

AFFIDAVIT OF VINCENT ROCHE FEBRUARY 2015

COURT DETAILS

Court	NSW Land and Environment Court
Division	Class 4
Registry	Sydney
Case number	14/40998

TITLE OF PROCEEDINGS

Plaintiff	SHCAG Pty Ltd
First defendant	Hume Coal Pty Ltd
Second defendant	New South Wales Minister for Resources and Energy

FILING DETAILS

Filed for	Plaintiff
Filed in relation to	Plaintiff's summons dated 2 December 2014
Legal representative	Marylou Potts Marylou Potts Pty Ltd 113b Carabella St Kirribilli 2061
Legal representative reference	
Contact name and telephone	Marylou Potts 0411340775
Contact email	ml@mlppl.com.au

AFFIDAVIT

Name Associate Professor Vincent Roche
 Address 280 Ellsmore Rd, Exeter 2579
 Occupation Medical practitioner
 Date 11.02.15

I say on oath:

- 1 I am an Associate Professor of Medicine at University of Wollongong, the title having been granted in 2011.
- 2 My name is Vincent John Roche. I am a General Medical Practitioner, working in Bowral, Moss Vale and Bundanoon for the past 29 years. I have lived in the Wingecarribee Shire since the age of seven (1964) and have lived in Exeter, the village adjacent to Sutton Forest since 1987.
- 3 For the past 18 years I have been a certified International Cross Country Course Designer, which has included:
 - (i) being the Manager in the Sydney Organising Committee for the Olympic Games (SOCOG) of the Sydney 2000 Olympic Equestrian Competition;
 - (ii) the ongoing position as Director of Sport for the Sydney International Three Day Event at Horsley Park since 2001; and
 - (iii) the Eventing Consultant for the Beijing Olympic Games Three Day Event Competition in 2008.
- 4 I continue to serve as an International Technical Delegate and an International Course Designer. The estimates provided in this affidavit are based my experience as an equestrian eventing venue designer.

My relationship with these proceedings

- 5 I am the eldest son of the land owners, John Vincent Roche and Kathleen Janice Roche. Vincent and Kathleen Roche own the property known as Araluen, at 339 Golden Vale Road Sutton Forest.
- 6 On or about 27 January 2015, my mother gave me a map she had received from Hume Coal Pty Ltd (Hume). Annexed and marked VR1 is a copy of a map setting out the three holes Hume proposes to drill on Araluen.

Araluen

- 7 I grew up in the Wingecarribee Shire. I rode horses and competed in equestrian eventing competitions from the age of 5 until about 2005. I competed at International level competitions from 1992 until 1999. I am at Araluen several times a week.

- 8 Araluen consists of 160 acres. Of these 160 acres, approximately 5 acres are the family home, gardens, sheds and out buildings and barns. The entirety of the remaining 155 acres has been developed into an equestrian eventing venue.
- 9 I designed, with the assistance of the Australian and international eventing community, the equestrian eventing venue at Araluen.
- 10 The equestrian eventing venue at Araluen now consists of:
- a. 13 dressage arenas of 20 x 60 metres and warm up arenas for each dressage arena of a variable size. Each dressage arena requires a warm up arena as that is where the competitors warm up before entering the competition arena to compete.
 - b. A show jumping arena of 50m x 80m and a warm up arena for the show jumping arena of 30m x 70m.
 - c. a cross country course suitable for all levels of cross country from Newcomers (EvA60) to FEI Three Star of 4 kms length and between 10 and 40 metres wide, with approximately 260 jumps (75% being fixed jumps – shown in document VR2 (page 5))
 - d. parking area for approximately 400 horse trucks, floats, competitors and spectators vehicles
 - e. Formed road to parking area
 - f. Club house
 - g. Judge Shed for Jumping
 - h. Equipment shed
 - i. Toilet block
 - j. 17 wind breaks
 - k. 6 rows of 17 trees as a shelter belt and for erosion management
 - l. Wells Creek
 - m. 6 Bridges over Wells Creek
 - n. 12 dams
 - o. 1 formed track from the house to the club house
 - p. 80 cattle
 - q. 2 sets cattle yards

- r. boundary and internal fences
- s. underground water reticulation system

11 Annexed and marked VR2 is a map of the infrastructure on Araluen (VR2, page1) The courses used in the last 3 years are shown on two separate maps (VR2, pages 2 & 3). The fixed fences are shown in the map (VR2,Page 5). Annexure VR2 page 4 shows the areas that are currently wet or boggy – occasionally after a rain event and occasionally for many months after a higher than average seasonal rainfall.

Direct Surface impact

- 12 I understand that Hume wishes to drill three survey holes on Araluen. I base my comments on the map provided by Hume set out in annexure VR1.
- 13 I am unclear where Hume's tracks would have to go in order to access the holes shown on the maps provided by Hume. I have read the Review of Environmental Factors (REF) for Hume's Phase 3 drilling program. Hume has assumed that it will access the survey sites from a public road using existing entrances and tracks and go along the fence lines. That is the assumption I have made in the following paragraphs.

Direct impact Eventing in Southern Highlands, NSW and Australia if Araluen subject of Hume's proposed drilling

- 14 Araluen is one of the best eventing facilities in NSW.
- 15 Elite level equestrians compete and train at Araluen's facilities because of the quality of the footing and the courses that are available.
- 16 There are 9 levels of eventing competition from international to national. There are only 6 competitions around the world which qualify at the top international level which is 4 star eventing [ie this includes the Olympics and the World Championships]. The facilities at Araluen cater for each of the 8 levels below 4 star competition (ie 3 Star, 2 Star, 1 Star, EvA105, EvA95, EvA80, EvA60 & EvA45) This means there must be sufficient dressage arenas to run all levels of dressage, sufficient number of both higher and lower fixed jumps in the cross country courses to run elite and lower levels at a competition.
- 17 Eventing is one of the three Olympic disciplines. The eventing discipline includes 3 elements: dressage, show jumping and cross country. Each element requires a particular facility, for example each dressage arena must be 20 metres x 60 metres, and include a warm up arena; each show jumping arena must be at least 70 metres

by 50 metres and include a warm up arena; a three star cross country course must have between 30 and 35 jumps or obstacles and must cover a length between 3420 and 3990 metres and be at least 40m wide.

- 18 The course at Araluen provides Three Star, Two Star and One Star competitions at International level. Araluen also provides the three official levels of National competition and the highest two levels of the unofficial National competition.
- 19 In addition, Araluen has courses for A, B, C, D and E Grades for Pony Club Competitions.
- 20 In Three Star CIC competitions, a cross country course has between 30 and 35 jumps or obstacles and must cover a length between 3420 and 3990 metres. Lower levels have fewer and smaller fences proportionately.
- 21 Dressage surfaces (both competition arenas and warm up areas) are required to be even, smooth, of a uniform grass surface throughout, that is, of an even relatively springy nature rather than hard. Grass dressage arenas must be evenly mown.
- 22 Horses cannot go from a harder surface to a softer surface (or vice versa) without appearing to be lame or “uneven in gait”. Competitors will avoid entering events with uneven, rutted or irregular surfaces in the dressage arenas or dressage warm-up areas.
- 23 Cross Country footing also needs to be soft, even and regular in nature. Horses require mature grassed surfaces similar to race tracks. Uneven, rutted or irregular surfaces cause horses to break down and go lame. As a result, competitors will avoid entering events with uneven, rutted or irregular surfaces on the Cross Country tracks.
- 24 Horses and drilling are not compatible and these competitors will not come to Araluen’s facilities if drilling is occurring or if the footing is uneven or disturbed.
- 25 There could be no eventing competition or training when earth works or drilling or rehabilitation was occurring on the property due to the safety issues - horses spooking at the vehicles on the course, or next to the course. The visual, noise and vibrations would unsettle even the most mature horses.
- 26 If Hume drilled just one of these holes, it will impact upon the ability of Araluen to operate as an equestrian eventing venue – either for competition or training. Few will enter our events. There is no conceivable alternate use for our facilities and capital investment.

Northern Survey hole

- 27 The proposed Northern survey hole is shown to be located in the middle of the dressage arena area. (marked on VR2 as Survey A). There are 13 dressage arenas on Araluen. All arenas are needed in a competition as there are 7 grades competing at a Berrima Horse Trials (**BHT**) event, and some grades have up to 3 or 4 classes. The International class dressage arenas are located deeper into Araluen than those at the Hume Highway boundary. Each arena requires a warm up area. There may be up to 10 competitors warming up at any time before their competition.
- 28 The dressage warm up and competition surface needs to be soft, smooth and level. A survey hole in the middle of the dressage arena area means we cannot use the dressage arena area. If I cannot use the dressage arena area there cannot be an Eventing competition at Araluen. All grades of dressage must compete, all arenas are necessary for the competing of all grades. Eventing, as an equestrian discipline, requires a competitor to compete in the 3 disciplines of dressage, show jumping and cross country, each discipline has different grades.
- 29 It would be impossible to run a dressage competition during the preparation, digging, drilling operation or rehabilitation of this survey area.
- 30 I assume Hume Coal will access this Northern hole from the public road which is Kardinia Lane off the Hume Highway. If existing gates are to be used, this assumes Hume has to travel down the formed road from the gate into the parking area, and through the parking area, across Wells Creek and through the dressage arena area. In the past I have seen tractors drive on the dressage arena area and they have formed long lasting ruts. Because of this I no longer allow people to drive heavy vehicles on this area.
- 31 There is no other flat ground on Araluen on which we could relocate the impacted dressage arena area and the dressage warm up areas.
- 32 Based on my experience on establishing serviceable footing for eventing at the Sydney International Equestrian Centre, I estimate it will take between 2-3 years following the use Hume describes in its Phase 3 drilling program Review of Environmental Factors (**REF**) to return the footing of the dressage arena area to the current international standard.
- 33 To the best of my knowledge I am not aware of a dressage arena which has been successfully rehabilitated to international standard following use by heavy vehicles and machinery.

- 34 Even assuming that the dressage arena area could be rehabilitated to the current standard, which I doubt, I estimate the cost of rehabilitation to be between \$150,000 and \$300,000 depending upon where within the 100m radius of the current hole location, the actual hole is positioned. I base my estimate of the cost on my experience as an eventing venue course designer.

South Western Survey hole

- 35 The proposed South Western survey hole is located in the existing cross country course. See Annexure VR2 maps of the courses, where it is marked as Survey C.
- 36 The cross country course on Araluen is called “The Berrima Horse Trials course” and it is renowned for its excellent footing, improved constantly over the last 25 years. This footing is mown regularly, fertilised, repaired and maintained after events and clinics. Poor footing is regarded as dangerous to performance horses and competitors will refuse to attend events with poor or irregular footing.
- 37 For the most direct access to this survey hole, Hume would require the installation and then rehabilitation of an access track of approximately 400-500 metres in length from the Hume Highway via Kardinia Lane through the cross country course. Annexed and marked VR2 Pages 2 & 3 is a map of where this access track would need to go to cause the least damage of the cross country course i.e. it would transect the cross country tracks in as few places as possible.
- 26 I estimate the costs of rehabilitation of these areas to be between \$100,000 and \$250,000. Again, I base my estimate of the cost on my experience as an eventing venue course designer and on establishing serviceable footing tracks at the Sydney International Equestrian Centre. The variation in cost would depend on where the survey hole is sited and where the access road is placed. Significant passage of low and soft areas would be involved in this access – it is not possible to avoid these low and soft areas. The most direct access to this hole would either involve passing through the main club house area, which is significantly improved, along the fence line to the south of the property – we would not consent to Hume Coal to do this – or through the car park and straight across the Show Jumping Warm up Arena, rendering it unusable – so we would not consent to that either. The routes from behind the club house as well as the route across the Show Jumping Warm Up Arena, would still both involve unavoidably the low, wet and boggy area below the dam to the east of the water jump to get to the location of the South Western Survey Hole. (see VR2 p4).
- 27 Up to about 15-20% of the Cross Country Course would be rendered unusable by the more direct access road for the duration of construction, survey and

rehabilitation. An even greater percentage area would be impacted if the access was through the car park across the cross country course.

- 28 The loss of even 10% of the Cross Country Area would prevent us from holding an event at a level above Prenovice (EvA105) and no international event.
- 29 I am satisfied, based on my experience, that it would take 2-3 years to successfully rehabilitate and re-establish the surface to that which it is currently in to allow cross country competition to take place.
- 30 I have severe concerns that the use of drilling trucks on the cross country course would ruin this footing, particularly as most of the proposed survey sites are very close to jumps or obstacles or the tracks between jumps or obstacles. The South Western Survey hole will not only interfere with the nearby fixed jumps, but any access road which accesses the South Western Survey hole will cross a significant number of existing Cross Country tracks. Horses cannot use cross country tracks where they are crossed by access roads used by heavy vehicles.

Eastern Survey hole

- 31 The proposed Eastern survey hole is in the cross country course. See VR2 maps.
- 32 Access to this hole would require the installation and then rehabilitation of an access track. Besides the main access gate and driveway to the house, there will be no gates on the Araluen boundary with Golden Vale Road. Annexed and marked VR3 is a map of where an access track would need to go.
- 33 Based on my experience, I estimate the costs of rehabilitation of these areas to be between \$150,000 to \$250,000, depending on where the survey hole is sited.
- 34 Approximately 10% of the Cross Country Course would be rendered unusable by the existence of this access road for the duration of construction, survey and rehabilitation.
- 35 I am satisfied, based on my experience, that it would take a period of the two-to-three years for the rehabilitation and reestablishment of grass surfaces of the cross country course to be restored to the condition that they are currently in.
- 36 The loss of 10% of the Cross Country Area would prevent us from holding an event at a level above Prenovice (EvA105) and no international event.
- 37 In total therefore if the eastern hole and the south western holes are located on this property about 25 to 35% of the cross country course would be rendered unusable to all equestrian eventing competitions for a considerable amount of time. Approximately 2.2 kilometres of new access track would also be required through

the property. I set out below the impact on Araluen and on the local and wider NSW eventing community.

Berrima Horse Trials

- 38 In 1989, I formed a not-for-profit club called Berrima Horse Trials Inc (“**BHT**”) and we have run equestrian competitions and training at “Araluen” since 1990.
- 39 I have been the President of BHT since 1989. Annexed and marked VR4 is a document titled “Araluen” and Berrima Horse Trials”. This document sets out the history of competitions at Araluen run by the club, Berrima Horse Trials.
- 40 The activities of this club take place over 12 months of the year, with competitions in March, June/ July and November. Pony Club events are held once a year and the Oxley College Gymkhana is held once a year. Annexed and marked VR5 is a document entitled “ BHT Rider Numbers to 2014”. This illustrates there have been 4535 competitors at our equestrian events at Araluen in the last 4 years. This does not include school or pony club events, clinics, training days, ad hoc lessons, which are booked in through our booking agent, club honorary secretary Tina Stafford, throughout the year, which would be supplementary to this. This also does not include the number of people who come as trainers, coaches, grooms, volunteers and spectators to watch the competitions. Our estimate is that there are between 5 and 7 people attend the Horse Trials for every competitor.
- 41 Training takes place on the Cross Country Course on 12 months of the year, in most weeks. Annexure VR5 “ BHT Rider Numbers to 2014” illustrates that in the last four years, 895 competitors have taken part in formal clinics run by BHT as fundraisers. All these competitors have also completed a Cross Country Course as part of their clinic.
- 42 In addition, local and visiting coaches (such as Olympic Medallists Stuart Tinney and Shane Rose) hold privately run clinics throughout the year, earning significant private income (we do not know the amount) from their teaching activity for themselves and raising funds for the BHT club. Annexure VR5 “ BHT Rider Numbers to 2014” shows that 470 competitors have taken part in these lessons over the last four years

Role of Berrima Horse Trials and Araluen in the equestrian community

40. The Club and the Cross Country Course have an ongoing history of a central role in the training of members of the Australian Equestrian Three Day Event Team – winners of four Olympic Gold Medals and three Olympic Silver Medals since BHT was established in 1990. Australia’s and particularly NSW’s elite riders compete at

Araluen three times a year and some also have additional cross country training there. Annexed and marked VR6 I include a document attesting to this written by Prue Barrett, the current National Performance Director Eventing for Equestrian Australia and the head eventing coach for Australia at the 2012 London Olympic Games. We also include letters from Olympic medallists Gillian Rolton [see Annexure VR7], Stuart Tinney [see Annexure VR11], and Shane Rose [see Annexure VR12], as well as from Equestrian NSW Executives Judy Fasher [see Annexure VR10], Dr. Derek Major [see Annexure VR8], and Alex Townsend [see Annexure VR9], to indicate the role of Berrima Horse Trials and Araluen in our national sporting performance. The Eventing facilities at Araluen are important to the sport of eventing in NSW and Australia. There are only 6 courses of the high calibre of that at Araluen in NSW. The BHT Club members use the facilities but they are also used by Olympians for training.

41. If the equestrian eventing facilities at Araluen were not able to be used for 3 months [which is what Hume says [4 weeks an hole x3 holes], and which we do not agree with] or for 2-3 years [which we estimate] this would impact on the riders and rankings of the riders across NSW. Minor impact for 3 months in terms of qualification. 2-3 years would make it significantly harder to qualify – but very difficult to quantify.
42. The main issue is the issue of rehabilitation – the footing must be 100% of the quality prior to disturbance. If there is any uncertainty of quality of footing, we would get very few entries even if the event was held.
43. The calendar is set each year in July / August, with the first names on the table being the Olympic Games or World Championships, then the Four Star Competitions (2 in UK, 2 in Europe, 1 in USA, 1 in Australia). The International Three Day events (5 in Australia) are then scheduled relative to these. The International One Day Events (6 in NSW) are then scheduled relative to these, to optimise the qualification opportunities for the big events and allow a graded experience for competitors.
44. With Araluen equestrian facility out of the calendar for 3 months, it would be relatively more difficult for horses to qualify for the International Three Day Events. This means that fewer Australian horses would then be qualified for the Four Star events and then the Olympic Games and World Championships. The National Selection Committee would have fewer horses to choose from.
45. If Araluen was out of the calendar for 2-3 years, I estimate the impact is much more marked. As most top level courses in NSW run events just once a year

(occasionally twice) – other committees are loathe to double their workload just to fill in a gap created by the possible disappearance of Berrima Horse Trials. Also they do not have the resources to vary their courses – the difference from competition to competition is the crux of a horses experience and qualification. So to take Araluen out of the calendar would reduce the number of one, two and three star qualification opportunities in NSW - necessitating overseas trips for qualifications if not enough opportunities are provided in Australia.

- 46 There would also be an impact on the Southern Highlands community generally if the eventing facility at Araluen was unusable for equestrian events for 3 months or 2-3 years – Pony Cubs would not be able to run any one day events because the eventing discipline requires that each of the 3 phases of competition are undertaken by competitors: cross country, dressage and jumping (just as one could not, say, take the running or swimming out of a Triathlon competition) and the local Pony Club uses Araluen's facilities. Oxley College Parent and Friends organisation would lose their largest fund raising event, the Oxley Gymkhana, which is held annually at Araluen – I know these details because I was a School Governor until 2014. School enrolments at Oxley College are likely to fall, as their Equestrian Program is a major school selling point. This in turn may affect the school's viability.
- 47 Approximately one thousand people visit the Highlands for a one or two night stay for each of the three Horse Trials Events run by BHT and four hundred for each of our formal fund-raising clinics – we ran two last year, one for BHT and one for Sydney International Three Day Event – our estimate is that approximately \$500,000 is spent in our community (on motels, restaurants, stabling and yarding, shopping, horse feed and bedding and fuel in the course of the year).
- 48 About 15 people work for varying periods of time for course construction and maintenance as well as maintenance of other facilities. Their approximate income from Araluen if added to the cost of materials, feed, fertilisers, fuel etc spent by BHT each year would be approximately \$90-100,000.

Direct economic impact

- 49 The cross country fences built mostly by volunteers are valued at about \$550,000 replacement cost. The two jumping arenas are valued at about \$40,000 replacement cost. In addition there are improvements to cross country footing estimated at \$45,000. The improvements to dressage arena footings are valued at \$15,000. The clubhouse / canteen replacement cost is about \$65,000, the toilet block \$20,000, the jumping judges hut \$22,000. There are also a generator / generator shed / fuel tank – value about \$22,000. The bore, pumps, tanks and

water reticulation system are valued at \$60,000. Wash down bays have recently been built to a value of \$8,000. Improvements to fences and yards are approximately \$12,000 to replace. These fixed assets would essentially be lost if the property "Araluen" is not able to be used for Eventing Competitions or training.

Indirect Economic impact

- 50 Training at Araluen is inexpensive compared to other facilities, for example SIEC. If the BHT were to run its 12 weeks of existing program at the Sydney Olympic Equestrian Centre (SIEC), the approximate cost to BHT would be approximately \$4,115/day x 90 days = \$360,000. Most competition organisers do not have the funds to be able to do that, let alone the competitors, on a regular basis.

SWORN at

Signature of deponent

Name of witness

Address of witness

Capacity of witness [#Justice of the peace #Solicitor #Barrister #Commissioner for affidavits #Notary public]

And as a witness, I certify the following matters concerning the person who made this affidavit (the **deponent**):

- 1 #I saw the face of the deponent. [OR, delete whichever option is inapplicable]
#I did not see the face of the deponent because the deponent was wearing a face covering, but I am satisfied that the deponent had a special justification for not removing the covering.*
- 2 #I have known the deponent for at least 12 months. [OR, delete whichever option is inapplicable]
#I have confirmed the deponent's identity using the following identification document:

 Identification document relied on (may be original or certified copy)[†]

Signature of witness

Note: The deponent and witness must sign each page of the affidavit. See UCPR 35.7B.

[* The only "special justification" for not removing a face covering is a legitimate medical reason (at April 2012).]

[† "Identification documents" include current driver licence, proof of age card, Medicare card, credit card, Centrelink pension card, Veterans Affairs entitlement card, student identity card, citizenship certificate, birth certificate, passport or see [Oaths Regulation 2011](#) or [JP Ruling 003 - Confirming identity for NSW statutory declarations and affidavits](#), footnote 3.]