



namoi water

10th October 2017

Ms Carolyn McNally
Secretary
Department of Planning and Environment
320 Pitt Street
Sydney NSW 2000

Via electronic Mail : carolyn.mcnally@planning.nsw.gov.au

Dear Ms McNally,

Re: Maules Creek coal mine Project Application Number: 10_0138 Mod 4

The proponent Whitehaven Coal, are seeking to remove a section from Condition 12a, Schedule 3 from Planning Approval 10_0138 regarding the Maules Creek coal mine. That is the deletion of the wording and requirement to-

“ensure that all equipment and noise control measures deliver sound power levels that are equal to or better than the sound power levels identified in the EA, and correspond to best practice or the application of the best available technology economically achievable;”

Namoi Water objects to the Mod 4 and Whitehaven Coal removing specific requirement for continuous environmental noise improvement by maintaining or reducing mining equipment sound power on principle. Mitigation measures proposed by consent conditions are in place to provide protection for those residents living in proximity to the mine site. Namoi Water is particularly concerned with the repeated exceedances of criteria resulting in the company being listed with the EPA as a Level III Risk licence. It appears the cumulative impact of the non compliance with consent conditions is being ignored by the company in their application.

Conditions such as 12 (a) were proposed in view of setting limits that are specific, measurable and time-framed, exchanging this requirement for an undefined best practice with economic escape clause does not appear in the best interest of the impacted community. Transparency of information collected both by the company and by regulators is critical in the review of this issue, unfortunately this information is not available as part of the assessment presented. The application states that consultation has occurred with the department, yet does not appear to have addressed (or have been required to address) the issues raised by the remaining independent landholders in the region regarding the issues of exceedances measured at unattended noise monitors.



namoi water

Given recent reports of non compliance and the time lag of annual reporting this proposal does not appear sound, nor justified in the information provided by the proponent. Section 1.1 states that MCC has a strong record of compliance with mine noise limits at private receivers, is this data available and has the department independently verified this information? Unfortunately there does not appear to be recognition that exceedances *above the noise criteria in the EPL and project approval* at attended and unattended monitoring sites is not able to be used by the EPA as evidence of non-compliance due to the method of information receipt, therefore only those exceedances with an EPA officer in physical attendance are noted to be pursued. This appears to be a significantly limiting factor in compliance and therefore as a result there is limited pursuit of exceedances raised by the community and gives the appearance of company performance that is in stark contracts to reality.

This proposed modification sets a concerning precedent for the planning process. It appears the proponent is justifying the change based on sections 15 & 16 which in effect allow for self regulation. We would suggest that perhaps the reverse case should apply and that these two clauses (15 & 16) should be amended to provide more specific, measurable targets/criteria are developed that provide clear timeframes for compliance requirements.

Namoi Water on behalf of our members in the Maules Creek precinct recommend the department of planning reject Modification 4.

Yours sincerely
Sincerely

Jon-Maree Baker
Executive Officer