

Rio Tinto Warkworth Modification Application.

Application no. DA 300-9-2002-I MOD 6

I object most strenuously to this application to mine in areas previously deemed to be NDAs (Non Disturbance Areas) and disallowed by the Land and Environment Court.

2003 Approval and the Deed

The 2003 Approval for the expansion of the Warkworth Mine required WML to enter into a Deed of Agreement, promising that it would never open cut mine Saddle Ridge and that it would apply to Singleton Council to have Saddle Ridge and the balance of the NDA1 that was to protect Bulga, rezoned as a permanent conservation area.

In this application WML state "WML entered into a Deed in satisfaction of the condition".

They entered into a Deed, but it didn't end up satisfying the condition.

What they omit to say is :

- a. with the co-operation of the Dept of Planning, that Deed was never ratified, but rather buried in a desk drawer somewhere in the DoPI offices.
- b. WML never approached Singleton Council to have the land rezoned which was a requirement to be fulfilled BEFORE they began the new operations.
- c. in 2011, WML sought to expand the mine into those very NDAs protected by the Deed but approved by the PAC and subsequently disallowed in the Land and Environment Court.

All of which demonstrates that they cannot be trusted to honour any promise or undertaking.

This application seeks to circumvent the decision of the Land and Environment Court which is totally unacceptable.

In 2013 the NSW Land & Environment Court rejected the mining of Saddle Ridge as part of the previous application.

The Court decision must stand.

This new application to mine into Saddle Ridge must be refused.

Consultation

A requirement of WML's Consent Conditions is that they set up a Community Consultative Committee (CCC), which they have done. Further, the DoPI guidelines for such Committees, state that the proponent (WML) must inform the CCC of any future plans, future applications etc. well in advance.

However, WML (Rio Tinto) is making this development application with no prior consultation with the people of Bulga. Rio Tinto met with the community representatives only three weeks

before at the CCC but, no advice was given on this proposed application even though clearly it was fully documented and ready to submit.

The residents of Bulga Village are the most impacted by any expansion of this mine and yet they are told about this the day before the application is made. This demonstrates the arrogance of this company and the Bulga residents are extremely disappointed, with both Rio Tinto and DoPI considering the impact this mine has on them.

Ecology

The amendment proposal is ecological vandalism. This extension will destroy an Endangered Ecological Community (EEC) containing Central Hunter Grey Box-Ironbark Woodland and Central Hunter Ironbark-Spotted Gum-Grey Box forest vegetation.

This was discussed at length in the Land and Environment Court and Judge Preston rightly stated that one cannot offset EECs like this.

The proposed offset is not like for like. This area in the offset should be preserved in its own right, not as an offset.

Noise

WML, with the assistance of DoPI, ignore the requirements of the current Consent Conditions on noise measurement. They make no attempt to quantify Low Frequency Noise (LFN) as required by the Conditions with reference the NSW Industrial Noise Policy (INP).

Since the noise levels are not measured in accordance with the Conditions laid down in the Consent, the noise data they provide is completely worthless.

That they have the assistance of DoPI to circumvent this requirement is evidenced by the SWORN AFFIDAVIT of Mr. Jeff Parnell, (DoPI Acoustic Consultant) who SWORE in the Land and Environment Court that DoPI would follow the INP with respect to LFN. The fact that outside the court Parnell stated he wouldn't be doing that, combined with DoPI's refusal to enact the Condition that requires WML to do it, demonstrates absolute contempt for the judicial system. That is completely unacceptable and shows that neither WML nor DoPI can be trusted to honour any Condition in any Approval.

Air Quality

When we first moved to Bulga, the air was clean, the house was clean. Since the expansion of the mine in 2003, everything around is coated in black dust. We complained about it and asked for it to be analysed..the best they could come with was "a black crystalline substance resembling coal"...resembling coal ??? what else could it be.

We are breathing this stuff !!

Various investigations and reports have shown that air quality has a major impact on the health of residents living near open cut mines.

Reference is made to the University of Sydney report of 2012 headed Health and Social Harms of Coal Mining in Local Communities which states as the key finding that *"There are clear indications from the international health research literature that there are serious health and social harms associated with coal mining and coal fire power stations for people living in surrounding communities"*.

This and other similar reports cannot be ignored and any expansion of this mine must be rejected. Any further expansion of the Warkworth mine will only add to the current health harming air pollution in the Hunter Valley.

Jobs

Government must weigh up the benefit of jobs versus the cost to the community of intrusive industries like mining.

Mines may provide jobs but if this is at the expense of the community's health associated with living near an open cut mine then it is too big a price to pay.

The mine is currently working under the 2003 approval which allows mining for another 8 years to 2021. WML are very close to the limit of the 2003 Approval already.

They had until 2021 to get there, but insatiable greed on the back of rising coal prices drove them to mine as fast as they possibly could.

Now dealing with falling coal prices they are faced with the possibility of having to terminate jobs...jobs that were created in the light of high coal prices and at ridiculously high wages.

The preservation of these jobs will depend on only one thing – the price of coal.

WML already operate at strip ratios of 8 - 12 to one..ie 8 – 12 tonnes of slag for one tonne of coal. This application is to mine in an area where the strip ratio will be higher, perhaps 18 to one, increasing the cost per tonne to extract the coal.

WML production costs at 8-12 : 1 are of the order of \$80/tonne...at 18 :1 they could be as high as \$90/tonne.

The current Newcastle coal price is \$87/tonne and shows little chance of increasing.

That fact makes the operation unprofitable – jobs will go.

Rio Tinto is not going to stand by and lose money.

So, the jobs argument is transparently false.

Social Impact

The process used by Rio Tinto in its endeavours to expand the mine is causing division within the community of Bulga. The noise and dust problems together with potential to lose Saddle Ridge and the resulting visual and noise impacts is causing great distress among the Villagers.

Rio Tinto must be made to stand by its agreement with the Government in 2003 and arrange with Singleton Council to have the Ridge and all of NDA1 rezoned as a permanent conservation area. In the various press statements and statements to the employees, Rio Tinto does not mention the agreement it made in 2003 to protect the village of Bulga with the Deed of Agreement. These omissions place undue stress on the Villagers where the Mine employees blame Bulga residents for the potential to lose their jobs.

Rio Tinto should honour the 2003 agreement and explain this to its employees.

But, they are unlikely to do so because they seek to demonise the residents of Bulga as “anti-mining” and the cause of lost jobs. The fact is that it's economics that will drive the job numbers. Rio Tinto laid off nearly 400 employees during the Land and Environment Court case, purely because of economic impacts.

To blame the residents of Bulga is to distort the truth and create enmity between mine workers and residents.

Visual Impact

The overburden removal and the ever increasing overburden dumps will be evident to the residents of Bulga who live on the more elevated properties. Further, the massive excavation into the eastern side of Saddle Ridge will have a major visual impact when viewing the Ridge from the east. The reinstatement and rehabilitation of the devastated Saddle Ridge will be impossible.

Aboriginal Cultural Heritage

The Aboriginal Cultural heritage in the expansion area must not be destroyed. Four out of seven artefacts remain from those identified in the earlier EA. With this expansion the remaining four will be destroyed. These artefacts were intending for preservation under the Deed of Agreement of 2003. This will not be honoured under this expansion.

The new State Environmental Planning Policy (SEPP) amendment

Clearly the new SEPP amendment was produced as a result of the Warkworth 2013 Land and Environment Court judgement to overcome the problems the decision caused for the mining industry. The timing of this application suggests collusion between the Government and Rio Tinto to the detriment of the Village of Bulga. The SEPP amendment was gazetted Friday 8 November and a few days later this new Warkworth Development Application is submitted. The State Government is not protecting the people living near coal mines and is favouring the interests of the foreign mining companies.

NSW Supreme Court of Appeal

This application not only comes swiftly on the heels of the SEPP amendment, but comes ahead of the outcome of Rio Tinto's appeal in the NSW Supreme Court.

They must know they are going to lose the appeal.

Given that the NSW Supreme Court upholds the decision made in the Land and Environment Court, no further application should be made on land that was the subject of the previous 2010 application (NDA1) and which was rejected by the Land and Environment Court

This application shows blatant disregard and disrespect for the Court process and justice.

Project Justification

Curiously, although the latest SEPP provides for economic justification to be the supreme point under consideration for Approval, no economic assessments in support for the project have been provided and no evidence is available to justify statements that Rio Tinto must to expand the mine to maintain its viability and the maintenance of jobs.

The EA states that the disapproval of the Warkworth Extension Project in 2013 halved the width of the main pit (North and West pits) at MTW.

This is not correct and an inspection of the plan will show that the strike length will be reduced by 30% of the current length. Notwithstanding that, the mine plan from 2003 is now current and what was economical for that plan must be economical now. This loss of strike length (i.e. working room) is what was planned for in the 2003 approval.

The 'bit by bit' methodology could continue for several years continuing to expand the open cut and the devastation of the landscape and the loss of EECs.

Should the Mine gets approval for this application, no doubt the same argument will be used in two years' time to justify a further expansion into the Saddle Ridge Non Disturbance Area until the whole of Saddle Ridge disappears.

The intent is clear. One way or another, they want to mine the land in the 2012 Approval that was disallowed by the court. This is an underhand and dishonest tactic to circumvent the court process and judicial system.

Economics

There is no economic justification or work methodology presented to justify the statements made that the mine must have this incursion into a Non Disturbance Area to "maintain the viability of the operation" and "maintain current employment as close as possible to current level". The threat of job losses and Mine viability appears to be scare tactics to allow the Mine to make a start on the larger expansion that was rejected by the Community and the Courts.

The fact that WML chose to accelerate production in the 2003 approved area, increase employment at increased wages purely to fuel their own greed, is not a justification to allow them to expand into areas previously agreed to be off limits and disallowed by the Land and Environment Court.

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