



HTBA SUBMISSION
HUNTER VALLEY OPERATIONS NORTH
DA 450 –10-2003
MODIFICATION 8

DECEMBER 2024

EXECUTIVE SUMMARY

1. The Hunter Thoroughbred Breeders' Association (HTBA) represents Australia's multi-billion dollar thoroughbred breeding industry centred and concentrated in the Hunter Valley, recognised as the Horse Capital of Australia, and consists of over 200 vertically integrated thoroughbred breeding operations and support industries.
2. The Hunter's Thoroughbred Breeding Industry has a proud history spanning over 200 years. It is recognised by the NSW Government as an industry of international, national and state significance. It has been mapped and legislated as a Critical Industry Cluster, afforded protection from coal seam gas mining, promised the highest level of protection from coal mining, and is recognised for its cultural, historical and socio-economic importance to the region.
3. Jerrys Plains is the gateway to Australia's Horse Capital and Equine Critical Industry Cluster. Thoroughbred breeding operations in this area date back over two centuries (since 1822) when lands were first surveyed and settled by horse breeders. For over 200 years the land has passed through many notable horse breeding hands, with each and every owner investing, valuing, respecting, innovating and improving the breeding practices, pastures and lands upon which they operated.
4. These developments have established traditions and innovations for the breeding of champion racehorses, which have placed Australia on the international map equivalent to the best equine athletes in the world.
5. Today this area is home to Australia's and the world's largest equine operations and market leaders and is recognised as the "epicentre" of the Hunter's Equine Critical Industry Cluster (Equine CIC) and the "jewel of Australia's thoroughbred breeding and racing crown".
6. The production of elite equine athletes throughout the world requires a unique operating environment combining scenic landscape, plentiful clean water, clean air, rich soils and a varied undulating terrain to develop young equine athletes into champions.
7. Our industry is based on a clean, green and serene operating environment – one that highly values clean air, clean water, and a quiet and scenic landscape.
8. We take our responsibilities very seriously – including the scientific analysis of mining proposals which could have potentially adverse environmental, operational and reputational impacts on our industry, our people and our community.
9. The HVO North modification 8 has been issued for public comment within a very short timeframe prior to Christmas. Given the short time available to assess this modification application, it is evident that the modification application has serious Implications for air quality and greenhouse gas emissions. Further it does not contain sufficient information, evidence or objective analysis upon which the community can assess the impacts of other aspects of the modification or enable the consent authority can assess its merits.
10. This consequently renders this modification application as non-compliant with the NSW stated and published guidelines for State significant modification applications; and non-conforming with

the Climate Change Minister's requirements relating to the assessment of greenhouse gas emissions as articulated in her letter to the Planning Minister of 20 May 2024.

11. The proposed modification will worsen rather than improve air quality in the Upper Hunter and also increase rather than reduce the State's level of greenhouse gas emissions, placing greater risk to the State's ability to meet its legislated net zero reduction targets.
12. As currently constituted, the modification application has the potential to seriously impact air quality and greenhouse gas emissions; does not enable the community to make informed assessments of the impacts of other aspect of this proposal; and does not enable the consent authority to make informed decisions.
13. On the basis of the above, the HTBA objects to this modification and respectfully submits that it should be refused.

[This Modification](#)

14. This Modification application seeks to extend the life of HVO North's mining operations by 18 months to 31 December 2026 with ostensibly all other activities, such as mining methods, coal extraction, processing and handling, workforce numbers and hours of operation to remain the same as per HVO's current consent authority.
15. The reason for this modification is to provide HVO with more time to complete the assessment process of the HVO Optimisation Project – the scoping of which commenced 4 years ago (December 2020) and has been the subject of assessment since January 2023.
16. No changes, including to the life, of HVO South are proposed.
17. HVO describes Modification 8 is as "relatively minor". And given this presumption, the Proponent has presented an environmental impact assessment prepared in a "qualitative manner". That is, without appropriate quantitative data and objective analysis to assess the impacts of this modification.
18. The "qualitative" analysis describes the various impacts of this modification proposal as "not anticipated", "not expected" and "not predicted". In addition to being highly unorthodox, and clearly deficient, this analytical approach engenders no public confidence and demonstrates a level of disrespect for both the community and the process.
19. The Proponent is essentially asking the community and decision makers to subvert the established modification process, suspend any real analysis, and in the absence of any objective evidence, take them on trust.
20. This is not acceptable. Not for the consent authority and not for the community, particularly given that over the past 23 years of the Proponent's Environmental Protection Licence (EPL) it has failed to comply with the terms of their licence for 21 of the 23 yearsⁱ.
21. In the past 8 years alone, HVO has failed to comply with the terms of its EPL every single year with some 26 breaches of water obligations and 162 breaches of air quality and airblast

overpressure limits. Air quality and water breaches have resulted in additional Environment Protection Authority actions including official cautions and penalty notices.

22. It is extremely disappointing that, contrary to NSW guidelines, this modification report has been publicly exhibited in the absence of appropriate supporting data and only weeks before Christmas.
23. This approach has imposed unnecessary pressures, costs and obligations on communities and demonstrates a level of hubris which is deeply disturbing and contrary to all tenets of genuine stakeholder consultation, the principles of transparency and scrutiny of state significant development projects and the ability of stakeholders and decision makers to make informed submissions and decisions on the merits of this modification request.
24. Accordingly we respectfully submit that this modification application be refused.

Air Quality

25. Air quality is a critical issue for residents who live and work in the Upper Hunter, including those in proximate distance from the HVO operations.
26. We already know that air quality in the Upper Hunter is poor and that PM 10 and PM 2.5 air quality levels in the Upper Hunter either exceed or are close to current 24 hour NSW standards and annual concentrations.
27. The Proponent concedes that this modification proposal will result in air quality exceedances but fails to propose effective measures to mitigate this potential impact.
28. Despite the level of ROM increasing in the 18-month period, the Proponent does not propose any modification or upgrade to existing dust suppression or mitigation measures. Continued reliance on visible dust and reactive water applications do not represent best practice, effective and efficient mitigation measures.
29. No cumulative air quality assessment of the impacts of this modification has been undertaken.
30. Given the critical importance of air quality to the Upper Hunter community, the lack of proper assessment and commitment to the application of best practice mitigation measures is a serious omission and concern.

Greenhouse Gas Emissions

31. We note that in her letter to the Planning Minister dated 25 May 2024, Climate Change and Energy Minister Sharpe MLC advises that the Climate Change (Net Zero Future) Act 2023 (the Act) enshrines in law NSW's emissions reduction targets – including reaching net zero emissions by 2050 and interim targets of a 50% reduction on 2005 levels by 2030 and 70% reduction by 2035.
32. Further in this letter, Minister Sharpe advises that the latest projections show a significant risk that NSW is not on track to meet its 2030 and 2035 targets without further action by the Government and the private sector. And that the Government expects to make further updates to the Net Zero Plan and NSW's climate change policies in 2025 once it has received advice from the Net Zero Commission.ⁱⁱ

33. In its first annual report dated 1 November 2024, the Net Zero Commission outlines its guiding principles, as set out in the Act, including, inter aliaⁱⁱⁱ:
- 33.1. The critical need to act to address climate change, which is a serious threat to the social, economic and environmental wellbeing of NSW
 - 33.2. Action to address climate change should be taken in a way that considers the economic risks of delaying action to address climate change
 - 33.3. Action to address climate change should be consistent with the right to a clean, healthy and sustainable environment.
34. In this annual report, the Net Zero Commission advises that “unless action is accelerated, NSW may not reach net zero by 2050 and we will fail to meet out nearer term targets.”^{iv}
35. The Commission specifically singles out the risks to the state’s targets from increased emissions in the resources sector and warns that “ any emissions increases associated with extended or expanded projects would require all other sectors to make greater emissions reductions if the state is to meet its emissions reductions targets. The emissions increases pose a major challenge for the state’s regulatory arrangements”^v
36. Given these risks and the fact that increased greenhouse gas emissions will emanate from this modification (both HVO North and HVO South) during an unassessed 18 month period, it is not clear how the consent authority can proceed with the assessment of, let alone approve, this proposal.

Water

37. A preliminary expert review of the HVO Water Resources Assessment confirms that no new data has been presented to enable the community to properly review and assess this modification’s impacts on water resources, despite the many years of HVO’s operation and data collections,
38. It is noted that the modification report reveals that the modification will have impacts - including differing water use patterns for both surface water and groundwater, drawdown from groundwater extraction and dewatering, potential changes to cumulative effects on aquatic ecosystems, other water users, changes to site water storage and releases and potential water quality changes. However none of these impacts have been adequately assessed.
39. In order to assess the modification’s impacts on water resources the following data, conceptualisation and modelling reports should be submitted:
- 39.1. Detailed physical characterisation of the surface and groundwater systems;
 - 39.2. Hydrological and hydrogeological characterisations
 - 39.3. Water Monitoring data
 - 39.4. Calibration Data

- 39.5. Surface and Groundwater Impact Assessments and Recommendations based on the abovementioned analysis and addressing all potential impacts, including those outlined in the previous paragraph.

[Statutory Context](#)

40. Our submission on HVO's Continuation Project dated February 2023 (pages 9 and 10), outlined our views and comments on the relevant Statutory requirements for assessing the HVO project. These comments remain unchanged and a copy of our earlier submission is attached for reference. Comments relating to the strategic context of this proposal also remain relevant.
41. In addition to comments made at that time, we also provide the following comments relating to the NSW Government's guidelines for State significant development projects relevant to this modification.

[State significant development guidelines – preparing a modification report^{vi}](#)

42. We note that the purpose of the NSW guidelines for SSD modification reports is to:
- 42.1. assess the economic, environmental and social impacts of a modified project;
 - 42.2. help the community, councils, government agencies and the consent authority to get a better understanding of the proposed modification and impacts so they can make **informed submissions or decisions on the merits of the modified project.**^{vii}
43. Further, the guidelines clearly require, inter alia, that the modification report:
- 43.1. is prepared to a **high standard**; and
 - 43.2. describes the modification's likely impacts and how they respond to known community views; and
 - 43.3. uses **objective analysis** and provides reasons and **evidence** to support any conclusions reached; and
 - 43.4. structures the information in the modification report in a clear and logical way, making it **easy for readers to draw a clear link between the summary of the findings of the detailed assessment in the main report and the appendices** of the modification report, and between these findings and the justification and evaluation of the modified project as a whole; and
 - 43.5. evaluates the modified project as a whole, having regard to the economic, environmental and social impacts of the modified project and the principles of ecologically sustainable development; and
 - 43.6. does not contain any **false or misleading information.**
44. The modification report has not been prepared to a high standard. It does not present objective analysis and evidence. It has not made it easy for readers to draw clear links between the modification report and appendices. Appendix G, for example, represents 275 pages of out-dated information provided as part of HVO South's modification 5 in 2017, some 8 years ago. This does not constitute objective evidence and analysis nor does it make it easy for readers to draw clear links between the modification and its justification.

45. The Proponent indicates no changes, other than time, are proposed by this modification. Despite this it is clear that HVO North and South operate as one integrated complex; HVO South is dependent on HVO North for coal handling and processing; and that the extension of the HVO North consent will enable the continued operations of HVO South.^{viii}
46. It is our view that this modification misrepresents the project; fails to undertake and present a contemporary evidence based analysis of HVO's integrated operations, and does not objectively assess the environmental impacts, including cumulative impacts, of the proposal as a whole.
47. The tone of the modification application suggests that it expects to be rubber stamped and waived through without a proper assessment required by the Government's guidelines, without complying with the Climate Change Minister's requirements as per her letter of 20 May 2024 and without a comprehensive objective, evidence based assessment of the impact this project will have on the community and the environment, including the State's legislated net zero reduction targets.
48. We respectfully submit that this modification comprehensively fails to comply with the Climate Change Minister's requirements, the NSW Government's own guidelines and does not present the information required to enable the community to lodge informed submissions and the consent authority to make informed decisions on the merits of this proposal.
49. In our respectful opinion, this modification application lacks significant and substantive information, cannot be objectively scrutinised to enable assessment of its impacts and should be refused.
50. Should additional or new information be submitted by the Proponent in response to these concerns we reserve the right to make further comments.

END NOTES

ⁱ HVO Pty Ltd EPL 640, Annual Returns, 2000 to 2023

<https://apps.epa.nsw.gov.au/prpoeoapp/Detail.aspx?instid=640&id=640&option=licence&searchrange=licence&range=POEO%20licence&prp=no&status=Issued>

ⁱⁱ Letter from the Hon. Penny Sharpe MLC to the Hon. Paul Scully MP, dated 20 May 2025 and copied to Ms Kiersten Fishburn, Secretary Department of Planning, Housing and Infrastructure.

ⁱⁱⁱ Net Zero Commission, 2024 Annual Report, 1 November 20204, p5

^{iv} Ibid, p 9

^v Ibid, p 12

^{vi} NSW Government State significant development guidelines – preparing a modification report, October 2022, dpie.nse.gov.au

^{vii} Ibid, p 5

^{viii} HVO Modification 8 Modification Report, November 2024, p 2