

5th October 2010

Mr Scott Elliott
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Dear Mr Elliott

Mangoola Mine Approval and conditions

We refer to the above approval and your negotiations with Chris and Ray Phelps and other affected residents of Wybong.

We have written on their behalf to the Director-General of the Department of Planning seeking his assistance in resolving the dispute over appropriate noise mitigation for their housing. A copy of the correspondence is attached for your information.

Yours sincerely

Environmental Defender's Office (NSW) Ltd



Kirsty Ruddock
Principal Solicitor



Our Ref: 2007081

5th October 2010

Mr Sam Haddad
Director-General
Department of Planning
23-33 Bridge Street,
Sydney NSW 2000

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Dear Director-General

Mangoola Mine approval and conditions

We refer to our letter dated 4th August 2010 a copy of which is attached. In that letter we sought to refer to you for resolution a dispute between residents of Wybong and Xstrata/Mangoola Coal about noise mitigation to their properties. We have still not received a response. Our clients are very concerned about their position should mining commence without resolution of this matter and would appreciate it if you could seek to try and resolve these matters at your earliest convenience.

If you have any further queries please do not hesitate to contact me on 9262 6989.

Yours sincerely

Environmental Defender's Office (NSW) Ltd

Kirsty Ruddock
Principal Solicitor



Our Ref: 2007081

4th August 2010

Mr Sam Haddad
Director-General
Department of Planning
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Dear Director-General

Mangoola Mine approval and conditions

We refer to the above approval as modified. We act for Chris and Ray Phelps and other affected residents of Wybong. As you would be aware, there are a number of residents affected by the proposal by Xstrata to build Mangoola Coal mine that was approved by the then Minister for Planning on 7th June 2007 under Part 3A of the *Environmental Planning and Assessment Act 1979* (EP & A Act). We understand that mining is to commence next month by Mangoola Coal mine.

Clause 8 in particular of the development consent states that "Upon receiving a written request from a landowner of the land listed in the table to Appendix 5, such as the Phelps and other residents in that area, the Proponent shall implement additional noise mitigation measures such as double glazing, insulation, and/or air conditioning at any residence on the land in consultation with the landowner. These additional mitigation measures must be reasonable and feasible. It goes onto state that within three months of receiving this request the proponent and landowner cannot agree on measures to be implemented, or there is a dispute about implementation of these measures, then either party may refer the matter to the Director-General for resolution."

The Phelps have been negotiating with Xstrata Mangoola Pty Limited since January 2009 to ensure that appropriate noise mitigation measures are adopted for their premises. They want to remain living in their property and have full use and enjoyment of it. They bought the property as an investment for their retirement. The Phelps intended to use the property to generate income from the building of tourist cabins on part of their property and growing olives on another part of it, as well as enjoying the quiet bush environment in Wybong. For this reason they have sought appropriate mitigation measures to enable this to occur. They have engaged at considerable expense to themselves an expert noise consultants, Peter Karatonis to provide Xstrata with a report on the options for mitigating noise on their property. Despite two meetings with Xstrata to discuss these options including one with their expert there has been little attempt made by Xstrata to resolve this situation and provide appropriate noise amelioration measures on their property such as a bund wall and other noise measures suggested by their expert. To date Xstrata have offered to double glaze and air condition their property. The Phelps have been very patient with Xstrata and made clear their wishes but are becoming increasingly frustrated at the lack of practical action from Xstrata to address their concerns. We have attached copies of the correspondence between Xstrata and our office for your information, so you can see the whole history of the discussions with Xstrata.



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We therefore are referring this matter in accordance with clause 8 of the development consent for resolution of the appropriate noise amelioration measures for the Phelps properties and those in the surrounding area. We would appreciate it if you could confirm when the Department is able to meet with the Phelps and other Wybong residents to discuss these issues, with their noise expert.

If you have any further queries please do not hesitate to contact me on 9262 6989.

Yours sincerely

Environmental Defender's Office (NSW) Ltd



Kirsty Ruddock
Principal Solicitor



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