

4 August 2014

Mark Nolan  
8 Wanaruah Close  
Singleton NSW 2330  
Minister for Planning

Dear Minister

Warkworth Coal Mine operates an existing open cut coal mine a few kilometres north east of Bulga Village in the Hunter Valley. Warkworth is one of several mines in the area, others being Mount Thorley, Bulga, Wambo and Hunter Valley Operations South. Mining at Warkworth began in 1981. The current development consent permits coal mining in a specified area until 2021.

The proposal "Warkworth Continuation 2014" seeks to:

- continue the existing and approved development onsite
- extend the mine further west of the specified area in the current consent
- develop a range of associated infrastructure to support this extension
- maintain the existing 1300 workforce
- maintain extraction rates at 18 million tonnes of run of mine coal a year
- continue operational interactions with Mt Thorley Mine
- Placement of overburden from the Warkworth mine to Mt Thorley mine to improve the final landform
- The closure of Wallaby Scrub Road.

In my view the task of the decision maker in this case the Minister or her delegate (Planning Assessment Commission) is to balance the proposals impacts and benefits and make a the preferred decision based on legislation, current government policies and the Secretary's requirements for the project. It is important for the consideration of legislation, policies and guidelines to guide any decision as these provide certainty for both proponent and community.

An analogy could be drawn between assessment of mining proposals and speed limits on roads. A driver is certain that if he complies with the speed limit then the driver will be certain that he is within the law. Similarly if a project is assessed within legislation, policies and guidelines therefore the proponent and community would expect that an approval based on this assessment should be approved.

A decision maker when attempting to assess and balance complicated matters, impacts and views would therefore best be guided by the above standards. In coming to a conclusion on the preferred decision a decision maker should also consider the views of agencies on whether the assessment meets the relevant guidelines and standards. The focal point or the lens that a proposal is viewed by the decision maker must be the legislation, policies and standards set by the executive of government.

Section 79C of the Environmental Planning and Assessment Act outlines matters for consideration when assessing a State Significant Development. One of the matters for consideration is Section 79C(1b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality.

Once again the governments legislation and policy position needs to be the focal point of the preferred decision on these impacts and not swayed by persuasive arguments that are put by both proponent, supporters or opposition which are not consistent with the "Speed limit". Not applying this lens leads to inconsistent decision making or often policy on the run by a decision maker. Other matters for consideration under section 79C for example public interest would be best balanced with this focal point.

There are a number of recent policies which must be well considered by a decision maker for this proposal. These are the State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007, The Industrial Noise Policy(INP), Strategic Land Use Policy, The Draft NSW Biodiversity Policy for Major Projects and the Upper Hunter Strategic Assessment – Interim Policy.

The impacts from the proposal are assessed in the Environmental Impact Statement (EIS). Upon review of the EIS the key impacts are local and the key benefits are local, regional and state wide.

The key local impacts may be derived from potential noise, air quality, visual and any associated social impact on the village of Bulga and the impacts to biodiversity. Key benefits are the significance of the resource, net benefit to society of \$1.5 B which is distributed beyond the local region, maintenance of employment for 1300 people and flow on effects for local and regional economies. Fundamental to the assessment is that the mine is an existing operation and the relative delta change is the centre of the assessment.

Any local impact from noise needs to be considered through the lens of the INP. If the steps of the assessment have met the INP and the responsible agency (Environmental Protection Agency) have concluded that the assessment meets the INP and the impacts are acceptable according to the policy, similarly the decision maker must also hold this view. From a review of the EIS the proposal meets the INP and therefore the impacts are acceptable.

Any local impact of air quality needs to be considered against the air quality criteria outlined in the secretary's requirements. From a review of the EIS the prevailing winds drive air quality impacts away from the village of Bulga. The air quality criteria are met in Bulga village.

Local visual impacts do not have quantitative criteria on which to assess against. The area surrounding Bulga village is visually dominated by the existing mines. The change in visual impact in many cases remains similar. Some residences at higher elevations may receive a change especially when viewing from certain angles. On balance the visual impact received by these residents is best managed with mitigation discussions with the affected residents.

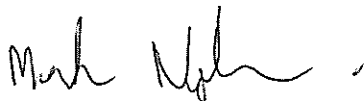
Social local impacts technically are driven by significant change in quantifiable impacts. In this case the technical impacts demonstrate that social impacts in reality are not significant. Perceived impacts however may result in some residents feeling that the social impacts are larger than the technical assessment. The decision maker needs to decide if the change in social impact is significant from the existing scenario. The social impact locally and regionally needs detail consideration. If the proposal is refused the social impact of a scaled down operation may be significant both locally and regionally.

Biodiversity impacts have been considered in the EIS. Assessments have been undertaken in accordance with the Office of Environment and Heritage policy (OEH). An offset strategy has also been proposed to deliver biodiversity outcomes consistent with the policy. If OEH are satisfied that the assessment and offset strategy are adequate then the decision maker must place some weight on this advice.

Other matters assessed in the EIS are relatively straight forward and although needing assessment are not substantive to the decision.

As mentioned earlier a decision maker when attempting to assess and balance these complicated matters, impacts and views would therefore best be guided by the above standards. In coming to a conclusion on the preferred decision a decision maker should also consider the views of agencies on whether the assessment meets the relevant guidelines and standards. The focal point or the lens that a proposal is viewed by the decision maker must be the legislation, policies and standards set by the executive of government.

Thank you for your consideration.

A handwritten signature in black ink, appearing to read 'Mark Nolan', followed by a small flourish.

Mark Nolan

