



HTBA SUBMISSION
DARTBROOK COAL MINE
MODIFICATION 8 (DA 231-7-2000 MOD 8)

MARCH 2025

EXECUTIVE SUMMARY

The Hunter Thoroughbred Breeders' Association (HTBA) represents Australia's multi-billion dollar thoroughbred breeding industry concentrated in the Hunter Valley consisting of over 200 thoroughbred breeding operations and support industries

The Hunter Valley is home to Australia's largest concentration of thoroughbred breeding operations (2nd largest in the world) and the largest producers, suppliers and exporters of premium thoroughbreds. Our industry contributes at least \$5 billion, \$2.6 billion and over \$0.5 billion per annum to national, state and regional economies. We are a significant national, state and local employer and have been recognized by the NSW Government as a state significant industry. We are mapped as an Equine Critical Industry Cluster and promised heightened protection by the NSW Government from incompatible developments such as coal mining, as well as legislated protections from coal seam gas mining.

Dartbrook Modification 8

The HTBA appreciates the opportunity to make a submission on the Dartbrook Modification 8 proposal. The HTBA strongly recommends however, that the community be afforded more than the minimum of 2 weeks to evaluate mining modifications as technically complex and sensitive as this one. A genuine commitment to consultation means giving the community sufficient time to inform themselves, including through experts, to make considered submissions which in turn can properly inform the decision making process. The Department has the ability to provide more than the minimum two week period. It should exercise this ability and give the community its indisputable right to have an informed say.

The HTBA **opposes** the application by Australian Pacific Coal (APC) to extend underground mining operations at Dartbrook for a further six years (at least) for the following reasons – The Dartbrook underground mine:

1. sits at the gateway to a key section of the Equine Industry Cluster in the Upper Hunter and Segenhoe Valley;
2. is an incompatible development with international scale thoroughbred breeding operations;
3. will result in unacceptable air quality impacts and greenhouse gas emissions;
4. has already demonstrated a poor environmental management record in terms of its (non) compliance with its environmental planning licence;
5. is based on selective articulation of Government policies – which favour the proposal;
6. is premised on questionable and potentially outdated modeling and information;
7. presents unacceptable environmental impacts – particularly air quality, noise and water;
8. reflects a sub-standard social impact assessment with no genuine effort made to consult the community;
9. suffers from economic optimism bias; Negative "benefit" to national and state economies
10. does not conform to the principles of ecologically sustainable development or inter-generational equity and is therefore not in the public interest.

In this submission not only do we oppose this modification proposal, we also respectfully submit that due to its impacts and inadequacies, the Department should refuse it.

DARTBROOK MODIFICATION 8

The Proponents seek a six (6) year extension to the current approved period of mining operations due to cease on 5 December 2027. The modification application is based on the premise that other than the extended time period there are no other changes to mining operations, production rate, disturbance footprint and ancillary activities. And that the economic benefits over the six-year period outweigh the environmental and socio-economic costs.

We fundamentally disagree with this premise.

The environmental and socio-economic impacts of extending the operation of this mine for another six years have not been fully factored into this assessment. The Proponent admits that:

1. There will be air quality exceedances at private receptors;
2. There will be noise exceedances at private receptors;
3. The extended time frame will prolong environmental and social impacts to the community.

In our submission to Dartbrook Modification 7 (attached), our economic analysis of the Dartbrook proposal demonstrated, on a conservative basis that it would yield net negative socio-economic "benefits" and as a consequence we will be worse off.

Our review of the Proponent's compliance with its Environmental Protection Licence (EPL) reveals that in the two years since the mine has recommenced operations, it has not complied with the conditions of consent as reflected in its EPL, including 60 occasions of failing to monitor air quality particulate matter.

Prima facie, it seems that there is a lack of genuine effort in assessing the environmental and socio-economic impacts over this extended period with the expectation of the modification being rubber-stamped.

For these and other reasons outlined in this submission, we are opposed to prolonging the socio-economic and environmental impacts presented by a six-year extension to the Dartbrook underground mine in this Modification 8.

INDEPENDENT PLANNING COMMISSION (IPC) FINDINGS

In its determination of Dartbrook Modification 7 the IPC¹ refused the, then, five-year extension of life of mine because the:

1. impacts relating to air quality, noise, subsidence, groundwater and greenhouse gas emissions have not been fully considered;
2. lack of rigour in the assessment of the environmental and social costs of the Project in the Cost Benefit Analysis (CBA) which, as a result the Commission was not satisfied that these have been adequately assessed and quantified;
3. air quality assessment did not consider the air quality impacts of the existing approvals being fully operational, in addition to the proposed modification, in the context of changes in background air quality since the original approval was granted
4. information provided on greenhouse-emissions-related impacts and the appropriateness of the methodology for estimating the social and economic costs of the projected emissions was unsatisfactory

¹ Dartbrook Coal Mine Modification 7 (DA 231-7-2000 MOD7) NSW Independent Planning Commission, Statement

5. subsidence impacts had been inadequately assessed
6. Social Impact Assessment lacked rigour and did not adequately assess the social impacts of the Project, and no assessment has been undertaken of the economic and social impacts of the modification on the local Equine Critical Industry Cluster, and
7. five-year extension would not be in accordance with the principles of ecologically sustainable development or inter-generational equity; and, as such, is not in the public interest.

The Proponent has disregarded these issues by reference to the overturning of the IPC decision on appeal. The Department should not.

The issues identified by the IPC are fundamental to the legal assessment and execution of the Department's development planning responsibilities under the Environmental Planning and Assessment Act 1979. They are fundamental to government policy, including the Government's legislated Net Zero commitments, and trust in the planning process.

These concerns remain valid and the Department should make every effort to assure itself that they are properly addressed and evaluated (including by commissioning the Department's own assessments) prior to making a determination on this modification application.

STAKEHOLDER CONSULTATION

The Proponent had made no genuine effort to consult the community. No weight can or should be given to the community consultation "results".

Sending out an on line survey form, mailing out 1,200 newsletters and receiving only 2 responses does not constitute a genuine attempt to consult the community. A response rate of 0.16% does not in any way conform to professional survey standards and should not be interpreted or represented as "low community concern" and should not be accepted by the Department.

It is worth noting that the Department received 43 submissions from the public and special interest groups to Dartbrook's Modification 7 proposal – 41 (or 95 %) of which were in opposition to the Proponent seeking to re-start the mine after 12 years in abeyance under care and maintenance. When conducting its public meeting, the IPC received 1787 written public comments with the main issues of concern raised by the community including ²:

- cost benefit and viability of the Project;
- air quality, cumulative impact and exceedances of health criteria;
- climate change and greenhouse gas emissions;
- Proponent's intention to investigate open cut activities;
- impacts on groundwater
- noise impacts;
- safety issues; impacts on the equine industry;
- inadequacy of the Social Impact Assessment;
- lack of consultation.

Genuine community consultation is a fundamental principle in the development application process. The signal that this lack of appropriate community consultation sends is a total disregard and disinterest in engaging with and gauging community attitudes. It reflects very poorly on both the Proponent and the approvals process.

² NSW Independent Planning Commission, *Statement of reasons for decision, Dartbrook Coal Mine - Modification 7 (DA 231-7-2000 MOD 7)*, 9 August 2019, p11

STATUTORY CONTEXT

We refer the Department to the comments made in our submission to Dartbrook Modification 7 (section 6, attached), which remain valid, and submit the additional following comments.

In assessing the Statutory context in which this modification application is made, the Department must make its own comprehensive assessment of the degree to which this proposal conforms with Government legislation and policies.

In this regard, we draw the Department's attention to the lack of responsibility and accountability taken by mining operators for environmental exceedances which are conveniently attributed to others. In our experience, and as demonstrated in this proposal, mining operators blame each other for air quality, noise etc exceedances. This lack of responsibility and accountability reinforces our call (which we have made for many years now) for the Department to conduct cumulative assessments of air quality, ground and surface water and noise impacts of all mining projects in the Upper Hunter so that the community and decision makers have a credible, scientifically based, basis upon which to make informed comments and decisions on the incremental and cumulative impacts of mining projects. In today's climate there should be no acceptance of, or excuse for, a lack of accountability and management of these matters and the Government's obligations to assess them.

With respect to the Hunter Regional Plan 2041 (HRP) we submit that the Proponent has selectively quoted from the Hunter Regional Plan 2041 (HRP) and omitted any reference to the compatibility and impacts of this modification to the HRP objectives of protection and growth of the Equine Critical Cluster, growing international tourism; growing agritourism; preserving the Upper Hunter's heritage and transitioning away from fossil fuels to more sustainable, renewable energy sources.

With respect to the Government's environmental policies, with particular reference to its legislated Net Zero commitments to reduce net greenhouse gas emission in NSW:

1. by at least 50% by 30 June 2030;
2. by at least 70% by 30 June 2035; and
3. to zero by 30 June 2050.

we submit that this modification, with the concomitant impacts on air quality in the Upper Hunter, and greenhouse gas emissions – particularly the generation of some 695,000 t CO₂ e Scope 1 emissions and over 37,000 t CO₂-e Scope 2 emissions and nearly 50 million t CO₂ e Scope 3 emissions during the extension period:

1. does not conform to the Government's legislated Net Zero policies; and
2. does not fit with the Net Zero Commission's conclusion in its latest report that unless urgent action is accelerated, NSW may not reach net zero by 2050 and will fail to meet its nearer term (emission reduction) targets³; (emphasis added) and
3. should not be approved.

With respect to the Government guidelines for Social Impact Assessments – we submit that the modification application does not accord with Government guidelines, including but not limited to:

1. facilitating improved project planning and design through earlier identification of potential social impacts;

³ Net Zero Commission 2024 Annual Report, November 2024, p 9

2. informed decision-making by strengthening the quality and relevance of information and analysis provided to the consent authority; and
3. facilitating meaningful, respectful and effective community and stakeholder engagement on social impacts.

With respect to the legislated principles of ecologically sustainable development and inter-generational equity we submit that this modification, as the IPC previously found, does not accord with either principle and is not in the public interest.

ENVIRONMENTAL IMPACTS

Air Quality

It is well documented that the air quality in the Upper Hunter is the worst in NSW. It is dangerously dusty with air quality for PM 2.5 and PM10 is already close to or exceeding NEPM criteria limits.

The Proponent admits that this modification will prolong (environmental and health) air quality impacts; exceed limits at certain private receptors; and negatively heighten cumulative air quality impacts - which they attribute to the Mt Pleasant mine.

The Proponent relies on the air quality modeling undertaken for its Mod 7 application as updated by SLR in December 2024.

The HTBA remains concerned about:

1. background air quality being close to or exceeding NEPM criteria;
2. underestimated assumptions of actual background air quality;
3. air quality exceedances – both individual and cumulative;
4. the prolonged effects of air quality impacts on the community;
5. the lack of responsibility, accountability; and mitigation of air quality impacts; and
6. the lack of an independent cumulative benchmark against which informed decisions can be made.

We respectfully submit, that on the basis of prolonged detrimental air quality impacts on the health and well being of the Upper Hunter community, in addition to the Greenhouse Gas Emission impacts outlined in the previous section, this modification application should be refused.

Acoustics

The Proponent's acoustics assessment relies on the report made by Bridges Acoustics for Modification 7 and a 10- page update prepared by Brides in January of this year.

Our overriding concerns about the acoustic impacts associated with the Dartbrook mine remain, particularly:

1. building on an acoustics report that failed in the first instance as it contained insufficient and incomplete data to complete an accurate noise intrusiveness assessment and then did not investigate intrusive noise levels in accordance with NSW policy for industry;
2. the absence of assessment of the impacts of blasting;
3. inconsistent assessment of noise impacts between the Dartbrook underground mine and Mt Pleasant open cut mine;
4. the lack of understanding of existing ambient noise levels in the vicinity of residential properties;
5. the social impacts associated with operational noise from the Dartbrook mine – which

remain unassessed;

6. the lack of a comprehensive cumulative noise and blasting assessment – which does not shift the blame for exceedances between mine proponents; and
7. ongoing exceedances at particular private receptors.

As noted previously in this submission, the Department cannot rely on the acoustic impact assessment presented by the Proponent and should undertake an independent cumulative impact assessment of the noise impacts of mines in the Upper Hunter before reaching a determination on this project.

In accordance with our position on other aspects of this proposal, we respectfully submit that the modification should be refused.

Water

Water is the lifeblood of our industry without which neither we nor the communities in the Upper Hunter could survive.

The Proponent refers in this modification to assessments it made as part of Modification 7 in 2020 and updated in January of this year. The concerns we voiced in our previous submission (attached, section 7.5) remain valid, particularly:

1. the water balance analysis;
2. lack of meaningful analysis of the impacts of climate change induced impacts on groundwater systems or flood risk on already stressed water systems;
3. inadequate assessment of cumulative water impacts of mining projects in the region.

We remain of the view that the risks to the Hunter's water systems are too high and under contemporary climate scenarios, a post-facto water management approach would be irresponsible and potentially irreversible.

SOCIO-ECONOMIC IMPACTS

No confidence can be placed in either the social impact assessment or the economic analysis submitted by the Proponent. Both are inadequate.

We have previously commented on the optimism bias associated with the proponent's cost benefit analysis – particularly the over estimation of benefits and the underestimation or absence of costs, particularly social and environmental (see attached submission section 7.2). In our previous submission, based on expert advice, we conservatively concluded that the Dartbrook proposal would have a net negative impact and as a community, as a state and nationally we would be worse off as a consequence.

Our position stands. We have no faith in the economic analysis presented by the Proponent and the underlying assumptions of their economic case, particularly those relating to royalty and company tax benefits and the erroneous assumptions underpinning their assessment (or lack thereof) of externalities.

In terms of social impact analysis, in addition to not genuinely engaging or understanding the community in which they operate, the Proponent has not provided an analysis of the social impacts:

1. real and perceived;
2. on the equine critical industry cluster;
3. on people's community and way of life;

4. on health and wellbeing;
5. on people's sense of place and property;
6. on the community's decision making systems – including, as mentioned previously in this submission, through a complete lack of genuine engagement and community consultation.

These requirements are clearly outlined in the Government's Social Impact guidelines and were articulated in Justice Preston's judgment, *Gloucester Resources Limited v Minister for Planning* [2019] NSWLEC 7.