

Our Ref: JEW:JK:38944

23 May, 2013

The Director
Major Development Assessment
Dept of Planning and Infrastructure
23-33 Bridge Street
SYDNEY NSW 2001

Dear Sir,

MOUNT ARTHUR MINING COMPLEX
MODIFICATION 1 – EXTENSION OF MINING

We act for Elva Rankin and her son Warren James Rankin and on their behalf make the following submission by way of objection in relation to this development.

The application by BHP Billiton seeks a modification to its existing approval in respect of the Mount Arthur Coal Consolidation Project to facilitate an extension of the open cut mining operations for a further four (4) years from 2022. That extension will see mining move to the west and south-west of existing operations, closer to the properties of our clients, and will see a very large increase in the area of land disturbed by open cut operations.

Elva Rankin is the owner the property at 1166 Denman Road, Muswellbrook comprised in Lot 3 DP 29451, identified in the existing project approval as property 209. Elva and Warren are the co-owners of the properties at 1100 and 1106 Denman Road, Muswellbrook comprised in Lots 1 DP 416130 and Lot 2 DP 29451, and identified as properties 211 and 210 respectively. An active dairy farming operation is conducted on the land.

Our clients' properties are identified within the existing approval as subject to acquisition upon their request on the basis of air quality impacts from the operation. Our clients also have the right under the approval to request mitigation measures in respect of noise, dust and visual impacts.

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After long running and in our clients' view, unnecessarily protracted, discussions our clients have recently reached agreement as to the implementation of certain mitigation measures. Those measures have not yet been implemented and their efficacy is yet to be seen.

The environmental assessment in relation to this application predicts that these properties will be further impacted by dust and noise emissions. That is of great concern to our clients given their knowledge and experience of existing impacts.

Air Quality

The report of PAEHolmes in relation to Air Quality Assessment identifies our clients' properties as predicted to experience dust concentration levels in excess of acquisition criteria and notes that the properties are within the zone of acquisition under the existing approval. That of course does not assist our clients unless and until they exercise their right to request acquisition and in the meantime, they are left to endure uncomfortable and unacceptable conditions.

Mitigation measures may achieve some level of success in mitigating the impact experienced at the residences on the properties, but will do little to ameliorate conditions elsewhere on the properties. Our clients request that the applicant address the measures that are proposed to mitigate the impact at our clients' properties.

Noise and Blasting

The Noise and Blasting Assessment of Wilkinson Murray similarly identifies our clients properties as predicted to experience exceedences of night time noise criteria, becoming more severe as the mining progresses and indeed exceeding the criteria by up to 7dba in some years.

That of course is also of great concern to our clients given their experience of existing noise levels. Our clients request that the applicant specifically address the measures proposed to ameliorate noise impacts experienced by our clients.

The report is particularly silent about blasting impacts, other than noting the requirement for extension of the western blast control area along Denman Road, and the proposal for the continued implementation of "management and mitigation measures" for the blast control areas.

On our albeit cursory study of the report there does not appear to have been any assessment of predicted levels of residential overpressure and vibration emanating from the modification. Our clients find that very discomforting and would ask that the applicant specifically address their concerns in this regard and detail with specificity the measures proposed to be taken to ameliorate any impact. Our clients make this request based on their recent experience of blasting impacts which, although not exceeding consent parameters, have certainly approached that point and been of particular concern.

As previously stated, the properties are used in conjunction for the operation of a dairy farm and the safety of livestock depasturing thereon, as well as the safeguarding of improvements including underground irrigation infrastructure, is of vital importance.

Cumulative Impacts

Needless to say, having been residents of their Denman Road properties for over forty (40) years, our clients are gravely concerned as to the contribution of this modification to the adverse cumulative impact that now affects the ambience of the Upper Hunter region as a result of existing coal mining and other projects under consideration. Our clients have witnessed with dismay the severe and adverse degradation of the local environment.

Conclusion

Our clients now seek that the matters that have been raised in this submission be dealt with. Our clients have experienced a great deal of stress and frustration in their dealings with representatives of Mount Arthur North and regrettably, do not feel confident that their future dealings in relation to impacts and mitigation thereof will enjoy and greater degree of empathy or consideration for their position. They believe that further environmental assessment of the impacts experienced at their properties must be undertaken with a view to identifying with specificity the likely impacts and the measures that will be proposed (including a review of those recently agreed) to mitigate such impacts.

Yours faithfully
SCONE LEGAL



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