

Responses received from the NSW Planning Department to questions from Background Briefing, 4th July, 2013.

Q1: A key campaign platform for this government was to empower communities to have more say over the development process. Community representatives in areas like Bulga have expressed that view that the planning approvals process is an uneven playing field between them and the developers. Does the government acknowledge there's an imbalance there?

A1: The Government is committed to putting community participation at the centre of the new planning system, as reflected in the White Paper.

The Bulga community had a high level of involvement in the assessment of the Warkworth Extension project. This involvement included:

- Putting in a submission during the exhibition period;
- Meeting with senior departmental officers during the assessment process;
- Making representations to the PAC during its public meetings prior to its determination of the project; and
- Appealing the merit's of the PAC's decision to the Land and Environment Court.

The planning approvals process is not a battle between parties, or an uneven playing field, as suggested by this question.

It is a process in which the merits of development proposals are assessed with extensive public consultation.

The department's role in this process is to take all views and considerations into account, and determine whether the development proposal is in the public interest.

Q2: There was a stipulation in the 2003 Deed of Consent (between the government and Rio Tinto) that the non-disturbance areas next to the mine be rezoned for conservation. In 10 years, the mine never rezoned it. Why not?

A2: Rio Tinto acknowledged early on that the offset underpinning the 2003 deed was flawed, and that it would like to replace this offset with another offset.

The department was happy to consider the potential swap, provided Rio Tinto could demonstrate that it was in the public interest.

Rezoning the land was therefore postponed until Rio Tinto's proposal was assessed on its merits.

This decision was based on the fact that Rio Tinto would continue to manage the land for conservation during the merit assessment process, in accordance with its obligations under the 2003 development consent and deed, and that the land could be rezoned if Rio Tinto could not get approval for its alternative proposal.

Q3: The 2003 deed was a signed agreement between the mine and the government. That agreement was amended in 2012, to effectively reverse the original conditions. Could this compromise contractual agreements between miners and the government in the future?

A3: The 2012 amendments did not reverse the original conditions of the deed.

They simply allowed Rio Tinto to mine in a very small part of the 2003 offset area, in accordance with the Planning Assessment Commission's approval for the proposed expansion of the mine, which was granted in February 2012.

This area was kept to a minimum because the merits of the PAC's approval were being appealed in the Land and Environment Court.

To date, Rio Tinto has not carried out any mining in this area, and it no longer has approval to mine in this area following the LEC's subsequent refusal of the proposed extension.

Although this refusal is being appealed, the 2003 deed has reverted back to its original form.

The 2012 amendments were based on the PAC's conclusion that replacing the 2003 offset with a new offset was in the public interest, following a long and rigorous assessment process, and should have absolutely no bearing on future contractual arrangements between miners and the government.

The deed was also discussed in the PAC determination, available here:

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=3639

Q4: Does the department believe there needs to be more specific information about the impacts of open cut coal mining on nearby communities in the Hunter Valley?

A4: Communities in the Hunter Valley have access to more information on the impacts of mining than ever before.

This information is publicly available on the websites of key regulatory agencies (such as the Department, Environment Protection Authority and the Division of Resources of Energy) and individual mining companies, which are required to monitor and publicly report on their environmental performance.

Q5: Bulga residents say that since the Land & Environment court ruling, nobody from the government has come to see them. Why not?

A5: Following the LEC's refusal of the proposed expansion of the Warkworth mine, Rio Tinto is now operating under its 2003 development consent.

The department's Singleton-based compliance office continues to monitor the compliance of Rio Tinto against the conditions of this consent, and investigate any complaints about the mine's operations, including any complaints from Bulga residents.

Put simply, the department is ensuring the approved operations of the mine are carried out properly, and that any impacts on Bulga residents are kept to a minimum.