

**Background: the sorry story so far**

- The Mount Thorley-Warkworth mine is one of several “super-pit” clusters of open cut coal mining in the Hunter Valley, and the third largest in the region. It has approval to mine 18 million tonnes of coal per annum from five pits. The two mines Warkworth and Mount Thorley are more than thirty years old, but were merged into a single operation in 2003-04 with the approval of a major expansion of production.
- The 2003 development consent stated that the proponent must enter into a Deed to “permanently protect” a non-disturbance area on Saddle Ridge and to its west, which harbours the critically endangered woodland communities, is of deep cultural significance to local indigenous nations and also forms an buffer that protects the village of Bulga from the worst of the noise, dust and aesthetic impacts of the mines.
- In 2010, Rio Tinto applied to expand the mine with the Warkworth Extension Project, seeking approval to open cut Saddleback Ridge. The project was designed to extend the life of the mine operation by eleven years, involved the clearing of over 760ha of endangered woodland communities and severe noise and dust impacts on 24 homes in Bulga.
- The existing consent authorises mining until 2021 in the existing approved area, but Rio Tinto’s pace of production has meant the resource has been exhausted quickly.
- The project was approved by the Planning and Assessment Commission in February 2012, but that approval was challenged in court by the Bulga Milbrodale Progress Association. In April 2013, the Land and Environment Court overturned the PAC’s approval.
- The Land and Environment Court rejected the mine expansion because, “the Project would have significant and unacceptable impacts on biological diversity, including on endangered ecological communities, noise impacts and social impacts.”<sup>1</sup>
- In his judgement, the Chief Justice of the Land and Environment Court addressed the balance between economics and the social and environmental impacts of the mine expansion, remarking, “the decision-maker’s statutory duty is to apply weight to and balance the relevant matters, and this cannot be subordinated to the process and outcome of economic analyses.”
- Three months after the judgement was handed down, the NSW Government changed the State Environmental Planning Policy for mining to expressly alter this balance, and make the “economic significance” of a coal resource the “principal consideration” for consent authorities for mines, weighting it above impacts on water, biodiversity, amenity and other land uses.
- Rio Tinto and the NSW Government joined forces in appealing the Land and Environment Court’s decision but the Supreme Court of Appeal upheld the ruling on 7 April 2014.

**Current situation: the Mount Thorley and Warkworth Continuation Projects**

Earlier this year, Rio Tinto applied to the Department of Planning for yet another Warkworth expansion.

This expansion is in two pieces, known as the Mount Thorley and Warkworth Continuation Projects, and it is virtually identical to the project that was rejected by the Land and Environment Court. Environmental Impact Statements for these projects were exhibited in July, and the Department of Planning has now prepared a report for the Planning and Assessment Commission recommending that it be approved.

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<sup>1</sup> Judgement <http://www.caselaw.nsw.gov.au/action/pjudg?jgmid=164038>

The PAC will hold a public hearing on the projects in Singleton on 18-19 December. Over 100 people are scheduled to give evidence including residents of Bulga, Wonnarua Traditional Owners, an experts in biodiversity, water and air pollution.

## **Key issues**

### *Biodiversity*

- The mine will clear over 450ha of three endangered ecological communities, including 17% of the remaining extent of the critically endangered ecological community Warkworth Sands Woodland. These woodlands provide habitat for the critically endangered Regent honeyeater and the endangered Swift parrot, both of which have been confirmed to be present there.

### *Bulga village*

- Among the reasons for the Land and Environment Court's rejection of the Warkworth extension was the noise, pollution and amenity impacts on the village of Bulga. The Chief Justice found that "The Project's impacts would exacerbate the loss of sense of place, and materially and adversely change the sense of community, of the residents of Bulga and the surrounding countryside." This is just as true for this project as it was for the one rejected by the court two and a half years ago.

### *Cultural heritage*

- The mine will impact on 110 registered Aboriginal cultural sites. It is clear from the cultural heritage assessment that the cultural heritage working group that Rio Tinto convened expressed the view that they did not wish to see any further loss of heritage sites.
- Rio Tinto is proposing to create two Aboriginal Heritage Conservation Areas in compensation for the impacts of this mine. The proposed Wollombi Brook Aboriginal Heritage Conservation Area contains the highly significant Bulga Bora Ground, though there is some dispute over the precise location of this site, but approval for the project is not necessary for this protected area to be created.
- Ten years ago, when the Chief Executive of the Wannarua Local Aboriginal Land Council submitted a request to the Federal Government for an order under section 10 of the ATSIHP Act for the long term protection of the area, Rio Tinto objected to that application and it was refused. The boundaries and protection mechanism for the conservation area now proposed are not finalised.

### *Climate change*

- The Mount Thorley Warkworth mine complex is the third-largest mine in New South Wales. The volume of coal it produces now, and will produce for 21 more years if this expansion is approved, amounts to 10% of NSW's total volume of export coal.
- The carbon dioxide emissions from the coal exported from this mine are roughly equivalent to 5% of Australia's total domestic emissions.

### *Water*

- The mine is one of several in the area that are already impacting on surface and groundwater. With this expansion westwards, the mine comes much closer to the alluvial aquifer of Wollombi Brook, one of the most important tributaries to the central Hunter River and the cultural and social lifeblood of that part of the Hunter Valley. The groundwater assessment for this project showed in 2035 that there would be "river leakage from Wollombi Brook and groundwater flow towards the pit."
- The mine will take substantial additional water from the Hunter River alluvium and Wollombi Brook alluvium. Modelling undertaken for this project indicates that the take from this source will rise to 124ML per year, with a loss of 100ML per year from the base flow of the Brook.