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Senate Enquiry
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Inquiry into the Impacts on Health of Air Quality in Australia. (1) Planning Processes.

Thank you for the opportunity to provide a personal view of the planning processes involved with the approval of pollution sources such as coal mines. I have submitted separately my views on the effects of dust on the community in the Hunter Valley.

I was involved in an application for the extension of a large open cut coal mine within close proximity to our residence in Bulga in the Hunter Valley. I managed the team that made submissions on behalf of the community (the local progress association).

It is my view that the assessment processes used in considering applications for open cut mines in NSW is seriously flawed and does not provide reasonable access and participation by community stakeholders.

The short history of the application for consent to expand an open cut coal mine to within 2.6 kilometres of a village of 400 people.

- In 2010 the planning authority, the NSW Dept. of Planning & Infrastructure (DoPI), on receipt of the Environmental Assessment (EA) submission from the mining company advertised the application for public consideration. The EA was a very large technically detailed series of documents which outlined the project, the impact on the environment, the financial advantages, the impact on the ecology and visual impacts.
- The project was then advertised and the community and other interested parties were given only four weeks to investigate and prepare submissions commenting on the project.
- 102 submissions were made from the community and other groups and only one group was in favour of the mine (the CFMEU). The other 101 were strongly against the mine expansion.

- DoPI then prepared a report and made a recommendation to the Minister that the project be approved. Leading up to this point the mine and the DoPI had met on several occasions to establish what the DoPI would accept.
- On receipt of the recommendation from the DoPI the Minister appointed a panel from the Planning Assessment Commission (PAC). Over a two day period in November 2012, the panel listened to 68 verbal submissions of which approx. 60 were against the mine expansion.
- The PAC approved the mine expansion on Feb 2012
- In March 2012, the local progress association appealed the decision in the NSW Land and Environment Court. The result of that appeal will be known within the next week.

The points I wish to make on the approval process experienced are:

Matters for concern

- It is extremely difficult for the community to make a proper examination of the project and to prepare and submit a meaningful submission. Because of the technical nature of the reports it is normally beyond the expertise and experience of the community. In this instance we employed four consultants to provide reports in the area of Ecology, air quality, noise, and water. However because of the short timeframe (and we received a two week extension) it was not possible to provide sufficient time for a proper investigation on behalf of the community.
- Even going to the extent and expense of independent consultant's reports it was apparent in the DoPI responses to the submissions from the community that the DoPI either ignored the reports or did not consider them worthy of mention. We believe that all of our submissions were disregarded as were our consultant's reports.
- With all of the matters raised in our submission (42 pages) with the four consultants reports, not one matter was included or addressed in the final approval.
- On reading the recommendation from the DoPI it was clear to us that the Dept. was acting in the best interests of the mining company and did not provide proper protection for the other stakeholders.
- We find that the DoPI includes conditions into the recommended approval that are clearly in the interests of the mine.

- As the PAC was part of the DoPI, the community had little faith in its independence.
- One of the matters that most distressed the community was the failure of the DoPI assessment process to take into consideration the social impact on our village. It was as if we had no value and that local villages were simply a minor obstacle to be overcome in the push for minerals extraction.
- At present it is a completely unbalanced approach and the local communities feel completely powerless to stop the expansion of open cut mine that will cause major impact on small country towns.
- It appeared to us that the Government was determined that the project would proceed and that the public exhibition phase was simply to 'tick the box'.

Conflict of Interest with the DoPI

- We see conflict in the process where the assessing and approval entity (the Dept. of Planning and Infrastructure being part of the State Government) is also the entity that will benefit by approving the mine (State royalties). The approving authority should be separate from the authority that will benefit from approving the mine.

Community support in assessing mining application and EAs

- My view is that the government should include in the application fees, a financial component from the developer of the mine that pays for a panel of consultants for an independent assessment of the proposal on behalf of the affected communities. The consultants commissioned by the mine cannot provide an independent assessment of the impact of the mine. They have a duty to the proponent (the mine) to show the project in a most favourable light and this may not provide to the community the real downside impact of the project.
- In the past the DoPI was considered the independent assessor for mining projects; however the community no longer considers that the DoPI is independent and that it is simply the vehicle through which mining companies channel their application for approval. Because of a long history between the DoPI and mining companies and the exchange of personnel (the team leader for the Mine for this project was previously employed by the DoPI) we believe that the DoPI cannot consider mining application at arms length.

Results on local villages of previous approved open cut mine

- Mines in this area have already destroyed three country towns and the expansion continues.

Conclusion

- The imbalance with the access the mining lobbyists have over the community members is completely unfair and not in the public interest. We are told that we the community have the same access as the Minerals Council or mining interests. Clearly this is not correct. During the approval process we endeavoured to have access to the DoPI or the minister but were unsuccessful. During this period however the mining company and the DoPI had several meeting and exchanges of correspondence which was done to the detriment of the community.
- After the public exhibition period, we could have no further engagement with the DoPI but the mine was able to alter conditions and further expand their reports without any public scrutiny. These exchanges etc. were revealed during a document discovery process leading up to our appeal to the Land and Environment Court.
- Overall, the community here at Bulga was extremely dissatisfied with the performance of the DoPI in the processing of this application for the expansion of an existing open cut mine. It is our view that the public involvement process is merely to 'keep the community stakeholders happy' but without any intention to properly consider the arguments put forward by the community affected by mine expansions. It was only in the appeal hearing at the Land & Environment Court that we felt that our concerns were being heard and properly considered by an independent entity without the pressure of the financial gain to the State.

I look forward to hearing the outcomes from the Inquiry and trust that residents in the Hunter Valley and elsewhere will benefit from the due consideration to be given to the various unprejudiced reports on dust and its effect on health and hopefully an improvement in the approvals process for minerals extraction.

Yours sincerely,

John Krey