

Submission
No 181

**INQUIRY INTO CURRENT AND POTENTIAL IMPACTS OF
GOLD, SILVER, LEAD AND ZINC MINING ON HUMAN
HEALTH, LAND, AIR AND WATER QUALITY IN NEW
SOUTH WALES**

Name: Liz Rogers

Date Received: 5 September 2023

Submission to the NSW Legislative Council Inquiry into current and potential impacts of gold, silver, lead and zinc mining on human health, land, air and water quality in New South Wales.

Please note my comments are based on 5 years working in Department of Planning & Environment (DPE) Water where I was involved in coordinating water advice on State Significant Developments (SSD) and State Significant Infrastructure (SSI) for both pre determination and post approvals stages. I retired in July 2023.

I believe that the enquiry should be broadened out to include all SSD and SSI projects not just mining projects (SSDs) as the issues will be similar in many instances. Hence my comments are relevant to all SSD and SSI projects including mining and issues of water quality.

My comments relate to points (e) and (g)(i) in the terms of reference:

(e) the effectiveness of the current regulatory framework in terms of monitoring, compliance, risk management and harm reduction from mining activities ; and

(g)(i) the effectiveness of New South Wales Government agencies to regulate and improve outcomes including the measurement, reporting and public awareness.

I would like to preface my comments to acknowledge that I have the greatest respect for my former colleagues in DPE Water and DPE Planning & Assessment (P&A). They are highly professional and dedicated people. My comments below seek to shine a light on some areas that have been troubling a number of us over the past few years. I refer to 'agencies' throughout this advice assuming that other advisory agencies have similar issues to DPE Water.

I found that DPE Water received a lot more guidance and assistance from DPE Planning & Assessment (P&A) for projects in the assessment phases prior to determination. DPE P&A Officers play a very strong coordination role between the proponent and the assessment agencies prior to determination of a project where they work closely with agencies and proponents to progress projects through the assessment steps.

Because of the active and strong focus by DPE P&A during pre determination, there is clearer information for proponents and agencies on expectations and process. DPE P&A coordinate all agency advice and act as the central contact point between agencies and proponents. There is also a better understanding of roles – in that agency advice will inform P&A on any risks posed by the project and how these can be mitigated.

There is a strong focus on improved timeliness of advice also. This means that questions agencies have about projects during assessment may be pushed into the post approval phase if its believed that these issues can be managed should the project be approved. This may result in more work for agencies (and proponents) post determination.

The advice that agencies provide prior to determination is made public on the major projects portal. As a result, there is greater transparency for the public and agencies as all agency advice is placed on the major projects website.

Should a project be approved, proponents can seek advice from agencies directly on draft plans and reports required under the conditions of approval, with DPE P&A no longer being the single point of

contact. For post approval requests, there is less information for proponents and agencies on process and content. Agencies receive many requests for advice which are submitted at any time and may relate to projects approved many years ago. Timelines are challenging for all.

There are no clear guidelines on engagement. The proponent is required to consult with agencies before seeking approval from DPE P&A when finalising post approval requirements such as Management Plans. Hence agencies are subject to direct contact for advice from many proponents - also with proponents operating within their own set of priorities and timelines separate to those of the responding agencies. This often results in 'urgent' requests from the proponent's perspective which cannot be dealt with to their satisfaction. Should their request be for a complex matter then it will take time for agencies to respond appropriately given the other work areas that may need to be addressed at the same time.

DPE Water advises proponents on expectations on how the relevant post approval plans should be set out as well as the content. I believe that each agency approaches these aspects differently. As you can imagine this makes it complex for the proponent but also there is no transparency for any person involved or for the community.

There is lack of clarity as to what happens with agency advice once received by the proponent. Comments provided by the agency to the proponent may or may not be incorporated into the relevant plan or report with the responsibility sitting with the proponent to provide feedback (or not) to agencies. The advice from the agencies to the proponent is not placed on the proponents' websites or the major projects website.

I believe that agencies are not currently resourced to undertake a thorough analysis of each request for advice such as a monitoring report or annual review for approved SSD and SSI projects which are referred to them. It is very likely that agencies will never have that level of resourcing.

I acknowledge that it is up to agencies in the assessment phase to request to see post approval plans and reports and in light of the lack of resourcing then they should no longer request involvement. However when agencies are encouraged to push a lot of the evidence gathering and analysis into the post approval stage then its obvious that agencies will request to see these items despite the issues with resourcing.

If appropriate resourcing cannot be provided to agencies then future involvement by agencies should be based on risk to the resource and to the community backed up by clear guidelines for proponents and agencies as well as strong compliance actions. For example, reforms could be introduced where high risk projects are identified that require strong focus by relevant agencies whereby lower risk projects are addressed by other approaches such as Independent Audits. These will need strengthening to better ensure that agency and community concerns are addressed without the requirement for agency review at every stage of a post approval requirement.

Questions obviously remain as to criteria to use to identify high risk projects which would receive the support of the NSW community but this needs to be explored. Currently people are assuming that all relevant agencies are well resourced to respond to issues arising from all operating projects. I don't believe this is the case and I think this should be acknowledged and reforms put in place to ensure better accountability and transparency.

Liz Rogers

5 September 2023

A first step to introduce accountability and transparency should be to ensure that all agency advice on post approval matters to proponents and to DPE P&A are made public on the major projects portal.

SUBMISSION END

.