

NSW Department of Planning and environment

16th February 2017

Application: Ashton South East open cut project (MP 08-0182 Mod 1)

To Department of Planning

In relation to the modification 1 I strongly object to the proposal of this modification on these grounds.

1. Communication

- Failure to notify residents impacted by the modification of forms of available communication procedures which have been acceptable part of the process to notify residence. To make this clear the use of a newsletter or a personalised letter to the residence would be deemed appropriate behaviour of company to inform of an application.
- Failure of the CCC to ensure information was provided to families in the village, which indicates a problem in the CCC process of consultation with the public.
- The modification cover letter states that the resident of 129 was consulted, on contacting the owner of this residence, the information provided was inadequate.
- The residences were contacted by the department of planning via two forms of communication of the modification before the application was placed in the media. It would be expected that the proponent is responsible to ensure the residences were informed.
- The overall performance of communication of the modification is substandard and would be perceived perception the proponent was trying to be deceptive of not providing adequate consultation
- The letter to Howard Reed on the 19th January 2017 refers to correspondence between the department and the company Yancoal on the 8th January 2017, these correspondence documents should have been attached to the application on exhibition to ensure open and transparent process, with past history related to this project the concern of communication records.

2. Modification 1 application proposal

1.1 modification of development

- part (a) notify the secretary in writing of the date of commencement of the development under the approval
-notification to the secretary or the Minister can only be fulfilled when the Yancoal Ashton coal has purchased or leased the property 129 under condition 10A which was imposed by the Land Environment court.

Part (b) may only commence development under this approval once the secretary has agreed in writing that all prerequisites to the commencement of the development under this approval.

- The LEC conditions are explicit of the commencement of the application in section 1 and importantly the secretary can only agree to the application commencement to the condition 10A has been met and other conditions of consent set out in the agreement.
- The note attached to the 1.1 on the modification is misleading and should be removed, the conditions of consent are clear and do not need modification, if the proponent cannot abide by the conditions they should relinquish the approval granted in the LEC with conditions

Removal of time-line obligations 1.2

Acquisition

- The request of acquisition was excepted by all parties in the Land and Environment court and the proponent had able time to argue or make submissions related to this consent condition- therefore they agreed to the terms and conditions granted under the approval with no dispute
- The voluntary acquisition rights on request is acceptable due to the conditions related the social impacts recognised by the court and omission of Ashton related to their operations
- The voluntary acquisition rights must remain in place as the premises are unsaleable whilst and approval remains over the SEOC
- Whilst the approval of the application is current the conditions must remain intact and if Ashton does not want to adhere to the condition's granted they should relinquish the approval granted for the SEOC
- The four said residence in the village of Camberwell are exposed to unacceptable conditions related to air quality with 14 health alerts of exceedence of national air quality standard since 1st January 2017 and Ashton is part of contributing factor to these incidences

Preparation of Camberwell enhancement plan:

- Since the company made such a performance related to this plan on how wonderful this would be for the village, to wait five years after the approval is making a mockery of the process, and not been active in improving the visual proponent of the village, so the statement of the timeline extension is indicating that if we own the village, it does not matter actually what the village will look like at all.

The reasoning for the modification of the conditions would be deemed to remove the accountability of the company Ashton to abide by the conditions they agreed to in the court, if they cannot abide by the conditions they should relinquish the approval. These conditions were done under a transparent, open, proper maintenance of records in the court and that the government and the

proponent had adequate time to make submission if they wanted changes. Therefore any-form of changes to the approval is considered to be unfair and unjust, that the company cannot meet the obligations set out in the conditions originally agreed to in the court therefore the approval should have not be granted in the first place. If the company cannot meet the conditions the only option is to relinquish the approval of the SEOC and allow the village and others to move forward with their business and lives which would be deemed acceptable outcome.