



**muswellbrook  
shire council**

Enquiries  
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Our reference  
Your reference

2 March 2018

**Stephen Barry  
Director, Resources Policy  
Dept of Planning & Environment  
GPO Box 39  
SYDNEY NSW 2001**

Dear Steve,

**Improving Mine Rehabilitation in NSW – Discussion Paper, Comment by  
Muswellbrook Shire Council**

Thank you for providing an opportunity for Muswellbrook Shire Council (Council) to comment on the Improving Mine Rehabilitation – Discussion Paper, and in particular granting additional time for our response.

**Introduction**

Muswellbrook Shire Local Government Area (LGA) has 6 operating coal mines and 2 in care and maintenance. There are a further 2 proposals for future mining and other areas are being explored for the potential for coal mining within the LGA. Coal mining is, has been, and will be for some time in the future a major part of the Muswellbrook Shire LGA economy. Currently active mining occupies 34,600 Ha within the LGA and mining companies own 56,640Ha of land. Most of this is within the lower valley floor and comprises some of the better capability land within the LGA.

Mining is a temporary land use. It is common for communities located in former mining areas to have depressed economies and the associated social issues that come once mining has diminished or ended. Council have, and continue to lead, a number of initiatives to ensure the future long term viability of the LGA in recognition of the eventual downturn of mining and the need to transition to other industries. Council believe this can be done without impacting on the current mining operations and will provide a viable future for our residents and their children. Some of Council's recent initiatives to future proof our community and its economy are as follows:

**Review of Muswellbrook LEP 2009.**

Council are in the final stages of reviewing the existing Local Environment Plan. One of the centre pieces of this review is to recognise mining as its own unique land use, and zone it accordingly. This zoning recognises all existing mines and is designed to simplify the approval of future changes to the mining operations whilst allowing compatible industries to co-exist side by side with the mines.

The LEP also promotes the use of Masterplans to facilitate management of both the mined land and surrounding mining company owned land. It is hoped that this planning process will be able to identify opportunities for land uses other than mining to support the local economy and provide a transitional process for post mining land uses.

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#### Upper Hunter Development Corporation

Council are fostering the establishment of the Upper Hunter Development Corporation. The purpose of this is to encourage business to the LGA and surrounds. As the mining companies have such large land holdings it is important that they are both involved in fostering future compatible businesses and are able to do so without being encumbered by inflexible approvals or unsuitable post mining landforms.

#### Agribusiness Development Strategy

Muswellbrook LGA is well suited to support agribusiness to service the greater Sydney metropolitan area. Sydney is a large market and the LGA is serviced by well-established transport corridors. Value adding industries, to process agricultural products or build intensive livestock or horticultural industries, have been seeking access to land to establish businesses. Again there is an opportunity for some of the larger mine land holdings to be used for such purposes as long as they are compatible with the nearby mines. Further it is felt that by having mixed compatible industries working side by side, it should reduce the chance of incompatible industries being set up in the future as the land is being used to its maximum potential. Currently some mining company owned land is being used well below its current potential.

#### **Aims of the Mine Rehabilitation in NSW – Discussion Paper**

This submission only aims to address concerns of relevance to the Muswellbrook LGA. It is hoped that this Discussion Paper and associated reforms can more closely align mine planning and management with the initiatives currently underway within or being fostered by Council. Currently Council see a number of limitations resulting from the current system of approval and operations of the mines. Some of these limitations are described as follows:

##### Rehabilitation outcomes

There has been a trend over the last 15-20 years for mine sites to be rehabilitated to natural bush, trees, forest, biodiversity offset etc. This has been supported by the mining industry, and some community groups. This land use, if implemented over large areas, ignores the fundamental reason why the land was cleared post European settlement and pre-mining in the first place. Our community need land to live on, be productive and provide employment. The current policy of more and more offset areas and lots of woodland ecosystems tends to ignore this. As described above, land in the Hunter is well sought after and this can be expected to continue. Mine rehabilitation needs to change its focus to be one of flexibility in land use and providing rehabilitated land with the minimum impediments for a variety of post mine land uses. The Discussion Paper should focus on providing rehabilitated land with the minimum limitations for the maximum uses. If the land has few limitations and it is then decided to plant trees on it, they can be cleared later if other land uses become more important.

##### Transitional uses

There is an ongoing trend to put off rehabilitation, or more importantly put off post mine alternate land use until tomorrow, and of course tomorrow never comes. . It is noted that in the structure of this Discussion Paper it goes from Operation Phase straight to Post Closure. Closure should be an integral part of the Operating Phase and applied to various domains within the mine land holding as they become available. The trend to put off possible interim or final post mine land uses is supported by a number of regulatory processes. There are a number of very difficult approval/mine safety legislation hurdles a mining company needs to jump through should an alternate land use be considered. A mines core business is usually mining, and so are not naturally

encouraged to seek better utilisation of their land through other compatible uses. The current regulatory process does not encourage other land uses and the Discussion paper should address this by reviewing and changing current regulatory processes that prevent land being used for purposes sought by the community at the time and suitable to the landowner.

#### **Mine Voids**

Council notice that a major part of the Discussion Paper focuses on voids or pit lakes. What a void can be used for is very largely dependent on the use of the surrounding land. If the surrounding land is to be natural bush, trees, forest, biodiversity offset etc., then it is very hard to argue that the void is not compatible with these land uses except to say the water in the void does not have any biodiversity value. Council suggest that the focus should remain on the use of the land after mining from an early stage of planning. Should a void not be compatible with this final land use then this be used as the primary reason to not allow for the construction of a void in the mine plan.

#### **Regulatory Supervision and Resourcing**

Current rehabilitation requirements have a number of good and flexible requirements, and if applied well can provide good outcomes. It is Council's observations that this is not occurring as it should do. We are advised that due to pressures of a large number of mines and not that many staff, some sites do not get the attention they deserve. A case in point is the Mt Arthur mine and Visual Dump 1 that faces Muswellbrook. The plans show that this land is to be rehabilitated to Box Gum Woodland community. Given the long steep slope of the land it would not be suitable for many other land uses. The lower elevations of this dump were established more than 15 years ago and the vegetative cover ranges from poor to bare ground in places. Council are advised that the regulators are not satisfied with this performance, but there is nothing to see to indicate it is being attended to. Any changes resulting out of the Discussion Paper are only as good as the resources to implement them. Initiatives of the Discussion Paper will need to be adequately resourced to be effective.

#### **Questions and Answers**

It is noted that the Discussion Paper has a number Discussion Questions. Council will take this opportunity to answer a select number of these as follows:

##### **Assessment Phase**

*Are the proposed policy principles for application to new State significant mining project appropriate?*

Firstly some of the principles in this Table should be applied to existing developments or modifications to existing developments. If all the learnings from the Discussion Paper only apply to new developments, they will have little application to Muswellbrook LGA. Most of the mineable land in the LGA is taken up by current Approvals.

It is noted that in Table 1 the words "minimise the sterilisation of land" is used. This is a vague term and what is sterilised to one person is a good use for others. As an example biodiversity offsets sterilise land for development, but may be a well-placed effective offset area. This term should be replaced with "maximise the capability of land". Land capability is well defined in older journals and takes away the problem of lands suitability for a given purpose that quickly change to unsuitable should the purpose change.

Table 1 point 2a) should have the word "land uses" added to recognise that rehabilitated land should be able to be compatible with surrounding land uses if needed.

Table 1 point 3e) refers to binding milestones. One binding and clear milestone should be a maximum value for the total active disturbance on a mine. This is, if 100Ha is to be disturbed then 100Ha is to be rehabilitated. The area of disturbance continues to grow in the Muswellbrook LGA. Whilst common in the early stages of mining, all mines within the LGA, except Mt Pleasant, are mature mines and should not continue to grow in area. As an example the MOP revision for Mt Arthur reviewed in November 2017 has an annual disturbance of 138Ha and an annual rehabilitation area of 55Ha. This results in an increase of 83Ha a year for the term of the MOP. This should be regulated in the consent to ensure the dust modelling calculations remain accurate.

*Is the policy framework for determining the acceptability of voids appropriate?*

A brief review of the points in Proposal 2 would indicate most mines could satisfy these void requirements today and so there will be no change. The justification needs to be dependent on compatibility with the surrounding land use and review of mine plan options to justify the mine plan needs a void. Anything else will make it easier for a mine to have a remaining void approved.

*What is the most effective way of improving consideration of rehabilitation and closure in the early stages of mining?*

As stated above a maximum allowable disturbance area will encourage rehabilitation. To encourage closure, or partial closure of selected domains, a post mining land use needs to be found for the land. A market need for the land should be facilitated by simple approval mechanisms, a simple way for the mine to re-purpose the land without a Modification. This will encourage the mining company to dispose of the land for another land use. This will facilitate an early closure.

### **Operational Phase**

*Are any other changes at the operational phase required? What are they?*

As mentioned earlier the operation phase of this document should include the concept of early closure and land reuse for certain domains within the mine site. This will significantly change the scope of this section but will better focus this sections effort on closure now and not post closure as the Discussion Paper is currently structured.

Whilst better communication with the community and others is supported, better communication with local government is required. Local government is most likely the approver of any post mining development. The management of the Operation Phase should work closer with local government authorities to ensure land zoning is compatible with proposed land uses, or land uses can be focused on demand local councils are often aware of.

### **Post Closure Phase**

Council support the NSW Audit office findings of a lack of clear policy for mines on care & maintenance and a lack of financial assurance regarding unexpected environmental degradation in the long term after mining.

*Are other regulatory reforms required to the post closure phase required? Why? What would they look like?*

The Discussion Paper totally misses the need to find and have post mining land uses that are productive, provide economic benefit and support the current and future community. This section needs to include how potential users of the land can be encouraged to have an interest in mining company land. It also needs to regulatory processes to facilitate an easy transition to post mining land uses and provide a

mechanism to encourage the mine owners to both be able and want to sell the land, so it can be productively used.

### **Conclusion**

Muswellbrook Council see this Discussion Paper as a good initiative to look at mining regulatory processes and how they can facilitate mining rehabilitation to support future communities. Council hope that some of the economic and employment initiatives we have already commenced can be incorporated in the mine rehabilitation process to encourage a market driven take up of former mining land.

Council appreciates the opportunity to comment and would be pleased to provide additional information if requested.

Yours faithfully



Fiona Plesman  
**A/General Manager**