

10 September 2015

Ms Lynelle Briggs  
Chairperson  
Planning Assessment Commission  
Level 13  
301 George Street  
SYDNEY NSW 2000

Re: R034/15 and R035/15 - response to matters raised at hearings

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Dear Ms Briggs

EMGA Mitchell McLennan Pty Limited (EMM) has been made aware of a submission presented to the NSW Planning Assessment Commission (PAC) in response to the request for a review of the Warkworth Continuation Project (SSD 6464) and Mt Thorley Continuation Project (SSD 6465) by the NSW Minister for Planning. We understand that this submission was prepared by Michael and Louise Askew who were members of the social impact assessment (SIA) project team. Whilst EMM has not seen the content of the submission, this letter presents the following relevant matters regarding the SIA's method and findings to the PAC.

- The SIA is an EMM document and EMM stands by its findings and maintains that it accurately reflects the community consultation undertaken. The SIA has been produced by a highly experienced team who completed the work with professional skill and diligence.
- The method for the preparation of the SIA was consistent with leading practice and the approach taken by the NSW Land and Environment Court (LEC) which requires consideration of the objective data ('concrete likely effects of the proposed development') and the experiential evidence ('subjective fear or concern') from residents.
- Michael and Louise Askew's principal contribution to the SIA was background research, initial consultation and reporting of these consultation activities. These tasks were undertaken in the early phases of the SIA process and their involvement in the project ceased during preparation of the technical studies, well in advance of finalisation, and incorporation of results into the SIA.

No guidelines or policies have been provided by the State since the LEC judgment on Warkworth Mine. The method for the preparation of the SIA followed leading practice, including that in the Community Development Toolkit (2012) prepared by the World Bank specifically for addressing social issues associated with the mining sector.

The SIA involved gathering comments from a wide range of stakeholders and these have been fairly and objectively reported in it. The SIA was undertaken in accordance with the Secretary's Environmental Assessment Requirements but also addressed the issues identified in the LEC judgment. The SIA has been deemed adequate by both the NSW Department of Planning and Environment (DP&E) and the PAC.

As noted above, the Chief Judge's approach to SIA (par. 430 of the LEC judgment) requires consideration of the objective data ('concrete likely effects of the proposed development') and the experiential evidence ('subjective fear or concern') from residents. The objective data shows that despite the experiential

evidence of residents of Bulga, the amenity criteria for the village of Bulga are satisfied in accordance with the mandatory requirements listed in clause 12AB of the *State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007* (Mining SEPP).

The SIA used objective data and findings of technical studies - such as noise and air quality assessments - plus Australian Bureau of Statistics (ABS) census data showing that Bulga has:

- a population that is growing compared to those in Singleton, Muswellbrook and Upper Hunter local government areas (LGAs);
- a low unemployment rate comparative to that of NSW;
- higher median income comparative to that of Singleton, Muswellbrook and Upper Hunter LGAs and NSW; and
- no noticeable effect on property prices during the preparation, lodgement and assessment of the Warkworth Extension Project 2010 over a four year period from 2008 to 2012.

These factors show that established and new residents of Bulga find it an attractive residential location offering good amenity and situated to take advantage of job opportunities in the locality. Further, the EIS shows that these conditions will not change materially as a result of the projects.

Social impact issues identified by the residents of Bulga were impacts on the physical environment, health and well-being, economy, infrastructure and services, community engagement, relationships and governance. Consistent with leading practice, the SIA considered social impacts if the projects did not proceed. Issues identified included workers and families would need to move away from area, unemployment and financial difficulties, reduced local spending, decreased local business, population decline, reduced viability of services such as schools, and reduced community life and participation. These stakeholder perceived social impacts were considered together with the outcomes of the technical studies such as noise and air quality in the assessment of the projects.

Noise and air quality goals/criteria established under government policies provide benchmarks set to protect the community against adverse effects, and generally reflect current Australian community standards for the protection of health and against nuisance effects. Criteria are applied for all of NSW, irrespective of industry and location. Therefore, compliance with these would suggest that general health and amenity are being protected.

Maintaining compliance throughout the life of the projects is reflected in commitments made under the proposal and will continue to be evidenced by the outcomes of monitoring and auditing against noise and air quality criteria with the results publically available on Rio Tinto Coal Australia's website.

All of the Mining SEPP's non-discretionary standards are met for the village of Bulga and all surrounding privately-owned properties, with the exception where the cumulative annual average criteria is exceeded for two properties northwest of Warkworth Mine which are already afforded acquisition rights by neighbouring mines.

It is important to recognise that the projects have incorporated design and operational improvements compared to the previous Warkworth Extension Project. These were developed with consideration to, amongst other matters, feedback received during stakeholder engagement for the projects and the LEC judgment. These improvements were designed to avoid, mitigate and manage the identified impacts to achieve an appropriate balance between environmental, social and economic impacts and maintaining the viability of the mine.

As noted in the response to submissions reports for both the Warkworth Continuation Project (Section 7.2.7(ii)(a) page 315) and Mt Thorley Continuation Project (Section 7.2.4(ii)(a) page 190), Michael Askew

and Louise Askew were members of the SIA study team who principally undertook the one-on-one consultation. This consultation was undertaken in the early phases of the SIA process and, as noted above, their involvement in the project ceased during the preparation of the technical studies, well in advance of their finalisation, and incorporation of results into the SIA. While their views are acknowledged, they do not reflect the objective reference points given outlined above and presented in the SIA.

In summary, the comprehensive SIA prepared by EMM demonstrates that, on balance, the social effects of the proposals would be positive. EMM stands by the SIA and its conclusions entirely.

Yours sincerely



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Director  
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