

NSW Planning Assessment Commission
Commission Secretariat
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Attention: Mr Alan Coutts, Chair

17 April 2017

SUBMISSION TO THE PLANNING ASSESSMENT COMMISSION – WILPINJONG EXTENSION PROJECT – SSD6764

Dear Commissioners,

The following submission raises key issues regarding the Wilpinjong Extension Project currently being assessed by the Planning Assessment Commission (PAC).

I, Dr Hedda Haugen Askland, am a qualified social researcher and have been working with the local community in Wollar over the past two years. I am employed as a Senior Lecturer at The University of Newcastle, where I am conducting a long-term ethnographic research project with mining-affected communities in the Upper Hunter and Mid-Western Region of New South Wales. Wollar is the first case study area for this project, which explores issues of migration, resettlement and displacement in the context of mining.

I have already raised a number of concerns regarding what I believe, in my own personal and professional opinion, are problematic elements of the Social Impact Assessment for the project and the Peer Review on which the Department's approval of the project is founded (submission dated 05 December 2016). I request that you take this previous submission into consideration when assessing the issues regarding the social impacts of the Project. In this present submission, I will outline an additional concern regarding the resettlement of the Wollar population and the displacement of remaining residents.

EXECUTIVE SUMMARY

In this submission, I make three key arguments:

1. the Secretary's requirement to consider the social impact on Wollar village have not yet been adequately addressed and acceptable strategies to mitigate cumulative impacts related to resettlement and displacement have not been established;
2. the failure to proactively address the resettlement of the Wollar community have exposed the residents to unnecessary and unprecedented harm, and has created a group of 'invisibly displaced people'. The failure to adequately address the issues of property acquisition, resettlement and displacement breaks with the primary underlying assumption of international safeguard standards for significant development projects, which states that risks associated with displacement and resettlement should be predicted and mitigated; and,
3. the Applicant's and the Department's responses to the PAC recommendations are unsatisfactory and, as such, the PAC must postpone further consideration if fair and reasonable process is to be maintained.

1.0 DISPLACEMENT AND RESETTLEMENT

- 1.1 Displacement does not feature as an issue in any of the documents outlining and discussing social impact of the Project. This may be a reflection of a restricted understanding of the phenomenon of displacement, which is approached as an unproblematic movement of people or artefacts in space (see 1.2). Displacement is, however, not simply about movement of people from one place to another. Conversely, as scholarship on migration, displacement and resettlement show (e.g. Malkki 1992; Albrecht 2005; Bakewell 2011; Muggah 2015), displacement can happen when people are still in place and may manifest as a lived experience, conditioned through the spatial, temporal, cultural, and social specificities in which individuals experience their everyday life.ⁱ Displacement is, thus, not something that is simply a matter of movement in space; conversely, the condition of

displacement—characterised by distress and disruption associated with a sense of lost home, powerlessness, hopelessness and lack of autonomy to decide own future—is a state of being that can happen to people in response to significant changes in natural, cultural and social milieus.

There is no recognition of displacement as a condition in any of the social impact assessments conducted for the project.

- 1.2 The social impact assessment for the Project is characterised by a **lack of attention paid to resettlement and displacement**. The word ‘displacement’ barely makes it into the report and, when it does, it is kept at a technical level and the embodied, lived experience of changes to place is underplayed. ‘Displacement’ features on only three occasions in the SIA of the project and when it does it is not related to the resettlement of those within the vicinity of the mine. On the occasions it is mentioned, it refers to:
 - past displacement of aboriginal people during settlement (early 1900);
 - project demands for temporary accommodation (in LGA) and possible displacement of low income households (considered low); and,
 - displaced access to or use of Munghorn Gap Natural Reserve.
- 1.3 The existing Project and the proposed expansion have, however, displaced the local population and, as such, represent a **slow onset disaster** that has significantly reduced local residents’ wellbeing and opportunities for the future. The remaining residents have become **displaced in place**, with their wellbeing and future opportunities for mobility and life reduced. A sense of lost place and displacement saturates the stories of the people who currently live in the area. People express a sense of strandedness, powerlessness and hopelessness. This is intimately tied to the slow and gradual depopulation of the community. Some quotes from my ongoing study with residents in Wollar highlight the sense of limbo, displacement and distress that they are experiencing:
 - I just don’t know what to do; where can I go? This cannot be bought...it’s my life. I planted these golden gums and watched them grow...how can I leave?
 - You put yourself on hold, like I’ve done, right after my parents passed away...and I inherited some money, I would have done that house up, painted it and used that money, but now I’m too scared to. I haven’t even dug new gardens. You put yourself on hold for all this time.’
 - There is nobody left, there is nothing here. There is no future
 - I don’t have a life here but I am living. Life has become a living hell. Everything has changed...yet I’m stuck, I can’t get out of here!
- 1.4 Since the late 1990s, mining-related resettlement and displacement of the population living within the vicinity of the Wilpinjong mine have taken place. The onus has, in this process, been placed on the individual land holder and the Proponent. Through the voluntary acquisition policy, the responsibility (and success) of negotiation has been placed on the individual landholders. This process has reduced transparency and exposed the community to distress; it has not supported a fair and equal process. Moreover, gag-clauses have disempowered the local community in their efforts to deal with the proponent.
- 1.5 The ad-hoc nature of the project and Peabody’s resettlement plan, as well as what appears to be an opportunistic purchasing strategy, have seen Peabody Energy buy properties beyond the land that was originally considered impacted. The lack of pre-definition of the affected community is central to the sense of displacement experienced by remaining residents; it left the community in limbo without any ability to plan for, respond to and mitigate the impact of resettlement. What is happening within the community today and the vulnerability that the community is facing in relation to the proposed expansion relate to the negligence of resettlement as a distinct feature of the Project in previous, as well as the current, project iteration. I would argue that this failure in the planning process bestows a distinct responsibility on the NSW Government to ensure the wellbeing of the remaining people in Wollar and a decision should not be made until an adequate mitigation plan has been established.
- 1.6 Whereas it is suggested in the Department’s Final Assessment Report that existing social impacts are tied to a general trend of rural small town decline, the sense of displacement endured by local residents and the future decline of the Wollar community and village **cannot** be seen as independent of the mining activity and Peabody’s proactive purchasing strategy (as is suggested DPE’s Final Assessment Report). **The weakness in the safeguards in mining have exposed the**

people of Wollar to unprecedented harm, with the depopulation and resettlement of 90% of the community happening without any proper planning or protection established for the people who are outside the acquisition zone or without strategic relevance to the proponent.

2.0 INVISIBLY DISPLACED PEOPLE AND INTERNATIONAL SAFEGUARDS

2.1 Resettlement planning should be a front-end activity. In relation to Wilpinjong it has, however, been and continues to be an ad-hoc planning activity. The lack of 'free prior informed consent' (FPIC) in this process raises questions about how power has been exercised. The voice of the community has been undermined in this process. Resettlement has been deferred until it no longer can be avoided. At this time in the project cycle, it has reached a distinct tipping point where the mining activity has stripped the community of its vitality and as such there is a distinct responsibility placed upon the NSW DPE and the proponent to ensure that the failures in earlier stages of planning are addressed.

2.2 The risks associated with this project in relation to resettlement and displacement were never adequately assessed, subsequently exposing an increasingly volatile population to risk of isolation and loss of livelihood. **This breaks with the primary underlying assumption of international safeguard standards, which states that risks associated with displacement and resettlement should be predicted and mitigated.** Of particular relevance to what is happening in Wollar is the clause in the World Bank's Operation Policy on Involuntary Resettlement (OP4.12), which states that a core objective of planning is:

[t]o anticipate and avoid, or where avoidance is not possible, minimize adverse social and economic impacts from land acquisition or restrictions on land use by (i) providing compensation for loss of assets at replacement costs and (ii) ensuring that resettlement activities are implemented with appropriate disclosure of information, consultation, and the informed participation of those affected.ⁱⁱ

2.3 The responsibility that the Proponent and the NSW DPE hold in terms of the depopulation and destruction of the community, and the subsequent isolation of the remaining population, requires a concrete effort to re-establish the livelihood and wellbeing of those who remain in the village. The people who remain in Wollar village or who have formed part of the rural fabric that constituted Wollar community should be offered acquisition or measures to ensure their safety and wellbeing.

2.4 A mitigation plan must be established **prior** to approval being made. **Any other measure would be in compromise with the Universal Declaration of Human Rights Article 17**, which states that:

- (1) '[e]veryone has the right to own property alone as well in association with others'; and
- (2) 'no one shall be arbitrarily deprived of his property'.

The significant reduction in property value because of the mining activity and the loss of prospective buyers are leaving the remaining residents with stranded assets. As such, it can be argued that the people of Wollar are being deprived of their property and their future livelihood and wellbeing are not only reduce but threatened.

3.0 UNSATISFACTORY RESPONSE TO PAC REQUIREMENTS

3.1 The Village of Wollar Plan proposed by WCPL and the SIMP conditions recommended by the Department are both inadequate measures to respond to the PACs recommendations.

3.2 The plan and conditions do not address the significant issue of stranded assets, which has been clearly articulated by the remaining Wollar population in continuous communication with the Department and the PAC.

3.3 The plan ignores the cumulative impacts of the project and the significant reduction on people's health and wellbeing due to social and environmental impacts associated with the project. **The increased risks and vulnerability associated with an ageing and increasingly isolated population must be addressed.**

3.4 The Applicant and the Department states in their SIA reports that the vitality of the village is lost and cannot be redeemed. **If this is the case, proper mitigation measures and an opportunity for the few remaining residents to re-establish their lives must be offered.**

3.5 It is stated that a Village of Wollar Plan must be imposed within 12 months of commencement. **Considering the existing impact that the mine has on the village and the greater Wollar community the delay in developing and implementing such a plan will have significant cumulative impact.** If the Department is to honour its response to the PAC on minimising social impact and maintaining the built and social fabric of Wollar, this must be developed and assessed **prior to** approval. Lack of such will expose the local residents to increased risks and stress. After two years of working with the community and seeing the impact that the planning process (as well as ongoing mining activity) is having on the community, I feel confident in arguing that the physical, mental and economic health of the remaining residents will decline if no real and binding requirements for mitigation are established prior to approval.

4.0 CONCLUDING STATEMENT

At this time in the project cycle, the Project has reached a distinct tipping point where the mining activity has stripped the community of its vitality. If the proposed expansion is approved, the community will lose its ability to revitalise itself. As such there is a distinct responsibility placed upon the NSW DPE and the Proponent to ensure that the failures in earlier stages of planning are addressed and the wellbeing of the remaining people in Wollar is ensured. The remaining residents of the area have requested that their properties are included in Schedule 3, Condition 1, Table 1 on the grounds of social justice. Considering what I have discussed above, this is a request I would support.

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ⁱ Ma k k L. 1992. National geography: the rooting of peoples and the territorialisation of national identity among scholars and refugees. *Cultural Anthropology* 7(1): 24-44; A brecht G. 2005. So astag a . A new conceptual health and identity. *PAN: Philosophy Activism Nature* 3: 41-55; Bakewe O. 2011. Conceptualising displacement and migration: processes, conditions, and categories. In K Koser and S Martin (Eds.) *The Migration-Displacement Nexus: Patterns Processes and Policies*. New York, Oxford: Berghahn; Muggah R. 2015. The unsubsided space: a unified conceptualisation of population displacement in Brazil. *Journal of Refugee Studies* 28(8): 222-237.

ⁱⁱ It should also be noted that the process of resettlement of the people of Wolar has breached the World Bank's Operational Policy on involuntary Resettlement (OP4.12), which is the global reference point for Development Induced Displacement and Resettlement (DIDR). The objectives of the OP4.12's (World Bank Performance Standard 5 Land Acquisition and Involuntary Resettlement, July 2012) are:

- To avoid, and when avoidance is not possible, minimise displacement by expediting a tentative project designs.
- To avoid forced evictions;
- To anticipate and avoid, or where avoidance is not possible, minimise adverse social and economic impacts from land acquisition or restrictions on land use by () providing compensation for loss of assets at replacement costs and () ensuring that resettlement activities are implemented with appropriate disclosure of information, consultation, and the informed participation of those affected.
- To improve, or restore the livelihoods and standard of living of displaced persons.
- To improve living conditions among physically displaced persons through the provision of adequate housing with security of tenure at resettlement sites.