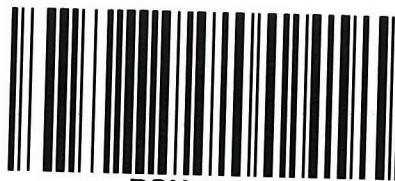




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18 August 2014



PCU55213

Executive Director
Major Project Assessments
NSW Department of Planning and Environment
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elle.donnelley@planning.nsw.gov.au

Warkworth Continuation Project. Project Application number SSD6464.

Dear Sir

We refer to our holding submission dated 5 August 2014 re the above application.

Please accept this as our final submission for the Warkworth Continuation Project application number SSD6464. The Hunter Valley Protection Alliance (HVPA) representing community groups in the Broke Milbrodale area objects to the project. Our objection is that the proposed Warkworth expansion is the same project rejected by the Land and Environment Court in 2013. The appeal against that decision by Rio Tinto and the NSW State Government was rejected by the Supreme Court of NSW in 2014. The findings of both courts apply to this Warkworth application and thus must be considered in this assessment. On the basis of the Court decisions alone you must you reject this Warkworth application.

Also of concern to us is the connection between Rio Tinto and the Department of Planning and Environment. The Secretary's requirements were issued to Rio Tinto on the 22 May, 2014 and the date of the EIS was 13 June 2014. How could the Secretary's Requirements be properly is addressed in the EIS in this short time? It appears the EIS reports were completed prior to the formal issuing of the Secretary's requirements. This requires an explanation.

Reasons for our objection

State Government has altered the assessment rules to suit Rio Tinto

The Government has altered certain assessment criteria to assist Rio Tinto/Warkworth Mining Ltd obtain inappropriate approvals. Changing the assessment criteria does not alter the project's impacts on the surrounding communities and the environment.



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Application complies with contemporary policies

The EIS states that "The proposed offset strategy fully satisfied contemporary policies and provides a significant ecological benefit in the long term". These contemporary policies are of course those altered by the Government to ensure that the previously rejected proposal now meets "contemporary policies". This does not detract from the fact that the Endangered Ecological Communities will be substantially damaged. It is not appropriate for Government to change the policy which will allow the destruction of endangered ecological communities. These policy changes will not save the endangered species and have been altered only to ensure this application receives approval.

Application meets all government policies

The EIS states it meets all government policies. The government policies that are being met are those put in place to ensure this mine gets approval. It does not meet the international standard of a balance between economics, environment, and the community.

Changes in legislative and policy environment

It is important to note that changes in the legislative and policy environment does not lessen the impact of the project on the environment and the surrounding. The importance of the introduction of Clause 12AA (2) the State Environmental Planning Policy (the Mining SEPP) makes the principle consideration of the matters the Minister is to consider is the value of the coal resource. This change to the SEPP was introduced by ex-Minister Hatcher at the behest of Rio Tinto and other mining interests. This is a matter of dishonesty and disgrace to the current State Government and attempts to artificially create more value for the economic consideration than the ecology, social impact etc. This SEPP amendment puts an imbalance into the assessment process and must be rejected.

Back ground noise levels

One of the key matters raised in the Land and Environment Court judgement which WML state have been addressed is noise. WML maintain background noise has been confirmed with three further details studies and an advanced method of allocating background noise levels to each individual receiver which was discussed by the New South Wales Environment Protection Authority.

The details of such discussions should be made available to the HVPA to allow us to understand the arrangements made between these two government departments as they are probably to the disadvantage of the community.

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The EIS states that noise impacts will be below the acceptable noise levels and amenity of the village as a rural area would be maintained. It is our view that the back ground noise for surrounding villages south is 30dba and thus a maximum limit of 35 should be applied. It must be noted that the previous noise levels allowable for Warkworth mine were 35dba until artificially altered to 38 when the original 2010 application was approved.

The EIS states that background noise levels have been determined in compliance with required processes for the INP in setting background levels. The mine immediately adjacent to the Warkworth being the Glencore Bulga open cut reports in its EIS of having a the background noise level for nearby Villages of Broke and Bulga as 29 DBA. Clearly the modelling input by the consultants for the Warkworth mine are such that it is able to manipulate the outcomes to favourably suit and support the mine expansion. We do not accept modelling by the applicant for this application.

Reasonable feasible measures applied to control noise

The EIS states that "all reasonable and feasible measures have been applied to control noise from the Warkworth mine". This statement is broad and vague. All reasonable and feasible measures are subjective assessments and made only in the interests of Warkworth mine.

Low frequency noise levels will not meet INP requirements but will for Broner rules

The EIS states that low frequency noise levels are predicted to meet the relevant Broner criteria for low frequency noise. The Broner criteria has not been accepted by the EPA and is not part of the industrial noise policy. It appears that the mining company is accepting a proposal that is not yet approved nor has it been reviewed in consultation and discussion with the community.

Noise levels higher than predicted in previous application

The EIS notes that the noise limits at some residences will be even higher than those predicted previously because of the inability of the company to meet the machinery output noise as the previous 2010 report. This makes the noise impacts even worse than those submitted to the court in 2012 and is even more unacceptable to the residents.

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Commitment to noise controls

The EIS states that there is a commitment to continuous improvement for noise controls. Clearly when one views the numbers of complaints that had been received by the Warkworth mine and by the Department of Planning this does not represent the facts.

Their statement that compliance assessment monitoring has demonstrated a high level of compliance with noise criteria is not backed up by the various reports received by the residents and by the residents monitoring of the noise at their own receivers.

Economic significance of the coal resource

The EIS states that "The resource within the proposed 2014 disturbance area approx. 230 million tonnes is economically significant". That may be the case but when considered by Chief Judge Preston in the Land and Environment Court the value of the resource does not outweigh the significant impacts on the ecology and the village of Bulga. The fact that the economic significance has been artificially altered in SEPP clause 12AA (2) does not change the impact that the extraction of coal will have on the surrounding population and the environment.

Economics

The summary of economic assessment speaks only of wages and other benefits. This study does not take into consideration the costs to the community should this application proceed.

The EIS states that it provides state significant economic benefit to the local regional state and national economies. A recent survey by the Australian Institute notes that in the Hunter Valley only five per cent of the working population is employed in mining and only two per cent of the total revenue to the State government is from royalties from coal mining.

All reasonable and feasible measures applied to dust control

The EIS states that "all reasonable and feasible measures have been applied to control dust from Warkworth mine". Clearly the company either cannot or will not control dust. The very nature of an open cut mining operation produces uncontrollable dust. The quality of the air in the Hunter Valley is not acceptable to residents and the majority of this dust is produced by open cut mines. There cannot further expansion of open cut mines near residential areas such as Broke and Bulga.

The EIS states that operational improvements in response to ongoing stakeholder engagement protect the regarding the proactive and reactive management of noise and dust resulting in changes to operations. We have not noted any operational improvements and the ongoing stakeholder engagement is simply the complaints made by the residents to Warkworth about dust and noise.

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Air quality met at surrounding villages

It is claimed that the air quality according to the modelling at privately owned residential dwellings is met for surrounding villages and therefore air quality impacts are below acceptable air quality concentrations and amenity of the village should not be reduced.

We refer to the dust alarms experienced in the Hunter Valley last year. The majority of these are from the dust produced by open cut mines and no further expansion of mines should be allowed. It is not logical where an open cut mine moves two kilometres closer to villages that the dust impacts will not be greater.

No impact from diesel emissions

The EIS states that no air quality impacts are predicted to result from diesel emissions. Where does the applicant anticipate the 20,000,000 litres of fuel burnt on the site each year together with another 20,000,000 from other nearby mines will go to? Logic dictates that these diesel fumes will fall initially on sites immediately near the mine and then will continue on to far greater areas of the Hunter Valley.

Social and environmental impacts

The EIS states that the proposal has some 'residual social and environmental impacts some of which would be experienced locally but that the impacts meet all current government policies and would be managed in accordance with industry best practice.'

These 'residual' social and environmental impacts are the major impact that this expansion will have on the surrounding villages. It states that this application would meet all current government policies and would be managed in accordance with industry best practice. The current government policies have been amended as required by Rio Tinto and with the concurrence of the Department of Planning and Environment in order to get mining projects approved. The management 'in accordance with industry best practice' is not what we have experienced over the past five years.

Social impact

This social impact analysis where it states that "while immediate neighbours have expressed subjective concerns" they state that the objective evidence that the actual impacts meet the levels prescribed in various government policies. We refer you and the evidence submitted to Land and Environment Court. The evidence contained in the judgment was that the mine's method of measuring social impact was sadly lacking. The Department of Planning must give serious consideration of the Judgement from the Court.

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On a review of the Judgements it will be apparent that the social impact is very high and the outcomes arrived at in the EIS understate the impact on the community and must to be rejected.

Final Landform and rehabilitation

The EIS states that the rehabilitation of the areas mined under this proposal would continue to be undertaken progressively to create a stable, free draining landform etc. The performance of this company in rehabilitation of the landform does not measure up to their statements in this EA. Any visual inspection or photo of the mine will show the poor state of rehabilitation and it is a reflection on the Applicant's attitude and that is to extract coal and not rehabilitate the landscape in a proper manner.

Visual amenity

The EIS states existing topography and vegetation would continue to provide screening to Warkworth mine. The residences around the mine are generally elevated which provides an unrestricted view of the damage and desolation this mine has and will produce. It further notes that the residents of potentially sensitive properties would be allowed to request site specific visual assessments which may identify the need for a site specific mitigation measures. The proposed site mitigation measures such as planting, trees etc. takes many years to develop into an appropriate visual screen and accordingly would not assist residents for many years to come.

Impact on near neighbours minimised

The EIS states that impacts on near neighbours have been minimised to the greatest extent possible using 'all reasonable and feasible measures while maintaining an economically viable mine plan'. Simply stated this is a matter of economics having priority over any other matters and this is not acceptable to the residents.

Justification.

The EIS states that Warkworth mine and adjoining Mount Thorley mine are longstanding members of the community. The residential communities in this part of the Hunter Valley were established here almost two hundred years ago and many years before mining commenced. Generally the community regards the operation at Warkworth as an intrusion on their well-being, their health, and quiet amenity. There is no social licence for this company to continue operating considering the poor record of community relations and the disastrous environmental impacts.

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