

22 March 2018

To the NSW Department of Planning and Environment, and to the NSW Minister for Planning,

Re: Proposal for Modification 4 to Project Approval MP10_0046 – Russell Vale Colliery Preliminary Works Project.

I object to the proposal Preliminary Works Project Modification 4 Bellambi Creek Gully at Russell Vale Colliery, operated by Wollongong Coal Ltd (WCL).

My reasons for objecting include the following:

- **Bellambi Creek should have been re-aligned in 2012**

The realignment, to protect nearby properties from flooding and inundation with water polluted with coal, was *a condition of the colliery's 2011 approval*. It is now *more than 5 years overdue*. The proponent mined and sold the coal under the approval, but failed to meet the conditions of this coal extraction. Why was this allowed to happen? Under WCL's original 2011-approved project, they were required by DoPE to undertake the Bellambi Creek realignment based on BECA 2010 designs in 2012. How is it that when WCL decided that they were not going to do this, that they were still allowed to continue to mine? And furthermore, how is it that WCL was even able to continue to gain subsequent modification approvals by DoPE? I note that the NSW DoPI 2011 Project Approval Statement of Commitments required that:

All erosion, sediment control and runoff diversion measures will be established before any excavation begins. These will be left in place throughout the works execution and beyond works completion until all surfaces have been full restored and stabilised.

and the required timing of this commitment was that it be done *During construction*. Where does this allow for what has actually happened?

- **Department of Planning and Environment (DoPE) failed to monitor and enforce WCL's meeting of its conditions of operation, making a farce of the planning and approval process**

Moving the goal posts now, by changing the condition more than 5 years after it was due to be met, makes a farce of the Department's planning and approval processes. Except this really is not funny at all, and there are serious negative impacts from DoPE's and WCL's failures.

Further, arguments by WCL that the alternative 2014 Cardno water pollution management arrangements are better financially for them or better environmentally – these are irrelevant. WCL should have sought out an affordable and effective method for preventing adverse impacts to water bodies and residents **before** their original application and then followed through on commitments. What was WCL doing during 2012 to 2014 other than flouting the approval conditions? If they had no intention of adhering to their own application parameters and to the related approval conditions, why apply as they did at all? WCL has behaved poorly and demonstrated bad faith in its dealings with the NSW government and NSW residents.

- WCL's failure to carry out the works has placed residents downstream in danger**
 In 1998 a storm event occurred that blocked the opening to the Bellambi Creek culvert at the Russell Vale mine. The resulting overtopping caused flooding of properties downstream and carried large quantities of coal off site. The realignment of Bellambi Creek was meant to protect residents from a similar accident. Through failing to carry out the flood mitigation works, WCL and the Department have placed lives and property in danger.
- The proposal will not prevent the coal pollution of Bellambi Creek**
 Bellambi Creek has been polluted numerous times since WCL has been operating Russell Vale Colliery. Every one of those pollution events could have been avoided if Bellambi Creek was realigned. However, WCL's documents say that under their proposed option Bellambi Creek will still not be protected from further pollution events. The creek will continue to flow through a deteriorating concrete culvert that runs directly under the colliery stockpile and working area, risking ongoing contamination of the creek.
- Insufficient capital should not be the basis of a mining company changing a condition of approval**
 WCL has cited shortage of capital as the principal reason for the proposed change. WCL has been under investigation by the Resources Regulator (previously DRE) since 2015 over whether it is a *fit and proper* entity to hold a mining license. Not only has WCL failed to meet the Bellambi Creek flood mitigation works condition of approval by the due date in 2012, the company has a history of non-compliance with approval conditions. This is not a better plan for Bellambi Creek; it is just a cheaper plan. Approval of this plan condones the playing of the Major Projects planning system by financially compromised proponents at the expense of communities and the environment.

I am calling on the Department to reject this proposal and become more serious about monitoring and enforcing compliance with mining development approvals.

Is it possible for DoPE to instigate its own investigations, into the most effective way to manage Bellambi Gully runoff, pollution management and flood mitigation and then contract an independent company to implement appropriate works? In asking this question, I expect that the costs of all investigations and the costs of all resulting works should be covered by WCL who should no longer have any say in how these matters are handled. WCL has had ample opportunity to behave as a responsible corporate citizen and has failed to do so. Why should anyone trust WCL to do the right thing now?

Sincerely,

Deidre Stuart