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## **Submission: Russell Vale colliery Preliminary Works Project Modification 4: Bellambi Creek Gully**

We object to this modification in the strongest terms and would take this opportunity to express our profound disappointment that instead of taking appropriate action against Wollongong Coal for failing to meet this condition of consent since it was granted in 2011, the Department of Planning has now accepted and exhibited for public comment a modification to remove the condition instead.

The Preliminary Works Approval was granted consent in October 2011. More than six years later, despite mining proceeding at the site, the crucial Bellambi Creek diversion has not been undertaken.

We are informed by local community members that the explanation given for this modification is lack of funding to pay for the creek diversion. We are also informed by the local community that the Community Consultative Committee was informed in 2017 that the company would not proceed with the creek diversion, despite this being a condition of the mine's consent.

The EPA fined the company in July 2016 for discharging coal fines in to Bellambi Gully in December 2015. Around 70 tonnes of coal fines entered Bellambi Creek, washing material from the coal stockpile into an unsealed access portal into a Bellambi Creek diversion pipe - which the company had failed to replace as per the conditions of its consent.

As the Department would be well aware, Russell Vale colliery has been causing pollution in Bellambi Creek for years. The NSW Government has failed to uphold the law and protect the public interest in allowing this situation to continue despite numerous incidents.

In October 2016, the Department of Planning fined Wollongong Coal for failing to undertake the Bellambi Creek diversion, and issued an order that the underground pipe section of Bellambi Gully Creek be replaced in accordance with the Environmental Assessment and Statement of Commitments in the Preliminary Works Project approval by no later than 18 months from the date of the order - 16 June this year. That action has clearly not been taken by the proponent, which admits in its assessment material that it began discussion with the Department about this modification within two months of the order being issued. The assessment material says, "A meeting was held with DPE on 5 December 2016 with a further teleconference held on 7 March 2017 to discuss the proposed modification and the approval pathway."

Why did the Department not uphold the order it had issued that the work be done? Why did it instead begin discussions with the company for a modification to the consent to relieve the company of the condition? This amounts to a scandalous disregard for the environment and the public. Indeed, the mine caused another pollution incident in Bellambi Creek in November 2016 - just a month after the order was issued by the Department of Planning.

In our view, the owner of Russell Vale mine has demonstrated that it is financially incapable of operating the facility in a manner that ensures the safety of the environment and its own the workforce. This constricted mine site is surrounded by dense residential suburbs on three sides, located on an environmentally sensitive escarpment and mines under the vital Sydney Water Catchment area. The company is currently being investigated by the Resources Regulator as to whether it is fit and proper to hold a mining title in New South Wales. It is currently the subject of legal action by the Resources Regulator and Wollongong City Council. The Department of Planning must refuse this modification application and immediately ensure that the Bellambi Creek diversion is completed.

This terrible state of affairs highlights the folly of granting mining approvals or allowing the purchase and transfer of mining titles to companies that are not fit and proper to operate in New South Wales. The local community is gravely concerned about the fate of Bellambi Creek given the financial situation of the proponent and the limited \$9 million rehabilitation bond held by the Government.

The diversion of the creek was a crucial condition of the Preliminary Works approval. Surface water contamination of the creek was a key issue raised by the public when the Preliminary Works approval was assessed. There was considerable opposition to the project in part because it seemed to be a rush to grab coal ahead of thorough environmental assessment of the Russell Vale underground expansion project. Those fears appear now to have been well founded and it is incumbent upon the Department of Planning to refuse this modification and ensure the site is fully rehabilitated.

We support Illawarra Residents for Responsible Mining in its efforts to hold this company to account and uphold basic environmental management of this site and Bellambi Creek.

sincerely

Georgina Woods