

The Hon Brad Hazzard MP
Minister for Planning and Infrastructure
Level 31, Governor Macquarie Tower
1 Farrer Place
SYDNEY NSW 2000

**Bulga-Milbrodale Progress Association; and
Lock The Gate Alliance**

Reply to:
Steve Phillips
Lock The Gate Alliance
167 Parry Street
HAMILTON 2303

Copy emailed to:
office@hazzard.minister.nsw.gov.au

CC:
The Hon Barry O'Farrell MP
Premier of NSW

12th December 2013

Re: Warkworth coal mine (Modification 6)

Dear Mr Hazzard,

We write in regard to the current application to expand the Warkworth coal mine (DA 300-9-2002-i MOD 6), and in particular, the manner in which your Department is handling the application.

Your Department appears to be colluding with the mine proponent, Rio Tinto, to bypass due process in order to have the project approved in an extraordinarily short time frame with minimal oversight. Public and expert consultation are being deliberately impeded in order to fast-track approval without proper assessment of the impacts on local residents and the environment.

Rio Tinto lodged the project ("Warkworth Modification 6") application with your Department on 12th November 2013, and the project was made public on 15th November. The project aims to expand mining into part of the area subject to the separate Warkworth Extension project – a highly contentious project that is still awaiting a judgement from the NSW Court of Appeal.

Despite the importance of this site, local residents, and the public at large, received no notice that a new mining application in this area was impending. Just three weeks prior to the project application being lodged, local residents attended a Community Consultative Committee meeting with the company. A compliance officer from your Department also attended this meeting. It is likely that the application, and accompanying Environmental Assessment, were finished and ready to lodge when this meeting took place. However, local residents were deliberately kept ignorant of the new application, which was lodged shortly after, just two business days after the new "Resource Significance" amendments to the Mining SEPP came into effect.

The exhibition period on the project opened on the 15th November – the day the application became public. Local residents, public interest groups, experts, and government agencies were given just two weeks to read and respond to the Environmental Assessment. This is half the period usually available for coal mine modifications in the Hunter, and was especially short given that nobody in the public was aware of the application before it was lodged.

Local residents and public interest groups wrote to your Department requesting an extension of the submission period, but this was denied. Representatives of NSW Health informed local residents that their Department did not have time to make a submission. The submission period closed on 29th November.

Incredibly, Rio Tinto's Response to Submissions (RTS) report was submitted on 2nd December – the very next business day after submissions closed. It is completely implausible that the proponent could have adequately responded to all submissions in that amount of time, especially considering that the Department had given Bulga-Milbrodale Progress Association until the 9th December to complete a full submission on the project.

Just one day after the RTS report was lodged, your Department completed its Assessment Report – including a recommendation to approve the mine expansion – and referred the project to the Planning Assessment Commission. The Planning Assessment Commission is scheduled to hold a public meeting to assess the project on 19th December.

The speed with which this project is progressing is extraordinary and unprecedented. It will advance from Project Application stage to PAC Meeting in just five weeks – a process that, for similar coal mine modification projects in the Hunter, usually takes more than a year. And the public, including local residents, have deliberately been sidelined from the process by both Rio Tinto and your Department.

Public confidence in the procedural fairness and objectivity of the NSW Government in relation to coal exploration and mining approvals has taken a battering this year. In the wake of the alarming revelations that emerged from the ICAC inquiry into corrupt relationships between former Ministers and coal company executives, your government must work hard to restore faith in the system.

The handling by your Department of the Warkworth Modification 6 application has been, and continues to be, anything but fair and objective.

The Modification 6 application should not have been accepted by your Department in the first place, considering that it is a proposal to mine part of the Warkworth Extension site – a project which is awaiting a judgement from the NSW Court of Appeal, and which the NSW Land and Environment Court has previously ruled should not be mined.

We urge you to suspend the assessment process, pending the outcome of the Court of Appeal review of the Warkworth Extension project. Your Department must not allow Rio Tinto to have the Warkworth Extension approved *de facto*, piece by piece, and avoiding proper assessment.

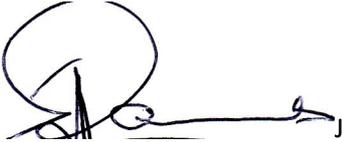
At the very least, you must intervene to restore fairness and objectivity to the current assessment process for Modification 6. In particular, we ask that you:

- Indefinitely adjourn the 19th December PAC Meeting.
- Reopen the public submission period, and allow at least four weeks for submissions.
- Require Rio Tinto to read each submission received on the project, and respond adequately to all issues raised. This cannot be done in a weekend.
- Require your Department to read and adequately respond to all submissions in its Assessment Report. This cannot be done overnight.

Another matter has recently come to light which we must raise with you. We have recently obtained, after much trying, a copy of the Amending Deed between the Minister of Planning and Warkworth Mining in relation to the Saddle Ridge area. As you will be aware, this agreement was amended on 27th September 2013, to remove all protection for Non Disturbance Areas 1 and 2, and allow mining throughout these areas which were previously protected under the 2003 Agreement. We find it cynical in the extreme that you signed this new agreement with Rio Tinto in secret, in the midst of the Court of Appeal hearing of the Warkworth Extension appeal. We must insist that the agreement be amended to its original form.

We would appreciate the opportunity to meet with you and discuss these issues.

Yours faithfully

A handwritten signature in black ink, starting with a large circle and followed by several loops and a long horizontal stroke.

John Lamb
President, Bulga Milbrodale Progress Association

A handwritten signature in black ink, consisting of several overlapping loops and a long horizontal stroke.

Steve Phillips
Hunter Coordinator, Lock The Gate Alliance