



Reply to: [REDACTED]
Illawarra Residents for Responsible Mining
[REDACTED]

15 November 2019

NSW Productivity Commissioner
By email: ProductivityFeedback@treasury.nsw.gov.au

Submission: IPC review

Thank you for the opportunity to submit to this review into the role and operation of the Independent Planning Commission.

Illawarra Residents for Responsible Mining is a community group that formed in 2011 in response to the Underground Expansion Project of the Gujarat NRE No. 1 Colliery in Russell Vale (now named Wollongong Coal's Russell Vale Colliery) in NSW, Australia. We advocate for responsibility in mining, mining which puts the health and well-being of ordinary people and of the environment ahead of corporate mining interests.

Our short submission is structured primarily into a brief statement under Terms of Reference #1 and is based on our experience with Wollongong Coal and their attempts to expand their Russell Vale coal mine inside an extremely sensitive Special Area of Sydney's drinking water catchment. This project was somewhat recklessly recommended for approval by the Department of Planning. Fortunately, an independent planning umpire was able to conduct its own arms-length assessment and was able to halt plans for a project now widely accepted to have been not in the public interest.

1. Is it in the public interest to maintain an Independent Planning Commission, considering, where relevant, the experience with similar bodies in other common law jurisdictions?

Plainly - in our experience - the answer to this question is an emphatic 'yes'. A very risky longwall mining project was proposed at Russell Vale by Wollongong Coal. Back in 2015, the Department of Planning recommended the project be approved, with their Assessment Report concluding that *"the project is in the public interest and should be approved"*. In stark contrast, the PAC declined to approve the project, finding in their deliberations that *"the social and economic benefits of the project as currently proposed are most likely outweighed by the magnitude of impacts to the environment"*. The PAC's lengthy and considered decision contains a great deal of information that highlights the Department of Planning's high risk and reckless mine-at-any-cost approach to

this particular project. In conclusion, the Commission found in their [Second Review Report](#) that it was “*not in a position to support the Department’s conclusion and recommendation*” that the project be approved when regard was given to:

- *The Commission’s expert advices on water and subsidence*
- *The concerns expressed by the IESC, OEH and DPI on the risk of water loss and impact to upland swamps*
- *The advices from WaterNSW on the potential water loss in the range of 15ML per annum and 2.6GL per annum and the estimated cost to the loss*
- *The OEH’s view on risk classification of upland swamps*
- *The noise assessment (pit top site and truck movements) based on modelled rather than existing noise.*
- *The short term economic benefits versus the risk of permanent and irreversible loss of water up to 2.6GL per year and damage to upland swamps with resulting impact on water quality and uncertain environmental consequences.*

We would like to highlight [Wollongong Coal’s July 2019 Revised Preferred Project Report for Russell Vale](#). Importantly and significantly, we would like to draw your attention to their statement about the mining method - longwall mining - that the Department of Planning said should have been approved back in 2015, but which was opposed by the PAC and which is now no longer proposed by the mining company itself [our emphasis added in bold]:

*“A key issue for the PAC in its consideration of the Preferred Project was the uncertainty associated with subsidence and groundwater impacts as a result of proposed longwall mining in the multi-seam mining environment present at Russell Vale. To address the residual uncertainty regarding impacts of longwall mining, WCL has developed a revised mine design based on a non-caving first workings mining system that will result in imperceptible subsidence. **Longwall mining is no longer proposed as part of the UEP.** This revised mine plan is referred to as the Revised Preferred Project. The revised mine plan has been designed to be long term stable with negligible risk of pillar failure, significantly reducing the potential for subsidence-related mining impacts on groundwater, surface water and biodiversity within the Cataract Reservoir catchment.*

It should also be noted that there are still grave concerns about using a three seam mining method at Wollongong Coals Russell Vale mine regardless of what extraction method is going to be used. But at least the community has the opportunity to air these concerns during an IPC hearing.

2. Recommendations in relation to the Independent Planning Commission’s operations and the mechanisms by which State significant development is assessed and determined.

Our experience of working with the NSW Planning to date has shown that they are incapable of making an unbiased decision when it comes to mining approval in this state. From our experience we believe that an independent assessment and approval process is the only just and transparent system that should be used for State Significant Development.

3. Proposed changes to the Independent Planning Commission’s current functions, processes for making determinations, and resourcing. The issues to be considered include but are not limited to:

- **Thresholds for the referral of matters to the Independent Planning Commission;**
The current thresholds are minimal at best and should not be removed or altered.
- **The clarity and certainty of policies and guidelines that inform determinations;**
Some policies and guidelines are ponderous and slow to change but could be influenced by an independent body such as the IPC.
- **The Commissioners' skills, expertise and qualifications;**
It is rare in the current planning system for the community to engage on a one to one basis with the experts of such calibre that make the decisions. It is impossible for the community groups to arrange meetings with NSW Planning, though they have numerous meetings with proponents.
- **The adequacy of mechanisms to identify and resolve any conflicts of interest by commissioners;**
- **The Independent Planning Commission's procedures and guidelines;**
- **The extent to which the Independent Planning Commission should rely upon the assessment report prepared by the Department of Planning, Industry and Environment, taking into account any additional assessments by other Government agencies;**

Regarding this point, we encourage this Review to look at the PAC's March 2016 [Second Review of the Russell Vale Colliery Underground Expansion Project](#). Plainly the Department's Assessment Report was inadequate and recommended that a risky project proceed that was - on balance - not in the interests of NSW and definitely not in the interests of local residents. The PAC found many deficiencies with the Department's assessment, summarised at the time as:

"Concerns were raised by WaterNSW, Office of Environment and Heritage, Department of Primary Industries, Environment Protection Authority and the Independent Expert Scientific Committee on Coal Seam Gas and Large Coal Mining Development. Their concerns include risk of water loss, risk to upland swamps, noise impacts on nearby residents and along Bellambi Lane, potential hydrological impacts and loss of ecosystem functions. The Commission is of the opinion that from the information presented to it, these issues have not been satisfactorily resolved."

Clearly the NSW Planning Dept is influenced by the proponents and mining industry rather than the community and environmental groups, therefore their recommendations are biased and deficient.

- **Resourcing of the Independent Planning Commission and the mechanism for determining budgetary support;**
Resources for the IPC should come from the proponents to allow independent consultation to be engaged. The money that is wasted currently by the proponent to justify their project would be better spent on independent consultation to arrive at the true situation.
- **Whether the Independent Planning Commission's Secretariat should be employed directly by the Independent Planning Commission or provided by another Government agency, and if so, which agency.**

The IPC should not be under the control or influence of NSW Planning. They have proved over the years that they are biased and influenced by the mining industry and are not in the best interest of the people of NSW.

We thank you for the opportunity to submit to this review into the role and operation of the Independent Planning Commission and your time to consider it.

Regards [REDACTED]
for Illawarra Residents for Responsible Mining.