

I find this ‘independent’ study to assess “Social Impacts” somewhat cynical and it would be laughable if it did not involve such serious consequences for the “near neighbours” of these mining activities.

When the original DA was approved in the PAC process this concern was sufficient for residents to fund an Appeal in which Social Impacts featured heavily. This Appeal was successful in the L&E Court process. In this Appeal process all sides were able to present their arguments in an open Court where expert witnesses testified.

Indeed Rio Tinto and DoPI combined to fight residents with a far larger legal team and more expert witnesses than the residents were able to fund.

Despite the uneven battle it was the first time residents were given an opportunity, without the bias of a foregone conclusion, and the result was that our concerns were seriously noted for the first time.

Judge Preston summarised his findings in detail. I draw your attention to his Social Impact findings below. I have added comments, where relevant. (in bold and Times New Roman)

SOCIAL IMPACTS: JUDGE BRIAN PRESTON’S FINDINGS

Social Impacts: the resolution in summary

Paragraph 409. I am satisfied for the reasons below and that although the existing mine along with other mines in the area had positive impacts (in particular in terms of employment in the community as a whole) those mines also have negative social impacts on the local community and that there would be reasonable to expect those positive and negative impacts to continue for the duration of the project.

Positive Social Impacts

Clause 414. First the comparisons based on LGAs ignore the distributional aspects of social impacts of mining namely that while it can be accepted that there are benefits from coal mining in the form of measures such as employment for Singleton LGA as a whole, costs of a different kind may be borne by the local community.

Paragraph 415. These observations of noise and lights which would not ordinarily be experienced in a rural environment, support the residents evidence of existing adverse impacts both the Bulga and another similar small communities.

Paragraph 417. Evidence was that following the establishment of the Wambo, Lemington, United and Warkworth Mines from the early seventies to the eighties Warkworth Village people began to complain about noise and dust; the mine offered acquisitions and as neighbours properties fell into the hands of the mines and became rented or demolished the remaining residents feared for the loss of the village and sought acquisition. As the village shrank the school closed and the last to go was the service station and general store.

Paragraph 419. Hence, although I accept that there are likely to be positive social impacts particularly in the broader community in the Singleton LGA and the Hunter region, I do not agree that there will be positive social impacts at the local level to the extent suggested by Dr. Stubbs.

Negative social impacts: solastalgia

Paragraph 421. Professor Albrecht’s evidence was that solastalgia is an apt descriptive term for the combined environmentally-induced desolation and powerlessness that impacts on people in the zone of affectation of coal mines and power stations.

Paragraph 425. What those testimonies revealed was “deep solastalgic distress about the damage that has already been done to their loved landscape and the deep anxiety that this level of distress could get even worse as the mine expands towards the edge of the town”.

Social impacts from adverse noise and dust impacts

Paragraph 431. The resident evidence which is supported by the monitoring data and the SKM report **(This report was supposedly “independent” however the conclusions were most definitely biased toward the mine. However, it still clearly showed significant impacts from Low Frequency Noise)** establishes that the noise impacts of the Warkworth Mining operations are real and disruptive.

In my assessment approval of the project on the conditions regarding noise proposed will only increase the noise impacts and their effect on amenity and family relationships.

The DoPI expert noise consultant, in a sworn Affidavit, committed to the ongoing measurement of LF Noise but outside the Court he and DoPI continue to ignore this part of their “Conditions of Approval”

Paragraph 432. The resident evidence is that the existing mining operations at Mount Thorley Warkworth mine complex are having impacts on amenity which leads to social impacts.

Any lack of compliance with air quality criteria would result in air quality impacts and hence social impacts on the residents of Bulga.

Paragraph 433. While the present conditions and those proposed include the entitlement for some owners to request mitigation measures in relation to noise or air quality I accept that for some residents those measures are inconsistent with their decision to live in Bulga.

Acquisition of noise and dust affected properties also has an adverse social impact causing friction within the community and within families.

Social impacts from adverse visual impacts

Paragraph 436. That the screening the effect of Saddleback Ridge from more elevated properties in Bulga such as that owned by Ms Caban is more limited however I am satisfied that removal would be a factor in the visual impact of mining operations.

Paragraph 437. Professor Albrecht also posited that the loss of Saddleback Ridge is of symbolic significance.

The loss of Saddleback Ridge entails the loss of Bulga as a place of its people. This opinion was corroborated by the evidence of Bulga residents who placed importance on the retention of Saddleback Ridge in the landscape.

Paragraph 438. No evidence was provided as to what visual impact mitigation measures might be provided and how effective they might be in the context of the scale of the mining operation proposed in the rural residential environment.

I am not persuaded that any visual impact of the Mount Thorley mine extension would be sufficient to discount the visual impacts of the project, in particular those arising from the removal of Saddleback Ridge.

Paragraph 439. In my view the project will have adverse visual impacts of sufficient magnitude and on a sufficiently large number of properties as to have social impacts on the residents of Bulga.

Social impacts from adverse change in composition of the community

Paragraph 442. Professor Albrecht's evidence was that “a community” is not defined simply by the number of people. People have self-selected Bulga for the rural lifestyle and so the community is built around people who share a common set of values. If the turnover is sufficiently high and there is a change in the type of people the fabric of the community is affected, for example by reducing the degree of involvement by residents with voluntary organisations. In his opinion sheer numbers do not give a sense of the community.

Paragraph 444. For Professor Albrecht on the other hand, the major changes to the landscape, for example the loss of Saddleback Ridge are significant. In my view the marginal impact of the project as an extension of an existing mine has to be considered in its landscape and the area of adverse effect on the local residents and community (the affected catchment area) not in statistical suburbs or local government areas whose boundaries bear no relationship to the affected catchment area. In this affected catchment area the marginal impacts are more significant.

On balance, negative social impacts are likely

Paragraph 445. I am satisfied that the approval of the project will have some positive social impacts by particularly in the form of continuing employment in the local and broader community, but there will be significant negative social impacts arising from continuation of adverse impacts of noise and dust, visual impacts and adverse impacts arising from a change in the composition of the Bulga community. Those impacts must be taken into account the consideration of all relevant factors in determining whether the project should be approved.

PART 7: BALANCING OF RELEVANT MATTERS AND DETERMINATION

Paragraph 498. I have found, amongst other things, that the Project would have significant and unacceptable impacts on biological diversity, including on endangered ecological communities, noise impacts and social impacts; that the proposed conditions of approval are inadequate in terms of the performance criteria set and the mitigation strategies required to enable the Project to achieve satisfactory levels of impact on the environment, including the residents and community of Bulga; and that the proposed conditions of approval, including by combining the Warkworth mine with the Mount Thorley mine, are likely to make monitoring and enforcing of compliance difficult, thereby raising the possibility that the Project's impacts may be greater and more adverse than allowed by the conditions of approval.

Paragraph 499. These matters must be balanced against the economic benefits and positive social impacts in the broader area and region, which are substantial. **In my view, balancing all relevant matters, the preferable decision is to disapprove of the carrying out of the Project.** The consequence will be that **Warkworth can still carry out the existing mine**, as authorised under the development consent DA 300-9-2002-1, granted in 2003, as modified from time to time, **but would not be able to extend the mine under the Project Approval granted by the Minister (by his delegate the PAC) on 3 February 2012.** The existing consent authorises mining until 2021 in the existing approved area.

Paragraph 500. Accordingly, the orders of the Court are:

- (1) The appeal is upheld.
- (2) Project application no 09_0202 for the carrying out of **the Warkworth Extension Project is disapproved.**



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