Investment Value of \$207M for the proposal, a significant variation from the original capital investment value proposed for the application. Council has requested details from the Proponent on the extent to which this revised CIV has been endorsed by the Department of Planning and Environment, including the calculation methodology, and is awaiting a response.

Council has spent significant time reviewing the contributions made to the Singleton community by the mining industry and in November 2017, Council resolved to apply a 1% levy on capital investment value to all future mining voluntary planning agreements. The application of this levy is consistent with the provisions of Council's existing Development Contributions Plan, section 4.10, which states:

Whether as a result of a Minister's consent or council consent, these contributions will take the form of monetary contributions or inkind contributions and be determined through negotiation between the applicant and Council. The proposed contributions agreed between the applicant and Council will be detailed in a voluntary planning agreement in accordance with s93F of the Environmental Planning and Assessment Act 1979.

Council is currently reviewing its Development Contributions Plan.

Further, Council has resolved to create the Singleton Community and Economic Development Fund using VPA monies from mining and other major projects. The

intent of this Fund is to preserve the capital and use investment returns to fund programs that will facilitate the future security, prosperity and wellbeing of our community. These programs would include undertaking investigations to understand the impact of mining on our community, research and development in projects that build resilience and improve liveability of Singleton post mining. Council believes this approach allows the provision of a longer term view on the use of VPA funds.

It is important to note that Council has not agreed to a VPA with the Proponent. It is the preference of Council to resolve the terms of the VPA prior to determination of the proposal.

Final Land Use

The Response to the IPC Review is broadly consistent with discussions with Council regarding a Voluntary Planning Agreement. However, Council would like to provide comment on a number of matters raised in the report.

The Report states that *'the UHMD is planning to build on the development of the Synoptic Plan to develop a broader strategic plan that will assist in providing a long term economic strategy for the Upper Hunter especially the potential for future economic use of the mining industries assets post mine closure.'* It is unclear when, how or the regulatory framework within which this strategic plan would be developed. It is not clear how this strategic plan would hold the Proponent, and the broader industry, accountable to meeting or achieving its objectives and outcomes. It would appear to be outside any legislative planning controls, and therefore unlikely to deliver enforceable and tangible outcomes for the community.

The evaluation requirements for planning decisions are set out in section 4.15 of the *Environmental Planning and Assessment Act 1979*. This section requires, amongst other things, the consent authority to consider provisions of any environmental planning instrument (for which Council's Local Environmental Plan, and future Strategic Planning Statement would constitute) and any document required for consultation under the Act, any Development Control Plan, any planning agreement and the public interest. Section 4.40 of the *Environmental Planning and Assessment Act 1979* applies section 4.15 to the determination of State Significant Development applications.

Additionally, clause 12 of the *State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007* requires the consent authority to consider, amongst other things, the existing and approved uses of the land in the vicinity of the development, whether or not the development is likely to have a significant impact on those uses (whether current or future) and any ways that the proposed development could be incompatible with any existing, approved or likely preferred uses.

Given the statutory framework for consideration of long term, off site impacts to land use planning, and the broader public interest requirements, Council considers a condition of approval that requires the Proponent to work with Council on the final land use for the proposal as an appropriate outcome, should the proposal be approved. Consideration should be given to the following condition:

The Applicant is required to prepare a Final Land Use Strategy for the proposal. The Applicant shall consult Singleton Council in the development of the Final Land Use Strategy for the proposal. The outcomes of any final land use strategy must be consistent with, and complementary to, any Local Strategic Planning Statement prepared by the Council. The Final Land Use Strategy must be prepared within 12 months of the date of approval, and be reviewed at least every two years.

Council considers the development of a final land use strategy, ahead of proposed mining, is essential in ensuring that the final land use is achievable, planned for and incorporated into the design of the mining operation. Council appreciates that the life of the mine is likely beyond current strategic land use planning timeframes, and considers that a review timeframe of every two years would be appropriate to ensure the flexibility needed and allow for adequate consideration of all potential final land use options.

I would like to thank the Department for the opportunity to provide comment on the Response to the IPC Review for the United Wambo Open Cut Coal Mine Project. Should you have any questions or comments, please contact Mary-Anne Crawford, Manager Development and Environmental Services on 02 6578 7290.

Yours faithfully



Mary-Anne Crawford
Manager Development and Environmental Services

