

17 October 2014

**NSW Planning Assessment Commission Determination Report
Drayton South Coal Project, Muswellbrook LGA**

1. EXECUTIVE SUMMARY

The Upper Hunter Strategic Regional Land Use Plan (SRLUP) sets out the planning framework to ensure a balanced use of land by competing industries in the region. The Secretary's Environmental Assessment Report (SEA Report) pointed out that the policy is not intended to favour one industry over another. It seeks to achieve a sustainable co-existence of both resource and agriculture industries. The evidence indicates that the mining industry will continue in the Hunter Valley regardless of whether the Drayton South project is approved or not noting, for example, the recent approval of the Mt Arthur expansion project and the continuation of other mining operations and exploration works in the region.

The equine industry in the region is identified as a critical industry cluster (CIC) in the SRLUP. Both Coolmore and Darley stud farms are the critical central players in the equine CIC. If they decide to relocate because of perceived or actual mining impacts on their operations, it would impact on the 'clean green' image and reputation of the region. Without this status, it is unlikely a similar calibre thoroughbred industry operator would replace those lost given the importance the industry has placed on the need to have a pristine environment for the breeding and care of thoroughbred horses and the perception of the investors. The equine industry may survive, but is unlikely to retain its economic significance and international reputation. The loss of 'clean green' branding will also have a flow-on impact on the viticulture and tourism industries.

Although the proposal is likely to meet the relevant regulatory environmental criteria, they were designed for human comfort and protection of residential amenity and built structure. There is insufficient scientific evidence to confirm that meeting these criteria would not negatively impact on equine health, thus on the operations of Coolmore and Darley.

The Commission has carefully considered the SEA Report and associated documents, the PAC Review Report, the Gateway Panel Report and oral and written comments provided to the Commission before, at and after the public meeting. The Commission considers the economic benefits of the proposed mine must be weighed against not only the potential economic loss of the equine industry, if Coolmore and Darley decide to leave the region and the flow on impacts on the viticulture and tourism industries, but also the negative impact on the international reputation of NSW and Australia. Given the uncertainty that the operation of the proposed mine, if approved, would not negatively impact on the operations of Coolmore and Darley, the Commission finds a precautionary approach should be adopted and determines that the application should not be approved as proposed.

2. BACKGROUND

Anglo American Metallurgical Coal Pty Ltd (the proponent) operates the existing Drayton open cut coal mine about 13 km south west of Muswellbrook. Although current approval of mine operation does not expire until 2017, almost all coal approved by current approval has been extracted. To continue operation, an expansion to the south is required.

The expansion project, known as Drayton South Coal Project was lodged with the (former) Department of Planning in 2011. The Environmental Assessment (EA) of the project was exhibited between November and December 2012. Following exhibition of the EA, a response to submissions report was lodged in May 2013 and the Preferred Project Report (PPR) was submitted in August 2013.

On 16 March 2013 the then Minister of Planning & Infrastructure requested the Planning Assessment Commission (PAC) to carry out a review of the proposed project including the holding of a public hearing during the review. An updated request was issued on 27 August 2013 following the submission of the PPR. The Minister's Terms of Reference required the PAC to assess the merits of the project, particularly the potential impacts of the project on the operations of the Coolmore and Darley horse studs; and recommend any additional measures required to avoid and/or minimise the potential impacts on the horse studs.

The PAC Review Report was released in December 2013. The Report concluded that the open cut mine should not proceed at the planned scale in the location proposed. The Commission recommended inter alia that:

- Coolmore and Darley Studs be recognised as essential to the broader Equine Critical Industry Cluster and given the highest level of protection from the impacts of mining.
- Any open cut mining contemplated on the site should be required to demonstrate that its impacts will not affect the operation of the Coolmore and Woodlands horse studs.
- A considerable buffer should be provided to shield the studs from the mine and as a minimum, open cut mining must not extend through the second ridge to the north of the Golden Highway. In simple terms, both the Houston and Redbank pits should be deleted and a set back of the Blakefield pit is required in any new mine plan.

In response to the PAC Review Report, the proponent lodged a *Drayton South Coal Project Justification* report in February 2014. A subsequent report titled *Consequential Environmental Impact Assessment for Retracted Mine Plan* (CEIA Report) was submitted in March 2014.

3. CURRENT PROJECT APPLICATION – THE RETRACTED MINE PLAN

The Proponent seeks project approval for the construction and operation of an open-cut mine located near Muswellbrook. The proposal involves the extraction of up to 7 million tonnes of run of mine coal a year for 21 years and development of associated infrastructure, such as a haul road, access roads, overburden emplacements, extending utility services, construction of surface facilities including 2 pipelines to the Hunter River and progressive rehabilitation of disturbed areas. The proposal will also use the existing infrastructure at the Drayton mine, including the coal handling and preparation plant, the Antiene rail spur and surface facilities.

The current proposal has deleted the Houston pit as recommended in the PAC Review Report. However, the Redbank pit remains with only minor setback from the southern tip. No setback is proposed from the Blakefield pit.

4. DELEGATION TO THE COMMISSION

On 15 July 2014 the Department of Planning and Environment (the Department) referred the application to the Planning Assessment Commission (the Commission) for determination under the terms of the Minister's delegation.

Mr Garry Payne AM (chair), Mr Gordon Kirkby and Mr David Johnson constitute the Commission to determine the application.

5. SECRETARY'S ENVIRONMENTAL ASSESSMENT REPORT

The Secretary's Environmental Assessment Report (SEA Report) provided an assessment of the key environmental issues associated with the project including consideration of the findings and recommendations of the PAC Review Report and the Gateway Panel Report.

The key issues considered in the SEA Report included:

- Adequacy of Information
- Policy Framework
- Coolmore and Darley Horse Studs
- Visual Amenity
- Noise and Blasting
- Air Quality
- Water Resources
- Highwall Mining
- Economic Impacts
- Other Environmental Impacts.

The assessment of the retracted mine plan concluded that although there are arguments about the precise scale of the economic benefits, the Department was satisfied that even with conservative sensitivity testing of the key variables involved in calculating such benefits, the economic benefits of the project would be overwhelmingly positive in terms of securing royalties and taxes for Government to spend on infrastructure and services, creating jobs, and stimulating the regional and State economy through capital and operational spending.

The assessment also concluded that the project is unlikely to result in exceedances of the relevant air, noise and blasting criteria at Coolmore and Darley. Accordingly it was deemed to be unlikely to have any significant physical impacts on the studs, and would not affect the physical capability or suitability of the area to be used for horse breeding. The report also indicated that other potential impacts (biodiversity, heritage, land, water, economic and social) were considered unlikely to be significant and can be suitably mitigated and/or offset.

The SEA Report concluded that regardless of the setbacks imposed on the mine, there would still be some indirect and dynamic impacts. These impacts were not considered significant enough to warrant making further changes to the mine plan and jeopardise the viability of the project as a

whole, or to cause the thoroughbred operations to leave the Hunter Valley, even though there is always a risk that this may occur. The Department considered that there are likely to be a number of economic and practical barriers to the relocation of these thoroughbred operations and even if the owners of these operations did decide to leave the area, there is no reason why the properties could not continue to be used to breed thoroughbred horses in the future.

The Department is satisfied that the benefits of the project would outweigh its costs, and believes the retracted mine plan strikes an appropriate balance between protecting the interests of the horse studs and realising the significant economic benefits that would flow to the region and the State if the project is allowed to proceed.

The project was recommended by the Department for approval subject to conditions, which are considered to be comprehensive and precautionary to ensure the project complies with relevant criteria and standards, and to ensure the predicted residual impacts are effectively minimised, mitigated and/or compensated for.

6. SITE VISIT AND MEETINGS

Appendix 1 provides a summary of meetings and site visits carried out by the Commission with various parties as part of the determination process of this application.

6.1 Briefing from Proponent

The proponent briefed the Commission on the Drayton South Coal Project on 6 August 2014. The key issues discussed include:

- The history of the application, existing operations (Drayton) and consultation to date
- Assessment
- Visual landscape
- Proximity
- Horse health
- Economic
- Procedural matters

The Commission sought clarification on the adequacy of quantitative assessment of the impacts associated with the retracted mine plan. The proponent, by letter dated 5 September 2014 provided the Commission with additional quantitative information to support the findings for the key environmental issues discussed in the *Drayton South Coal Project Consequential Environmental Impact Assessment for the Retracted Mine Plan*, March 2014. The proponent submitted that the quantitative assessments:

confirm with certainty that the changes made to the project in response to the recommendations made by the PAC have resulted in a significant reduction in impacts on the horse studs particularly with regard to air quality, acoustics and visibility. In this regard, the Retracted Mine Plan meets the objectives of the PAC Review's recommendations in ensuring that the horse studs are afforded a high level of protection.

The Commission visited the existing mine and the proposed extension site in the company of the proponent and its consultants on 20 August 2014. The visit included the existing mine site to observe current operations and the progress of rehabilitation. The visit to the proposed extension

area included the transport corridor area and the Redbank pit area to observe the view and distance to the horse studs.

Following the completion of the public meeting, the Commission received additional comments from Coolmore, Darley and the Hunter Thoroughbred Breeders Association (HTBA). These comments were forwarded to the proponent for response. By letter dated 19 September 2014 the proponent advised that the additional comments from Coolmore, Darley and HTBA raised the same issues previously made in their submissions and at the public hearings and meetings. In response to the Coolmore and Darley's economist, Marsden Jacobs's claims that the royalties from the Project could be as low as \$15 million per year, the proponent advised that the historical royalty payments made by the Drayton mine over the past 5 years of operation (2009 to 2013) indicated the minimum paid was \$24.4 million in 2009 and the maximum was \$34.3 million in 2011.

6.2 Meeting with Department of Planning and Environment

On 6 August 2014 the Commission also met with the Department of Planning and Environment (the Department) for a briefing. The meeting focused on the following issues:

- The Strategic Regional Land Use Policy (SRLUP) and co-existence of the two industries in the Valley
- History of the site and other existing and proposed mines in the area
- Assessment process and consideration
- Visual impact, indirect and dynamic impacts and proposed mitigation measures
- Economic benefits of the project
- Potential impacts on the horse studs and relocation barriers
- Muswellbrook Council's concerns
- The EPA raised no concern with the proposed dust and noise management of the project.

6.3 Briefing from Muswellbrook Shire Council

On 19 August 2014 the Commission met with representatives from Muswellbrook Shire Council for a briefing of Council's concerns with the project.

The key issues raised by Council included:

- The Department's recommendation differs significantly from the recommendations in the PAC review report and the Gateway Panel report
- This is a low quality mine when compared with Bengalla and Mt Arthur, both have low strip ratios and good productivity
- The issue of realignment of Edderton Road and the need for Council approval of road closure
- Questionable economic benefits of the proposed mine
- Cost and liability of rehabilitation of the existing mine
- Impact on the equine industry

Council also proposed amendments to the recommended conditions if the project were to be approved. These include:

- Noise management plan – should be prepared in consultation with Council in relation to the Antiene Rail Spur
- Blast management plan – should be prepared in consultation with Council and describe measure to be taken to notify the community and council of the proposed blasts

- Contribution to the update and maintenance of Thomas Mitchell Drive in accordance with the June 2014 Contributions Study prepared by GHD
- If the affected parts of Edderton Road are not closed by 31 December 2015, the approval should be modified on the basis the road will not be closed
- Rehabilitation objectives – to include definition of ‘natural’.

6.4 Briefings from Coolmore Australia and Darley Australia Pty Ltd and site visits

The Commission met separately with representatives of Coolmore and Darley on 20 August 2014 for a briefing and tour of the farms to understand the thoroughbred operations.

6.4.1 Coolmore Australia Pty Ltd

The briefing outlined:

- The history of the equine industry in the Valley and the history of the farm
- The growth of the farm and the industry in the region
- The operation of the farm
- The combination of factors (alluvial soil, water, undulating topography) which make the farm unique
- Two key significant concerns, namely, blasting and air quality
- Fright and flight of horses is a major issue, most frequently seen during thunder storms (the stud loses one to two horses a year from these events)
- Air quality will deteriorate over time and levels of particulate matter will increase over time.
- There is little information about mine impacts on horses. Main concern is the increase in inflammatory airway disease

Following its oral presentation at the public meeting, Coolmore provided additional comments to the Commission by letter dated 4 April 2014.

The letter reiterated the issues raised at the Commission meeting and submitted that the application should not be approved for the following reasons:

- a) The proximity of the retracted mine plan to the studs will materially adversely affect Coolmore and the viability of its business and in turn, the Equine Critical Industry Cluster in the Hunter Valley
- b) The project does not comply with the findings and recommendations of the PAC, nor the limits of mining recommended in the PAC review report, which should be given significant weight
- c) The environmental assessment for the project relied upon by the Department was prepared by the proponent and is inadequate and incomplete
- d) The lack of an independent critical analysis of the economic benefits of the project
- e) The Department’s assessment report is inadequate and should be given little weight as there has been no critical or detailed assessment of the impacts of the project
- f) The project is not in the public interest

6.4.2 Darley Australia Pty Ltd (Woodlands)

The briefing outlined:

- The history of the farm and the industry in the region
- The operations of the farm including staff, the relationship with other farms in the region and international horse industry, and the future of the business
- The protection of the industry offered in other countries

- The proposed mine is too close and the resultant visual and amenity impacts are a key threat to the farm and the industry
- Question whether the Australian Sports Institute would be located so close to an open cut mine
- If the mine were to be approved, the equine industry would not die overnight. It will continue its operation but will be at a much lower level and decline overtime
- Without the Drayton South mine, the mining industry will continue in the Valley. But without Darley and Coolmore, the equine industry will probably not be there in 20 years.

Darley concluded that its property has all the right ingredients (water, soil, topography, climate, and size) to make it a perfect farm for the horses and that the supporting industries and availability of skilful staff provide a perfect environment for the business to grow to its current high international ranking.

On 8 September 2014, Darley provided supplementary comments to the Commission following its oral presentation at the public meeting. The letter reiterated the concerns raised at the public meeting and submitted that the Department's assessment report failed to adequately assess significant impacts of noise, water, visual, air and economics on the mine's neighbours, particularly Darley and the wider Equine Critical Industry Cluster. A precautionary approach in environmental assessments should be adopted, particularly in relation to the requirement to avoid the risk of serious or irreversible damage to the studs and the equine industry.

6.5 Public Meeting

On Thursday, 21 August 2014 the Commission held a public meeting in Denman to hear the community's views on the Secretary's Environmental Assessment Report (SEA Report) and Recommendation. Over 200 people attended the meeting and 52 of them expressed their view to the Commission. Appendix 3 provides a summary of the issues raised at the meeting. About 40% of the speakers supported the project and 60% objected to the recommended approval of the proposal.

Supporters of the retracted mine plan include the proponent, current/past employees, businesses supporting the mine, the Muswellbrook and Singleton Chambers of Commerce and Industry and some residents. They believe the retracted mine plan is a reasonable compromise to allow the co-existence of the two industries in the Valley.

The objectors to the retracted mine plan include Muswellbrook Council, Upper Hunter Shire Council, the two horse studs - Coolmore and Darley, businesses and groups supporting the thoroughbred industry, environmental and community groups and some residents. The main reason for objection is the retracted mine plan does not provide a sufficient buffer to protect the studs as recommended in the PAC review report and the Gateway Panel report. Both recognised the two studs are essential to the broader Equine Cluster and should be protected from impacts of mining with an appropriate buffer to avoid all potential impacts.

The issues discussed at the public meeting are provided in Appendix 3. The following is a brief summary of the issues.

- The economic benefits of the mine against the risk of economic loss of the equine industry, if Coolmore and Darley decide to relocate because of impacts of the mine on their operations.

- The community is divided because the project is seen to either protect the jobs of the mine employees and businesses or destroy the jobs of the equine industry. Both supporters and objectors do not want to see job loss.
- Supporters consider the retracted mine plan provides sufficient buffer for the mine and the studs to co-exist. Objectors believe the retracted mine plan does not provide sufficient buffer to protect the operations of Coolmore and Darley and is inconsistent with the recommendations of the PAC review report and the Gateway Panel report.
- With regard to environmental assessment, supporters were of the view that the assessment concluded that the mine can meet all relevant environmental criteria and is unlikely to have any significant physical impacts on the studs. Objectors claimed the assessment is inadequate, particularly in relation to air pollution, equine health, water resources, rehabilitation, biodiversity, and cumulative impacts from the mines in the region.
- Both mining and horse breeding are part of the Hunter Valley heritage.

7. COMMISSION'S COMMENTS AND FINDINGS

7.1 Consideration of Strategic matters

7.1.1 Upper Hunter Strategic Regional Land Use Plan

The Upper Hunter Strategic Regional Land Use Plan (SRLUP) provides a strategic framework to balance agriculture and resource development in the Upper Hunter region. The objects of the plan include:

- Ensure protection of strategic agricultural land and the water resources it relies on.
- Ensure security and clarity for agriculture and mining and coal seam gas industries.
- Ensure a balanced use of land by competing industries.
- Provide enhanced future opportunities for sustainable mining and agricultural industries.

The SRLUP identified and mapped land with unique natural resource characteristics (known as biophysical strategic agricultural land) and clusters of significant agricultural industries (known as critical industry clusters (CICs)). The Plan defines a CIC as a localised concentration of interrelated productive industries based on an agricultural product that provides significant employment opportunities and contributes to the identity of the region. The main purpose of creating the CICs is "to establish measures to protect these industries from the impact of coal seam gas and mining activities."

The equine and viticulture industries are the two identified CICs in the region.

The SRLUP also introduced a Gateway process to provide independent, scientific and upfront assessment of how a mining or CSG proposal on strategic agricultural land will impact the agricultural values of the land. Although the gateway assessment process does not strictly apply to this application because it was already being assessed when the provisions in the Mining SEPP came into effect, the Department considered the assessment of this project would benefit from the new Mining and Petroleum Gateway Panel's advice (the Gateway Panel report, Dec 2013).

The Gateway Panel Report found that the potential impacts (dust, noise and blasting) of the proposed mine on the CICs are significant. The most important issue was the loss of landscape

values through diminished visual amenity, which underpins the core business of both the equine and viticulture CICs. If the proposed mine were to be approved, the Panel considered a significant buffer was required as well as additional mitigation strategy including monitoring and management of actual impacts. It was of the view that if potential impacts on the CIC are realised, mining operations must be discontinued.

In considering the policy framework, the Department does not believe the intention is for no or nil impacts from mining on CICs. It considered it was unreasonable to expect that in areas where mining is a permissible land use, has historically been a major industry, and where there are current Exploration Licences, that indirect visual impacts associated with noise, blasting and dust emissions from mining can be avoided entirely. (page 35 SEA Report)

The Commission agrees that the policy does not mean no or nil impacts from mining on CICs. In the Commission's view, the key is to keep any mining impacts on the CIC at a reasonable distance to allow the CICs to remain in the area and prosper.

7.1.2 Co-existence of the two industries

The SEA Report considered the SRLUP in section 2.4 and section 6 and pointed out that the SRLUP

seeks, wherever possible, to achieved a sustainable co-existence between mining and agriculture in the Upper Hunter Valley. The policy intent is therefore not to favour one industry over another, but to ensure land use planning decisions allow both industries to prosper, but not at the expense of the other. The Department is satisfied that the retracted mine plan would allow this to occur, and is therefore not inconsistent with the NSW Government's policy position set out in the SRLUP.

Those who support the project, echoed their agreement that the retracted mine plan is a reasonable compromise to allow the co-existence of the two industries in the Valley.

Objectors disagreed. They are of the view that it is not the equine industry against the mining industry. It is one mine against the equine industry. If Drayton South is not approved, other major mines will continue their operation in the area. If Coolmore or Darley decide to relocate because of impacts from mining operation, there will not be an equine industry in the Hunter Valley. They contended that it is a short term gain against long term sustainable benefits.

It was pointed out to the Commission that no other world renowned breeding centres have an open cut coal mine in such close proximity (within 500m). The Hunter Valley is one of the three internationally recognised thoroughbred centres in the world by virtue of their size, concentration, breeding and race performance. Both Kentucky in USA and Newmarket in the UK have protection in place to protect the industries from incompatible developments. Similar protection should be provided to the Hunter Valley to ensure not only the survival of the equine industry, but also allow it to further develop.

The Gateway Panel report also concluded that given the nature, scale and importance of Coolmore and Darley, they cannot co-exist with an open cut coal mine in close proximity. The potential impacts of the proposed mine would have significant deleterious effects on the two studs and the equine CIC "to the extent that it may cause these studs to exit the region and demise of the cluster".

The Commission agrees with the SRLUP that co-existence should be taken to mean that both industries should be able to remain in the Hunter Valley and flourish. The evidence supports the view that the mining industry will continue in the Hunter Valley regardless of whether Drayton South is approved or not given the recent approval of the expansion of the Mt Arthur Coal Project and other existing mining operations and exploration works in the region. However, if Coolmore and Darley decide to relocate, the equine industry in this region would decline as it would be extremely unlikely those studs would be replaced by others with a similar international reputation.

7.1.3 The 'Clean Green' Branding

The SRLUP acknowledged that one of the contributing factors to the attraction for agricultural industries is the region's 'clean green' branding.

The HTBA's June 2014 submission to the Department discussed at length the importance of the 'clean green' image and reputation of the Hunter Valley CIC in the international market. Its view was that it is of critical importance to protect and preserve the Hunter Valley's international reputation as one of the three thoroughbred breeding centres of excellence in the world. As the industry is highly competitive, risk to image and reputation discourages investment and places Australia at a competitive disadvantage.

The SEA Report at page 40 pointed out that the views from the studs are not 'pristine' as existing mining operations in the area are clearly visible. The Commission agrees. However, the operations of other mines and the power stations are distant and remote and do not dominated the vista when viewed from the studs. If the proposed mine is approved, the cumulative impacts will result in the vista dominated by industrial activities including dust cloud and night lighting (notwithstanding the proposed vegetation buffer) rather than the idyllic rural landscape with distant industrial activities at the horizon.

The HTBA, Coolmore and Darley contended that the Department did not understand the business model adopted by Coolmore and Darley. The critical components of their business model are image, client perception, visual presentation and reputation. To attract new clients and retain existing clients, both have to ensure they present not only as world class facilities, but also maintain the image of 'clean green environment' and visual presentation of idyllic rural landscape. The image and the landscape play a significant role in investor confidence to invest in the region.

The SEA Report in considering the operation of the studs (page 58) relied on the proponent's consultant Dr Kannegieter's report which argues that the "brand of these studs ... primarily relates to the racing and breeding credentials of the stallions and brood mares it uses and the progeny that can be produced rather than the landscape within which they operate."

Dr Kannegieter's view and comment on the branding of the industry were challenged by the key objectors, Coolmore, Darley and the HTBA.

On the evidence, the Commission is persuaded that the image of 'clean green environment' is a critical component of the Coolmore and Darley operations in the Hunter Valley and plays a significant role in investor's perception and confidence to invest. It is therefore an issue that must be considered. There is a significant risk that the close proximity of an open cut coal mine and the

indirect and residual impacts of the mine operation will tarnish the image of the area, causing not only damage to the equine industry, but to the viticulture and tourism industries as well.

As pointed out in the Gateway Panel Report, “the landscape value extends far beyond its physical characteristics.” The evidence supports that the landscape creates the perception and image of the area. Any significant change of the current rural idyllic landscape to intensive industrial landscape would negatively impact on the perception and image of the area.

7.1.4 The role of Coolmore and Darley Studs in the CIC

The PAC review report, including its consultant report (La Tierra report), discussed the operation of the Upper Hunter Equine CIC, the importance of the cluster, the role of Coolmore and Darley in the cluster including their operations and inter-relationship with other horse breeding operations and supporting industries; and the potential effect of Coolmore and/or Darley exiting the cluster. The report concluded that although Coolmore and Darley may not sit at the centre of the cluster spatially, the proximity of these studs is critical to the ongoing operations and success of the cluster as a whole.

The Gateway Panel report formed the view that both Coolmore and Darley (Woodlands and Kelvinside studs) are central to the core business of the Upper Hunter Equine CIC. These two businesses have most of Australia’s leading thoroughbred sires standing at their two studs.

The HTBA in its June 2014 submission to the Department described Coolmore and Darley as:

... Australia’s market leaders in breeding and racing. Together they command over 40% of the stallion market in Australia and over 50% of the Hunter Valley stallion market. In this respect together these studs are larger than all other states in Australia combined.

They are as dominant in the sales ring as they are on the racecourse (representing over 40% of the market in both). Coolmore and Darley stallion sires represent 50% of the top ten stallions in Australia. The progeny of their stallions are highly successful, highly valuable and coveted by domestic and international breeding and racing interests.

... The stallion studs’ operations are inextricably linked to the 150 broodmare operations clustered in the Hunter Valley and the sophisticated network of equine support industries that would not be in the Hunter Valley but for the premium stallion stud farms that have established operations in the Valley. The Hunter Valley’s breeding industry also underpins NSW’s racing industry and the significant revenue, investment and tourism that NSW racing attracts.

... the withdrawal of Darley and Coolmore would have a devastating effect on the equine’s critical industry cluster. This is particularly the case if the studs moved interstate and, as would be expected, their clients followed.

On the evidence, the Commission agrees that Coolmore and Darley studs are at the ‘epicentre’ of the thoroughbred breeding industry in NSW and Australia. They are ‘pivotal’ to the sustainability of the Upper Hunter Equine CIC because of their size and market share. They are the largest international scale thoroughbred studs in Australia and have economic and reputational significance to the region, NSW and Australia. The Commission supports the recommendation of the PAC Review Report and the Gateway Panel report that both studs should be afforded the highest level of protection.

7.1.5 Relocation of the Studs

The SEA Report (pages iv and 57) considered that there are considerable economic and practical barriers to the relocation of these thoroughbred operations (such as the proximity to other thoroughbred operations in the Upper Hunter and Sydney, and the existing capital investment in the studs), and significant incentives for the studs to remain in their current location. Even if they decide to leave the area, there is no reason why the properties could not continue to be used to breed thoroughbred horses in the future.

HTBA disagreed and pointed out that Coolmore and Darley are major international operators. They have multi-regional operations. If the operating environment in the Hunter Valley alters significantly, they could choose to relocate their operations (especially their stallions) to other international centres, such as New Zealand in order to maintain investor confidence in their reputation of producing the best performing horses in a clean green environment.

The Commission agrees and accepts that if Coolmore and Darley decide to leave the area because of perceived/actual mining impacts on their operations, it is unlikely any similar calibre operators will be willing to move in given the image conscious nature of the industry and investor's perception of the area. The properties may continue to be used for agriculture or horse breeding, but would be unlikely to have the same economic and reputational significance of Coolmore and Darley.

7.2 Consideration of economic and social benefits

In justifying the retention of the Redbank Pit within the retracted mine plan, The *Consequential Environmental Impact Assessment* (CEIA Report) stated that

the Redbank area supplies a significant portion of the total tonnage, contributing approximately one third of annual mined tonnes during its life. A reduced cash flow of more than \$900M and a 25% reduction in NPV would result from the removal of the Redbank mining area. The removal of this low cost resource from the mine plan would render the project unviable.

The Redbank pit represents 19Mt of ROM coal worth between \$1.3 and \$1.5 billion. The CEIA Report also indicated that further coal exploration work on the site could be carried out during the Drayton South Coal Project to investigate the feasibility of a number of other mining proposals including underground mining.

The SEA report (page 67) summarised the economic and social benefits of the project for the region as follows:

- Direct capital investment of \$368 million;
- Direct employment of around 530 workers during operations and more than 300 workers during construction;
- \$355,000 (present value) each year to Council for the provision of local infrastructure and community services; and
- \$333 million (present value) in direct revenue for the State Government from coal royalties.

The proponent by letter dated 5 September 2014 updated the economic benefits of the project as follows:

- \$588 million in annual direct and indirect output or business turnover;
- \$268 million in annual direct and indirect value added;
- \$86 million in annual direct and indirect household income; and
- 785 direct and indirect jobs.

The supporters also pointed out that the economic benefits of the proposal include not only royalty and taxes, but also the on-going employment opportunity for existing employees, businesses for supporting industries and the proponent's financial contributions to various community organisations.

Section 6.3.6 of the SEA Report considered the economic impacts of the project. It said:

The assessment of this project has been characterised as a choice between the interests of the equine industry and the interests of the mining industry. This has stemmed from concerns expressed by the equine industry about the impacts of the project being so significant that the studs would have no choice but to leave the Hunter Valley. Various economic assessments have been submitted by both sides of the debate highlighting the relative economic importance of either the equine or mining industry, and relying on these findings as the basis for making a decision about whether or not the project ought to be approved.

However, in the Department's view, the primary role of the approval authority is not to choose between the mine and the studs, but to determine whether the potential impacts of the proposed development on surrounding land uses are acceptable having regard to relevant standards, policies and guidelines. If the approval authority is satisfied that the impacts on the studs are acceptable, and if the stud owners and operators then choose to relocate, this is entirely a matter for them. The risk of this occurring should not be the primary focus in the assessment of the proposal, and should not be the basis for ignoring the broader economic implications of any recommendation to refuse or constrain the project.

Consequently, while the Department acknowledges the professional differences of opinion about the relative economic benefits of the mine and the studs (and the consequences of losing either industry), the Department believes that this is not a debate that needs to be resolved in the assessment of this proposal.

Marsden Jacob Associates (MJA) engaged by Coolmore and Darley to review the economic impact assessment of the proposal presented its findings to the Commission at the public meeting that the proponent's economic assessment:

- does not comply with NSW Government guidelines or the Director General's requirements
- continues to over-estimate the benefits and under-estimate the costs
- fails to recognise the impact of the project on Coolmore and Darley, their contribution to the regional and NSW economies, and the economic impact that would result if they were forced to move inter-state.

According to the MJA and HTBA (January 2013 submission to the Department) the economic significance of Coolmore and Darley and the Hunter Valley's Thoroughbred Breeding Industry are:

- The Hunter Valley's Thoroughbred Breeding Industry

- is Australia's largest producer, supplier and exporter of thoroughbreds, represents the second largest concentration of thoroughbred breeding operations in the world, second only to Kentucky in the USA.
- Produces 75% of the horses racing in Sydney and Melbourne (with Coolmore and Darley together representing at least 50% of that market)
- Represents 70% in volume and 80-90% in value of Australia's thoroughbred exports to markets overseas
- Represents over 80% of the progeny offered at premium sales
- Underpins NSW and Australia's racing industry and has significant potential for export and domestic growth and investment.
- The Australian Stud Book 2011 shows the average annual income from stallion service fees between 2005 and 2011 was:
 - \$301 million - Australia wide
 - \$232 million – NSW
 - \$223 million – Hunter Valley
 - \$123 million – Coolmore and Darley

In other words, Coolmore and Darley generated over 50% of the annual income in NSW, which in turn generated 76% of the annual income in Australia.
- Over 85% of the studs operational expenditure occurs within the Hunter Valley
- Coolmore and Darley supports a sophisticated network of equine support industries, including the largest equine hospital in the southern hemisphere, which employs 100 staff including 30 qualified veterinarians, 5 specialists and some 70 support staff, and 90% of its business depends on the thoroughbred breeding industry.
- Direct economic cost to the NSW economy if Coolmore and Darley relocate to Victoria is estimated to be between \$229 million (base case) and \$368 million (sensitivity test), in net present value terms and place at risk at least 640 jobs in the equine industry.
- Any impacts on the equine industry will have flow-on effects on the viticultural and tourism industries.

Both Muswellbrook Council and the objectors considered it is important to ensure the region has a diversified economic base to support the community when the coal resource is exhausted. Experience from past economic downturns makes economic diversity more important to the region.

They further pointed out that the equine industry, particularly Coolmore and Darley, require long term stability and certainty that a clean, safe and secure environment will be provided in the region to assure investors' confidence. Without this certainty, investment will decline and the equine industry will collapse.

On the evidence, the Commission finds that the project, if approved, would have certain economic benefits, though the extent and quantum of the benefits is questioned. Benefits include continuous employment for existing employees, business for supporting industries, taxes and royalties. If the project is not approved, there will be job loss when the operation of the current mine ceases in December 2017.

The Commission has not independently verified the economic information provided by HTBA and MJA. It is suffice to say that the available evidence indicates that equine industry in the Hunter Valley is a vibrant, growing and sustainable industry that is important to the regional, NSW and Australian economies. It is also in the public interest to maintain and develop a diversified economic base for the region and the State.

The Commission also finds the site contains significant coal resources. However, extraction of the resource should not result in significant negative impact on the equine and viticulture CICs as provided in the SRLUP. The coal resource will remain in-situ if the project is not approved. Extraction of the resource could be carried out in future with development of new technology that would not negatively impact on the studs. There is no reason why further exploration work on the site could not proceed without the Drayton South mine.

7.3 Consideration of key environmental issues

Section 6 of the SEA Report provided a detailed assessment of the proposal against the established environmental criteria. The Report concluded that the project would be able to meet most of the regulatory environmental criteria in relation to dust, noise and blasting. It also concluded that the proposal would be unlikely to have any significant physical impacts on Coolmore or Darley, and would not affect the physical capability or suitability of the site to be used for horse breeding. The EPA was satisfied that the proponent would be able to comply with these criteria at the studs.

Other potential impacts such as biodiversity, heritage, water, economic and social, are unlikely to be significant and can be suitably mitigated and/or offset. Following the public meeting, the proponent provided the Commission with the quantitative assessment to support the conclusion of the SEA Report.

With regard to potential impact on equine health, several speakers at the public meeting directed attention to their individual farms, which were said to be located near either the rail loop or an existing open cut coal mine. Horses are kept at these farms with no apparent adverse health impacts on them.

Objectors argued that there is uncertainty about potential impacts of noise, blasting and dust on horses at the studs. The deterioration of air quality over time and the fright and flight from blasting are the key concerns. The recommended approach of monitoring of the responses of horses to address the uncertainty is not acceptable as no horse owners would be willing to expose their valuable stock to negative impacts.

The Commission noted that Coolmore in its October 2013 submission to the PAC Review acknowledged that

There are few scientific studies available on air quality, pollution, dust and the breeding of thoroughbred horses. This situation arises and is unlikely to change because no-one is prepared to risk a valuable asset – a race horse – by deliberately exposing them to pollutants to assess impact on performance in a controlled experiment. The absence of evidence is not evidence of absence of risk.

The submission drew attention to the report of Dr Andrew Paxton-Hall, BVSC of Tamborine Mountain Veterinary Surgery, Queensland and the report of Acoustics Engineer Ray Turney BEng, MEnvStud, MEWAust, MAAS. Both expressed similar views that:

- Horses are by nature flighty animals and can react to sudden or impulsive noise or vibration very quickly and unpredictably depending on individual temperament and circumstances at the time.

- Long term resident equine can become desensitized to loud noises that are constant or repetitive. But ground borne vibration (from blasting) will take significantly longer to become habituated because it represents a greater risk to the horses as they see that as an earthquake, therefore a very high risk to them.
- The studs have a fluctuating horse population depending on the time of the year. Therefore, blasting and other noises could potentially distress an animal and cause self-harm and therefore presents a very significant risk of injury for employees and other stock nearby.

Following the public meeting held by the Commission, Coolmore by letter dated 2 September 2014 provided written comments on the SEA Report to the Commission. Section 7 of the letter discussed equine sensitivity. It stated:

Thoroughbreds have been selectively bred for heightened flight response for the past 300 years. Therefore blasting is a major risk. Furthermore, horses have much more sensitive hearing than humans, and are able to hear at both lower and higher frequencies. Horses hear from 14Hz to 25KHz compared to the human range of 20Hz to 20kHz.

It also quoted SLR Consulting that the criteria for air blast from blasting operations are human comfort criteria. The airborne energy from efficient blasting at large offset distances is often contained in the frequencies below 20Hz, the lower limit of human hearing. The criteria may not adequately protect the wellbeing of horses and horse studs.

The letter also referred to the view of Dr Andrew McLean of the Australian Equine Behaviour Centre (AEBC) that

Thoroughbreds are selectively bred for speed and quick reactions, and this renders them susceptible to hyper-reactive behaviours as a result of fear response to aversive stimuli. ...the blasting operations will pose a highly significant challenge to the activities at Coolmore. The behavioural and physiological consequences are likely to jeopardise the welfare and safety of both humans and horses and will impact on the efficient running of the stud.

The Commission referred the letter and other documents to the proponent for comment. The proponent by letter dated 19 September 2014 advised that the additional submissions raised “the same issues previously aired ...contain unsubstantiated conjecture which conflicts with the preeminent experts in each field of expertise that have completed impact assessments of the Retracted Mine Plan.”

On the evidence, the Commission finds the impacts of dust, noise and blasting (noise and vibration) from mining operations on equine health is a subject of debate and disagreement and the issue is unlikely to be resolved in the foreseeable future. It agrees that the regulatory environmental criteria for noise, blasting and dust were designed to minimise annoyance to human receptors and protect residential amenity and built structure. There is insufficient scientific evidence to support the contention that meeting these criteria will not adversely impact on equine health, and hence the operations of the studs. It should be noted the Commission is not advocating the development of environmental criteria to protect horses. This is a unique circumstance that involves an identified CIC in the SRLUP which sets out the planning framework to protect the equine and viticulture CICs.

In the circumstances when there is uncertainty of the potential negative impact on equine health, thus the operations of Coolmore and Darley, the Commission considers a precautionary approach

should be adopted. In coming to this conclusion, the Commission had regard to the economic and reputational importance of Coolmore and Darley not only to the Hunter Valley CIC, but also to NSW and Australia.

7.4 Consideration of other matters

7.4.1 Option for a smaller mine

Having regard to the findings in Sections 7.1, 7.2 and 7.3 above, the Commission gave consideration to whether an approval could be given to the retracted mine plan with a requirement to change the mine plan to meet the setback requirements recommended by the earlier PAC review.

The PAC review report makes it very clear that the second ridge line is the **minimum acceptable line** to mine subject to further assessments to demonstrate that the impacts from the open cut mine will not affect the operations of Coolmore and Darley. Although one can assume that a smaller mine further away from the studs will have less impacts, there are no qualitative or quantitative assessments before the Commission to support such assumption. The Commission is also aware that the setback requirements, if imposed, will affect the mine plan, mine operation, water resource, final landform, just to name a few issues.

To enable the Commission to consider the granting of approval to a smaller mine (deletion of the Redbank pit and setback of the Blakefield pit), the proponent would have to provide additional information including revised modellings for the Department's assessment of potential impacts before a decision can be made.

In considering whether the Commission should request additional information from the proponent, the Commission noted that the proponent argued strongly in the CEIA Report that "the Redbank mining area is an integral part of the mine plan for the Project. It makes a significant positive contribution to the value of the Project and permits efficient scheduling of the dragline process. ...the removal of this operational area from the mine plan would render the Project unviable." The report also quoted the concern raised by the Department of Primary Industries that "the effective removal of two of the four pits also brings into question whether changes to the net present value of the deposit and the flow through effects on mine scheduling, equipment usage and the ability to still produce the required products would render this proposal uneconomic." This view was also reiterated at the briefing meeting in early August 2014. The Department in its assessment report also noted and supported the economic viability argument.

In the circumstances, the Commission does not consider approval of a smaller mine is an option that it is able to pursue.

7.4.2 Rehabilitation

During a site visit, it was apparent to the Commission that limited rehabilitation had been carried out on the existing Drayton mine site. The Commission noted approval of the Drayton Mine Extension (current mine) was granted in February 2008. Condition 5, Schedule 2 of the current approval limits the mining operations to 31 December 2017.

Condition 34, Schedule 3 requires the proponent to progressively rehabilitate the site in a manner that is generally consistent with the final landform and proposed rehabilitation strategy in the EA (shown conceptually in Appendix 7) to the satisfaction of the Department.

Condition 39, Schedule 3 requires the preparation of the Rehabilitation and Offset Management Plan, which must include, inter alia a description of the short, medium and long term measures that would be implemented to rehabilitate the site and a detailed description of what measures would be implemented over the next 3 years to rehabilitate the site and procedures for progressively rehabilitating areas disturbed by mining.

The SEA Report (page 77) addressed the issue of rehabilitation. It noted that there is an approved final conceptual rehabilitation plan for existing operations at the Drayton mine, a number of approved management plans including a Rehabilitation and Offset Management Plan, a Mine Closure Plan, and a Final Void Management Plan. Given the availability of these plans, it is a significant concern to the Commission at the lack of progress with rehabilitation of the existing mine when mine operation is expected to cease in December 2017.

The viability of the proposed mine was raised as an issue of concern in submissions and comments to the Commission. The recommended Condition 9 (Schedule 2) requires the Proponent to surrender all existing development consents and project approvals for the Drayton mine and the Antiene Rail Spur. The contention was if the Drayton South mine is not a viable mine, it could be placed in caretaker mode following any approval. If this were to occur, this new consent would allow the proponent to defer its rehabilitation responsibility for virtually the life of the approval being sought, notwithstanding the Department's recommended conditions which require a Rehabilitation Strategy for the Drayton Complex by June 2015, which must include the details of a timetable for the rehabilitation stages for both the existing Drayton mine and Drayton South.

Given the lack of progress with rehabilitation works on the existing mine, the Commission is not confident that the Rehabilitation Strategy will be implemented and the disturbed areas will be progressively rehabilitated regardless of whether the proposed mine goes ahead or is put in caretaker mode.

Although the Commission is concerned about the progress of rehabilitation works on the existing mine, it acknowledges it is inappropriate to take such concern into consideration in determining this application. Notwithstanding its position, the Commission considers that if the mine is to be approved, the recommended rehabilitation conditions require substantial reworking to ensure a more positive implementation timetable would be in-place and commenced before extraction in the new area began and would continue regardless of whether extraction on the extension area proceeds or not.

8. COMMISSION'S DETERMINATION

In determining this application, the Commission has regard to the three key “relevant matters” referred to in the *Drayton South Coal Project Justification Report* (February 2014), namely, the public interest, the objects of the EP&A Act, and the principles of ESD.

8.1 Public Interest

Although there are arguments as to the extent and quantum of the economic benefits of the project, the Commission accepts that the project, if approved, will have certain economic benefits in terms of royalty, taxes, and opportunities for employment and business. However, these benefits need to be balanced against the potential loss of a thriving and sustainable industry, which has significance not only to the region, but also to the State and national economies. It is also in the public interest to develop a broader and diverse economic base to underpin the future prosperity of the region, State and Australia as a whole.

8.2 Objects of the EP&A Act and the Principles of Ecologically Sustainable Development (ESD)

The proponent argued that the project will facilitate the development of a valuable coal resource and provide ongoing employment for its employees and stimulating economic activity. The Department is satisfied that the project meets the relevant objects of the EP&A Act. It encourages the proper use of resources (Object 5(a)(i)). It promotes the orderly and economic use of the land (Object 5(a)(ii)). Impacts can be suitably controlled to ensure an acceptable level of environmental performance, including the protection and conservation of native animals and plants (Object 5(a)(iv)). The project can be carried out in a manner that is consistent with the principles of ecologically sustainable development (Object 5(a)(vii)).

The Commission holds a different view. It has not been conclusively demonstrated that mining in close proximity (about 500m) to the studs would not negatively impact on equine health or the operations of the two most important equine industry players in Australia, Coolmore and Darley. The risk of losing these two studs and the likely demise of the equine industry does not promote the social and economic welfare of the community.

The project's indirect and residual impacts will affect the high scenic quality and cultural heritage of the area. The proposed vegetation buffer will alter the landscape character of the area. These impacts are inconsistent with the object of protection of the environment. If the project is not approved, the coal resource will remain in-situ for future generations. The development of new technology may allow the extraction of the coal without adverse impacts on the two studs.

When there is a risk in losing a significant industry, the adoption of a precautionary approach is consistent with the object of the Act, the intent of the SRLUP and the principles of ESD.

8.3 Commission's determination

Having regard to the findings above, the Commission is not persuaded that approval of the project is in the public interest. The application is not approved for the following reasons:

- 1) The project does not provide sufficient buffer to protect Coolmore and Darley from the impacts of mining as recommended in the PAC Review Report and the Gateway Panel Report.
- 2) The project has not demonstrated that it will not adversely impact on equine health and the operations of the Coolmore and Darley horse studs.
- 3) The approach of monitoring the responses of thoroughbred horses to the mine's operation to address uncertainty is not acceptable because once the damage to the operations of the studs occurs, it is irreversible.
- 4) The economic benefits of the project do not outweigh the risk of losing Coolmore and Darley and the potential demise of the equine industry in the area with flow-on impacts on the viticultural and tourism industries.
- 5) The project is not in the public interest.



Garry Payne AM
Chair of the Commission



Gordon Kirkby
Member of the Commission



David Johnson
Member of the Commission

Appendix 1

List of Speakers

Planning Assessment Commission Meeting Drayton South Coal Mine

Date: Thursday 21 August 2014, 9.30 am

Place: Denman Memorial Hall, 30 Ogilvie Street, Denman

Speakers:

1. Shane Davey
2. Peter Forbes
3. Anthony Londero
4. Garry Milton
5. Brad McNamara
6. Keep Denman Coal Mine Free
John Kaye
7. Hunter Communities Network
Edward Finnie
8. Ross Bailey
9. SEGENHOE
Peter O'Brien
10. Upper Hunter Wine Makers Association
Brett Keeping
11. Robert Monteath
12. Hunter Environment Lobby Inc
Jan Davis
13. Justin Hollis
14. Scone Race Club
Arthur Mitchell
15. Lee Watts
16. Shannon Smith-Eckman
17. Brooke Risby
18. Lock the Gate Alliance
Steve Phillips
19. Mine Watch NSW
Wendy Bowman
20. Westpac Helicopter
Richard Jones
21. Craig Benjamin
22. Angela Barry
23. Allen Barry
24. Shane Dennis
25. Rebekan Allen
26. Adrian Barwick
27. Coolmore
Ken Barry
Owen Droop
Ross Watson
28. Muswellbrook Chambers of Commerce & Industry
Michael Kelly
29. Chelsea Simpson

30. Warwick Cox
31. Robyn Moore
32. Catrina Sturmberg
33. Newgate Operations Pty Ltd
Henry Field
34. Bowhay Pastoral Company Pty Ltd
Peter Hodges
35. Cameron Hipwell
36. Ross Dunn
37. Denman Aberdeen Muswellbrook & Scone Healthy
Environment Group (DAMSHEG)
Trevor Woolley
38. Ballymore Thoroughbreds
Tony Williams
39. Hunter Thoroughbred Breeders Association
Dr Cameron Collins
Andrew Beatty
Rod Carr
40. Scone Esquine Hospital
Dr Angus Adkins
Sharon Veale
41. Darley Australia Pty Ltd
Henry Plumptre
Michael Wright
42. Todd Mills
43. Paul Morgan
44. Singleton Business Chambers
Ryan Fitzpatrick
45. Upper Hunter Shire Council
Cr Kiwa Fisher
46. Wendy Wales

Wednesday 6 August 2014

Anglo American Metallurgical Coal Pty Ltd

A general briefing of the operation was provided along with a general history of the area. The briefing outlined:

History of the mine, existing operations and consultation to date

- the mine has been in the region for 30 years
- the mine is a world class operator
- All employees are environmentally aware
- The mine recognises the responsibility of co-existence with other land uses including the thoroughbred industry
- The mine actively engages with the community and has had over 20 meetings with the studs
- 65 contractors no longer on site due to downturn in operations
- Existing staff on site will transfer to Drayton South
- The proponent has not consulted with the thoroughbreds since September 2013 however the proponent intends to commence communication again if the project is approved
- Anglo made all reports and consultants available to the studs. Coolmore contacted, and met with, the proponent's veterinary consultant once in Sydney

Assessment

- Highwall mine to the south of the Whynot pit is under consideration
- Overburden stock piles will be controlled to ensure they will not become too high and therefore visible
- The use of a dragline in the Redbank pit will reduce dust as there will be less truck and excavator movements
- The Golden Highway traffic noise may impact on noise compliance therefore supportive of attended monthly monitoring
- The Blast Vibration Management Strategy with monitoring will demonstrate compliance of recommended criteria
- Lightning strike data for 2013 shows significant number of strikes over the period with overpressure levels exceeding 120/130 which is higher than the recommended criteria
- The relevant studies including updating of modellings have been carried out for the retracted mine plan and would be made available to the Commission for consideration.

Visual Landscape:

- 60 locations identified by the studs and assessed by the proponent
- The area where the mine will be visible is The Trig, which is highly elevated. However, the Trig is not readily accessible and a 4-wheel drive is required to access it.
- The National Trust have been seeking to have the area listed since 1984 without success
- Coolmore operates a stallion stud farm so they have a high client ratio (ie more visitors) however Darley is a brood mare operation. Darley takes its mares to their stud farm in Scone. Darley clients attend the Scone operations, not the Hunter site for viewings

Proximity

- Retracted mine plan provides a protective buffer for noise, air quality, lighting, blasting, therefore proximity is not considered a concern
- The part of the stud where it is closest to the mine (about 500 metres) is used for cattle grazing

Horse Health:

- Literature review and data, including overseas information such as Hong Kong, Emirates, show that horses are exposed to higher levels of dust from their stables than from mine dust. Any weather driven dust would be an irritant only
- Horses are not disturbed by the existing stud operations which generate similar dust conditions to mining i.e. tractors, vehicles moving to other locations
- No evidence to confirm adverse impact on horses (breeding, racing)
- No endotoxins found in mine dust
- Lighting does affect breeding cycle. Artificial light is used to activate the breeding process.

Economics

- 2 economics studies have been completed.
- Net production benefit versus environmental & social impacts
- Benefit is \$485 million. This is after biodiversity, environmental, social outlays
- Price of coal is key factor in determining benefit: 1 – coal price is set by USA market; 2 – price is calculated over the 30 years life of mine
- Wood McKenzie (the company which generates forecasts) – proponent reviewed Gillespie figures against W/K figures which still indicated the project was in positive so project viable
- Deductions not included in figures (i.e. \$350 tonnes for coal washing). When considering currency exchange rate, price of coal fluctuations, issues such as coal washing are irrelevant
- The Australia Institute used data and formulas from an American study. The authors of that study have requested people stop mis-using their study as it was not prepared for such purposes
- Given the cost of their infrastructure, it is unlikely the studs would actually relocate, particularly Darley
- There is insufficient information available to prepare any model which would reflect the local economy should the studs leave the area
- Council trying to 'double dip' by claiming \$94 contributions for the Thomas Mitchell Drive

Other matters

- General determination process, including public meeting, timing of determination and site visit arrangement
- Commission advised the proponent that the focus is on facts and scientific evidence, not emotive issues

Department of Planning and Environment

A general briefing of the proposed mine was provided. The briefing focused on:

- The SLURP and co-existence of the two industries in the Valley
 - SLURP was introduced to protect prime agricultural areas. Co-existence is two different land uses operating side by side
 - The horse studs have been given significant protection through the SLURP; therefore coexistence is possible with appropriate mitigation measures being implemented. The key is not to favour one industry over the other.
- History of the site and other existing and proposed mines in the area
 - Mount Arthur South (a 1986 approval) did not proceed, in part, due to the cost of transporting coal to the then existing rail infrastructure. Drayton is proposing to convey coal to their existing infrastructure where rail connection is available.
 - Nearby known proposal include Spur Hill and Doyles Creek mines, both will be underground mines.
- Assessment process and consideration
 - Following the PAC review report and the proponent's Justification Report, the Department requested the proponent to reconsider its position and address the PAC's concerns.

- The Department's assessment concluded that the retracted mine plan provides a reasonable balance even though there will be some residual indirect dynamic impacts from dust, lighting, blast generated dust to the studs.
- Normal noise criterion for the mine in this environment is 40dBA. The Department recommended a lower control of 35dBA, which has regard to the sensitivity of the studs. However, this does not mean the studs would not hear the mine.
- The proponent's data showed short term high level dust, however these were inaccurate as the actual level would be lower
- There is no concern with the mine's proposed water management
- "Zero impact" is not an assessment standard. This project has been subject to a merit and technical assessment including consideration of government policy, not on subjective issues
- The retracted mine plan did not include quantitative assessment of relevant issues. However, it was assumed that a reduced mine footprint would generate less impacts noting that the PAC Review required a smaller mine should be further assessed to ensure the impacts could be managed to an acceptable level at the studs.
- Visual impact, indirect and dynamic impacts and proposed mitigation measures
 - Direct views of the mine operations are not an issue as the mine is not visible to the studs' core operational areas
 - Perception issue – There are existing mines operating in the Hunter Valley and they are visible to horse purchasers when they visit the studs.
 - Indirect views will remain (such as night lighting)
 - Views from Denman Road will be screened by the proposed tree screening, however Mount Arthur is highly visible
- Economic benefits of the project
 - Cost benefit analysis is a tool to indicate if a project is viable.
 - The project is still positive even with conservative estimate and assumption
- Potential impacts on the horse studs and relocation barriers
 - Should one of the studs leave the area, there is no reason why another stud operator would not take its place
- Muswellbrook Council's concerns
 - Thomas Mitchell Drive – heavy vehicle bypass which should be a state, not council, road. As it is a council road there is no State funding for ongoing maintenance. "Resources for Regions" funding should be considered along with re-classifying the road from local to state.
 - Edderton Road - proposed re-alignment and close of existing road. Council is road authority and road closure requires Council approval.
 - VPA – Council is trying to double dip by claiming for Thomas Mitchell Drive through s94 contributions. The VPA should not be used as a revenue raising exercise.
 - Council policies – The Department is supportive of Council preparing local rehabilitation policies and measures.
- Arrowfield is an isolated land use and currently has no winery infrastructure on site although it may be used as a cellar door in the future or as a domicile for mine employees
- The EPA raised no concern with the proposed dust and noise management of the project

Tuesday 19 August 2014

Muswellbrook Shire Council

Issues discussed at the meeting can be broadly classified as those directly affect the LGA and those have broader impacts.

- The recommendation in the assessment report differs markedly from the PAC review report and the Gateway Panel's recommendation.
- Council supports good mines, for example, Bengalla and Mt Arthur, both have low strip ratio and good productivity.

- Edderton Road
 - It is an important road between Muswellbrook and Jerrys Plains.
 - Mt Arthur will re-align the northern part of the road whilst Drayton South will re-align the southern part of the road. Each only looks at the part that it is proposed, not the whole road. The proposed diversion is inefficient.
 - Closure of the road requires Council approval (the road authority) and is separate from the current project application.
 - It takes 12 months to close a public road and at least 12 months to build a new road.
 - An application to close the road was refused by council last year.
 - Council policy is not to close redundant road.
 - A road network study is being carried out and Council will review the need of road when the study is complete.
- Economic benefits of the proposal
 - The quality of the coal in this mine is poor
 - Ample evidence that this is not a profitable mine.
 - According to Deloitte study, the initial years of the operation of mine will return a net loss and won't make a net public benefit before year 6.
- Rehabilitation
 - Rehabilitation cost is the biggest liability of the mine, in the region of \$300 million.
 - Environmental bond only covers about 20% of liability.
 - Council is concerned that if the mine is approved then placed in care and maintenance mode after a short period of operation, the rehabilitation liability will not materialise for another 20-30 years.
 - Condition 5 in Schedule 2 will only partly address the issue.
 - A new condition is required to ensure rehabilitation will not be deferred for 20 years.
- Impact on the equine industry
 - The two studs (Coolmore and Woodlands) are critical to the equine industry.
 - Proposed mine, if approved, would have huge impact on the studs' reputation.
 - A strong concern in the community of the potential impact of the equine industry.
- Council is ready to deal with employees who may lose their job if the application is not approved.

If the proposal were to be approved, a condition requires "substantial commencement within 6 months" should be imposed to ensure the proposal is a genuine application given this is the last Angloamerica thermal mine in Australia.

Wednesday 20 August 2014

On this day, the Commission visited Coolmore and Woodlands in the morning and the Drayton coal mine and the proposed Drayton South coal mine in the afternoon. The purpose of the visits to the studs was to view the local and regional setting of the farms and their relationship to the proposed mine. The visit to the existing mine and proposed extension area is to view existing operations and the area where mining is proposed and its relationship to the studs.

Coolmore Australia

A general briefing of the operation was provided before the tour of the farm. The briefing outlined:

- The history of the equine industry in the Valley and the history of the farm
- The growth of the farm and the industry in the region
- The operation of the farm
- The combination of factors (alluvial soil, water, undulating topography) make the farm unique
- 2 key significant concerns, namely, blasting and air quality
- Fright and flight is a major issue, most frequently seen during thunder storm and lose one to two horses a year

- Air quality will deteriorate over time and particulate matters will increase over time. Do not have much information about mine impacts on horse. Main concern is the increase in inflammatory airway disease
- The inter-relationship between Coolmore and other satellite farms and other supporting industries.

Darley Australia (Woodlands Stud)

A general briefing of the operation was provided before the tour of the farm. The briefing outlined:

- the history of the farm and the industry in the region
- the operations of the farm including staff, the relationship with other farms in the region and international horse industry, the future of the business
- the protection of the industry offered in other country
- the proposed mine is too close and visual amenity is the key to all
- question whether the Australian Sports Institute would be located so close to an open cut mine
- if the mine were to be approved, the equine industry would not die overnight. It will continue its operation but will be at a much lower level and decline overtime.
- Without the Drayton South mine, the mining industry will continue in the Valley. But without the Darley and Coolmore studs, the equine industry will probably not be there in 20 years.

Woodlands have all the right ingredients (water, soil, topography, climate, and size) to make it a perfect farm for the horses. The supporting industries and availability of skilful staff provide a perfect environment for the business to grow to its current high international ranking.

Anglo American Metallurgical Coal Pty Ltd - Site visit

A general briefing of the safety procedures was provided before the tour of the existing mine site to view the operation, including rehabilitation areas.

Due to time constraint, the tour did not stop at all suggested stops. An overview of the existing operation was observed at location 3 of the existing mine. The key viewing stops on the proposed mine site included the transportation corridor and the Redbank pit.

Appendix 3

Summary of Issues Raised at the Commission Meeting

The Commission held a public meeting on 21 August 2014 to hear public views on the Department's assessment report and recommendation. Over 200 people attended the meeting and 52 of them spoke. About 40% of the speakers support the project and the rest of the speakers raised significant concerns and object to the retracted mine plan. The following is a summary of the views expressed at the meeting.

Key reasons to support the project

Economic and social

- Mining provides more employment opportunities and higher income.
- If project not go ahead, there will be significant loss of jobs, not just for Drayton employees, but also contactors and other mining related industries. It will break up families and communities.
- Drayton has made significant financial contributions to the local communities and supported community activities.
- The Hunter cannot exist on horse and tourism industries alone. Mining is an important pillar of the Hunter's economy. During the mining downturn, other industries were unable to fill the void left by the downturn.
- Many also expressed their concern of the uncertainty of future and the potential loss as Drayton is not just an employer, it is part of the family and community.
- The assessment concluded that the major social and economic benefits will outweigh the cost.
- The horse industry also makes use of the business and services generated by the mining industry.

Co-existence

- Most supporters expressed a strong wish to see Drayton and the studs to exist side by side.
- Both Coolmore and Darley came in the area with full knowledge of the existence of the mine.
- Need co-existence to work to ensure job security for both mine and horse employees

Heritage

- Mining is part of the Hunter's heritage.
- The proposed setbacks and vegetation screen will protect the landscape

Environmental impacts

- Drayton has the expertise to address environmental issues and work with the horse industry.
- There are horses in farms surrounded by mines or adjacent to rail loop. They do not appear to suffer ill-health.
- Mining operations are now more environmentally friendly than before.
- Hunter coal is cleaner than a lot of the overseas coal, and therefore better for the environment.
- The assessment report confirmed that the mine can meet all the environmental criteria.

Key reasons to oppose the project

Economic and social

- It is one public interest against another public interest, short term gains versus long term loss of a sustainable industry.
- Boarding farms and other horse related industries/businesses would not survive without the studs.
- The proposal has divided the community.
- The horse industry does not oppose to mining in the Valley. Concentration of mining in the area is the main concern. The region needs a diverse economic base to survive. There is strength in diversity.
- The proponent's economic assessment has not considered the economic benefits generated by the horse industry.

- The equine industry is an emerging Australian industry in the international market. Impact on the industry will damage Australia reputation.

Co-existence

- Need to uphold the intent of Critical Industry Cluster
- Co-existence is a theory but not practical without a significant buffer. The Bengalla and Rosemont case was cited as an example. It was said that the impacts from the relocation of Rosemont is still felt today.
- The mining industry will continue in the Valley even if Drayton is not approved. If Coolmore or Darley moves out, no other equivalent operators will move in to replace them.
- The survival of the equine industry is to ensure both Coolmore and Darley will not leave the Valley.
- The two industries are incompatible in close proximity.
- The studs need clean, secure and safe environment to preserve its reputation and maintain investor confidence.
- The community accepts mining in the region, but not at the expense of the horse industry.

Heritage

- Proposal will impact on the cultural historic landscape and has not addressed the cultural heritage significance of the area.
- Jerrys Plains is the gateway to the Upper Hunter

Environmental impacts

- Mining should not have a licence to pollute.
- Major concerns are air pollution, particulate matters, toxic substance in the air and health effects.
 - Farm spraying drift is controlled at the property boundary. Mining impacts should be similarly controlled, ie at the boundary.
 - Insufficient information about dust impact on human health, animals, agriculture and food, particularly about chemicals and composition of particulates. Approval conditions should include details of chemical and composition of dust.
 - No scientific study on toxic generated from coal mine. Need a comprehensive scientific study of beef/cattle farms within 10km of a mine for a long period of time to establish the toxicity in animals
 - PM_{2.5} should be used to predict impacts on human and animal health
 - Upper Hunter has already carried an unfair burden of air quality impacts.
- Biodiversity
 - Offset policy is yet to be finalised. The proposed offset does not provide permanent protection.
 - No discussion on the cumulative impact on the Ironbark Woodland.
 - Negotiation of conservation to be carried out after approval is not acceptable.
 - No confidence of the proposed offset and protection. No faith in the proposed rehabilitation and conservation outcome.
- Water
 - Previous submissions on water issues have not been considered
 - The ability of the Hunter Salinity Scheme to absorb the extra load is yet to be confirmed by the review of the Scheme.
 - Cumulative impacts have profound and long lasting impacts on the water resources in the area and have not been considered. No approval should be given to mine unless they have sufficient water accessible licence. No mining within 2km of the river. Monitoring should be carried out on all aquifers.
 - Concern about water availability to all users, particularly during dry season.
- Rehabilitation
 - Final voids are not acceptable. The land needs to be returned to its original landform.
 - Timeframe should be included in rehabilitation program and additional bond is required because current bond is insufficient to rehabilitate the land if the proponent walks away when the mine is exhausted.
- The thoroughbred industry depends on image of clean environment.