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TRANSCRIPT OF PROCEEDINGS

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INDEPENDENT PLANNING COMMISSION

MEETING WITH UPPER HUNTER SHIRE COUNCIL

RE: DARTBROOK COAL MINE – MODIFICATION 7

PANEL: PROF ZADA LIPMAN
ROSS CARTER
PETER COCHRANE

ASSISTING PANEL: BRAD JAMES
TROY DEIGHTON

COUNCIL: MATHEW PRINGLE
STEVE McDONALD
KIWA FISHER

LOCATION: MUSWELLBROOK SHIRE COUNCIL
157 MAITLAND STREET
MUSWELLBROOK, NEW SOUTH WALES

DATE: 4.01 PM, MONDAY, 8 APRIL 2019

PROF Z. LIPMAN: Terrific. All right. Well, good afternoon and welcome. Before we begin, I would like to acknowledge the traditional owners of the land on which we meet, the Wanaruah and the Kamilaroi peoples. I would also like to pay my respects to elders past and present and the elders from other communities who may
5 be here today. Welcome to the meeting today, AQC Dartbrook Management Proprietary Limited, the proponent, is seeking to modify the development consent for the Dartbrook underground coalmine. The project involves the recommencement of underground mining activities at Dartbrook using bord and pillar methods as well as the alteration of coal clearing system to partially transport coal overland instead of
10 using the full length of the Hunter Tunnel.

The project also involves the extension of the life of mining operations by five years until December 2027. My name is Zada Lipman, I'm the chair of this IPC panel. With me today are fellow commissioners: on my right Ross Carter; on my left
15 Peter; Cochrane; also two members of the IPC secretariat, Bradley James and Troy Deighton. The – in the interest of openness and transparencies and to ensure the full capture of information, today's proceedings will be recorded and a full transcript will be placed on the commission website. This meeting is one of several of the commission's decision-making process and will form part of several sources of
20 information upon which we will ultimately base our decision.

It is important for commissioners to ask questions of attendees and to clarify issues whenever they consider it appropriate. If you are asked a question and the answer is not readily, you know, available or comes to hand, feel free to take the question on
25 notice and if you advise us later in writing, we will then place it on the commission website. I request that members here today introduce themselves before speaking and to ensure they don't speak over the top of each other so that we're able to record matters clearly for accuracy of the transcript. So I suggest we begin now so if you could please introduced yourselves and then we will proceed to the issues that we are
30 going to consider today.

MR M. PRINGLE: Commissioner, my name's Matt Pringle. I'm the director of Environmental and Community Services at Upper Hunter Shire Council.

35 MR S. McDONALD: My name's Steve McDonald. I'm the general manager at Upper Hunter Shire Council.

MR K. FISHER: I'm Kiwa Fisher. I'm a councillor with the Upper Hunter Shire Council and chair of the Development and Environment Committee.

40 PROF LIPMAN: Thank you. Well, we have read your submissions and, basically, what we're interested in today is for you to take us through some of the things that concern you and to consider how you feel at this stage, having regard to the responsive submissions and all the other aspects, including the VPA.
45

MR McDONALD: Just before we start, I just want to put an apology in for our mayor too, unfortunately he's down at the horse sales, he couldn't be here today so just want - - -

5 MR FISHER: We – we have prepared a presentation, would it be okay if we – if we ran through that with you?

PROF LIPMAN: Yes, that would be lovely, yes, thank you.

10 MR FISHER: So there are two – there are two folders, one is – one is the dreaded PowerPoint and the other is basically a supporting documentation so it has very specific information that you might like to refer to if there's a further question. So I think page 1 has already been dealt with, including the mayor's apologies, tells you who we are but – but I would like to welcome you all to the region, even if you're
15 not quite in our shire. So today we will outline council's views on mining in general, our specific concerns with this proposal, irrespective of who the proponent is, with the proponent and their joint venture partner and with the department's assessment of the proposed modification.

20 We will also outline our ongoing and fundamental opposition to the recommencement of any form of coalmining at Dartbrook and hopefully leave time at the end for you to answer – or if you want to jump in at any point and ask questions for clarify, please do so. So to recap, council remains steadfastly opposed to the recommencement mining in any form at Dartbrook. Council rejects the
25 department's inference that our – that our – that our objection was in principle and that the voluntary planning agreement represents an economic benefit to the area or indeed provides an economic justification for the mine. The mayor has asked specifically that this bit be included: that he considers that that – the department's characterisation of that as being verballed.

30 Our position remains that we would far prefer no VPA and no mine and that the VPA represents minor compensations for the major disbenefits of the mine and will just run that through. So our general views on mining, I suppose the first document to look at is our position statement on coal and coal seam gas. Now, the original
35 position statement was adopted by council unanimously in 2011. A revised and updated version was also adopted by council unanimously in 2015 and I must say another revision reflecting more recent legislature changes will be before council this year. The no mining policy has been advocated by every Scone Shire president and subsequent Upper Hunter mayor since the election of Barry Rose back in 1990.

40 This position is consistent, considered, longstanding and community-led. For example, the 2015 update was revised to include CSG exploration after consultation with landowners out in the Bunnan Merriwa area who were concerned that damage was being done at the exploration stage in their PEL. The concerns regarding
45 mining, including encroachment of mining into our area feature regularly in community surveys – and you can see a snapshot from one printed on the page below. The position statement was given to the proponent at the very beginning of

the very first meeting, as it is indeed to all mining industry representatives so council absolutely rejects the comments of the DPE's Howard Reed that the UHSC – Upper Hunter Shire – objected in principle, if you like.

5 Now, that slide is from the Micromex 2015 community survey and you can see that coalmining is writ large and it is the – it is the number 1 area of concern and the people are actually more concerned about that than the state of our roads, which is possibly quite unusual for a council. Our general views on mining, I should point out some things about climate change and sustainably – earlier this year in February, we
10 resolved to recognise that we are in a state of climate emergency and the resolution is there for you to read at your leisure. We're also a founding member and active participant in the Climate Council's Cities Power Partnership which promotes sustainability issues and count – local government led climate change action.

15 In 2018, we adopted our sustainability action plan and we're actively working on implementing that plan and we're – and so what I'm basically trying to say is that as well as talking the talk, we are trying to walk the walk and it's not easy but we're – we're doing what we can and we are in no doubt that the use of thermal power – thermal coal in power generation is a leading cause of anthropogenic global
20 warming. So the next slide is some – some lines from our community strategic plan and I have the CSP as the overall document that guides – each now council forms their own and it guides the next four years.

25 So that's our overarching document and that's where we feel our views on mining fit in with that. Our views on mining, we believe, are also consistent with the Hunter Regional Plan, which is obviously a State Government document and, indeed, with the preceding Strategic Regional Land Use Plan and that plan sets out – and the DPE has listed for us our regional priorities and they're not cherry-picked. They're absolutely taken verbatim from that document. So there are the regional priorities
30 the DPE has given us – protect the critical industry cluster and allow for expansion of that industry, protection biophysical strategic agricultural land, support the tourism economy etcetera – support the diversification of the energy sector and ongoing extractive industries, noting that the shire is part of the Upper Hunter Green Energy Precinct.

35 Underneath that Hunter Regional Plan is a further plan and that's the Upper Hunter Economic Diversification Action Plan. This was produced last year by the Deputy Premier's Office – John Barilaro – and that establishes a guide for sustainable economic transition incorporating economic diversification priorities into regional
40 land use planning. So those are the strategic priorities reproduced from that document. And I might add at this point all those – all these plans and things that I'm talking about are linked in that supporting documentation that I've given you, so you can peruse those at your leisure.

45 Now, the immediate priorities included deliver planning support and community information tools to promote certain for post-mining landscapes in the Hunter Valley. Now, that was a priority action for the DPE. So the DPE's first action is

recommending this tiny, risky and economically unsound mine. Now, experience from previous downturns in the mining industry illustrates how important economic diversity to this region is and how critical that transition is. Here's another plan that we believe we're consistent with. This is our own Upper Hunter Land Use Strategy.
5 This has been endorsed by the Department and it sits below and provides context to our LEP – Local Environment Plan. So you can see some of the objectives and policies there, all, as I say, consistent with our general view on mining.

10 Now, Voluntary Planning Agreements. Council is of the view that the Department places far too much store in these and this one, in particular. We do not agree with the Department's comments that the most effective communities of Kayuga and Aberdeen would be adequately compensated by the VPA. We don't agree with the Department's view that the VPA is a primary economic justification for the mine and we don't agree with the comments of the Department's Megan Dawson made to you
15 that the VPA is a really good outcome or that the Upper Hunter Shire Council was really open to renegotiating. We entered into the VPA reluctantly and in the view that it was prudent good governance to do so and the opposite not to do so. It would be poor governance. In total, the VPA – the AQC's VPA financial contributions to the shire are \$110,000 per annum. Now, that represents 0.21 per cent of council's
20 51.9 million 2018/19 budget and that's the operational budget. The resolution accepting the VPA noted that this did not imply in any way support for the proposed recommencement of mining at Dartbrook and this was made clear to both the proponent and the Department.

25 We also think our views on mining are consistent with the IPC Rocky Hill decision. Those are quotes lifted directly from that report which I'm sure you're all familiar with. Basically, we see many similarities between our shire and the former Gloucester LGA in terms of stunning visual amenity, agricultural focus, thriving integrated rural industries, a clean and green atmosphere but, admittedly, with
30 mining to its south. And we also feel that there are close similarities between Aberdeen and the township of Gloucester and the proximity of that mine to the town and this mine to our town. So we believe again that our views are consistent with that determination report. Now, cumulative impacts – Professor Lipman, I spoke to you about this at the Mount Pleasant thing.

35

PROF LIPMAN: I recall.

MR FISHER: A cumulative impact assessment methodology was first promised by the Department back in 1987. The methodology was promised again in the Strategic
40 Regional Land Use Plan. It was action 7.1 and delivery was to be by March 2013. The lead agency was to be the DPE. Many other PAC reports have also called for a form of cumulative impact assessment. Despite the methodology's urgent need, it remains in the bureaucratic too hard basket. We've consistently advocated for this methodology and we remain concerned that these impacts have never been properly
45 addressed. Tomorrow will be the sixth PAC or IPC where I've personally called for a proper assessment of cumulative impacts and the release of that methodology. Council is of the view that we're demonstrably past the tipping point for the

cumulative impacts of mining on air quality and we will look at that in more detail in a minute.

5 We also note that the cumulative impact management clause in the current consent – that’s clause 11.1 – insufficient as it was, although it did provide for some form of dispute resolution has actually been deleted just so I might just have a sip of water at this stage and we will get into our issues with the proposal. So the first one is economics. At one to one and a half megatonnes per annum, Dartbrook is a very small mine and we believe with an economic case that doesn’t stack up. We view
10 the economic record as flawed and like most coal mining proposal, Dartbrook overstates the benefits and understates the dis-benefits substantially.

We note Gillespie Economics, who produced the Drayton South’s economic report, also produced this report and that the Drayton pack questioned the extent and
15 quantum of the benefits. The Dartbrook report contains some claims that didn’t even last until the response to submissions. For example, it suggested a recommissioning capex of 15.7 million which is up to 45 million in the RTS, a figure that still might be too low. The economic case – and this is critical – for the mine has been assessed uniquely against the mine in care and maintenance mode and we will come back to
20 that in greater detail. The economic report also makes no mention of the additional royalties that AQC will have to pay which will materially impact AQC’s profitability and therefore the likelihood of the company ever paying the company tax that the economics report refers to and which the Department accepts verbatim.

25 These extra costs could even affect AQC’s financial viability. Under the purchase agreement, AQC will pay a \$3 a tonne royalty to the former owners, to a maximum of \$30 million. Now, that would take them out through the entire modification period at a tonne to a tonne and a half. Under financing agreements, AQC will pay
30 \$2 a tonne to the cornerstone investors and financiers Trepang Services and that’s in perpetuity. The assumed price for Dartbrook’s coal is \$73 a tonne. This is described as a conservative assumption. Now, the RTS confirms that Dartbrook will be selling 5500 NAR coal. Platts list the current price for 5500 NAR – and this is as of this morning – at \$59.50 a tonne.

35 The price for 5500 coal has not been at or above the conservative assumption since the third quarter in 2018, indeed, the price range for 5529 is a low of 56 in March to a high of \$65.15 in January. Platts note that the 5500 coal is typically shipped to China. We note exports to China are predicted to decline, with demand for
40 Australian thermal coal weak and softening and with some experts predicting a 40 to 50 megatonne per annum drop. There have also been numerous reports in 2019 of Chinese coal bans. Reports last month of over 1 megatonne of 5500 Hunter Valley coal floating off China and being denied entry. Now, whilst demand is cyclical – and this may be reflective of a warmer Chinese winter – it is an emerging concern.

45 We don’t believe that the proponent has demonstrated that there is a market or demand for its run of mine 5500 NAR coal either now or over the project’s extended time line. By adding supply into falling demand, the project may only add to this

problem. Now, it's not just us that's saying this. The Federal Government's Chief Economist released the March Resources and Energy Quarterly, the REQ, just at the end of last month. These are quotes lifted directly from that:

5 *The Newcastle benchmark spot price is forecast to decline from an average of US 108 a tonne to 76 a tonne in 2021 –*

so that's the price for the higher quality 6000 coal –

10 *in real terms, as supply growth outpaces. Ongoing policy uncertainty in China remains the key risk to the outlook for thermal coal prices. The benchmark spot price has steadily declined. The decline primarily reflects weaker demand from China. The price difference between higher and lower quality thermal coal has remained relatively high. The divergence in prices has been driven by*
15 *a tighter market for higher energy coal, as demand increases in east Asia due to air quality concerns.*

20 *Developments in China's thermal coal market remain the key risk to the outlook for thermal coal prices. Lower Chinese imports could potentially push prices even lower. China's imports of thermal coal are projected to decline at an average rate of 5.2 per cent, reaching 157 million tonnes in 2024. There remains substantial uncertainty around restrictions of coal imports at Chinese ports. The impacts on Australian coal producers depend on how the measures are implemented and whether Australian coal is disproportionately affected.*

25 I think that might be a reference to the school of thought that some of this Chinese coal ban is actually in relation to a renegotiated trade deal with the United States of America:

30 *With authorities expected to continue adjusting policy levers to achieve various goals, ongoing policy uncertainty is expected to remain a key risk to the outlook for China's coal imports in the coming years, and consequently coal prices and Australian coal exports.*

35 So that's economics. Safety is another key issue to us. Dartbrook is a dangerous mine with a demonstrated history of multiple spontaneous combustion events whilst mining highly gaseous coal seams. There have been three fatalities to date during mining operations at Dartbrook: Raydon Rich in January '97, Jamie Sullivan in November 2003 and James Adams in June 2004. Dartbrook was shuttered at the
40 commencement of the mining boom by Anglo American, a well-resourced, highly experienced, highly skilled, multinational mining giant. Dartbrook is described by the Australasian Mine Safety Journal as safety troubled and having a chequered history of mining safety issues, including ongoing spontaneous combustion events.

45 The DPE and the proponent refer frequently to ongoing geological issues as the reason for mine closure, when in fact numerous academic papers and other reports note that the mine closed after a significant spontaneous combustion event. The only

reference to spontaneous combustion in the proponent's main report was that the community consultation committee, which I chair, by the way, had raised the issue. Councillors astonished by the comments of the DPEs director of resources assessments, "I don't know what the company's proposals are for gas management
5 below ground," and, "Though I do believe that gas was an issue here, but I'm afraid I'm not in a position to say whether the gas was primarily carbon dioxide or methane because that varies along a spectrum as well." Well, we've managed to find that information. The Kayuga seam has a greater variability in gas composition – to the Wynn seam, that refers. Carbon dioxide and methane ratios range from 90 parts to
10 10 parts and up to 50/50, and those ratios occur with little depth to geology or depth. So it's an unpredictable seam we're working in.

PROF LIPMAN: While you're on that, can I just ask you, is this – are your concerns more related to the longwall mining or would the same issues be - - -
15

MR FISHER: Any – I think any form of mining.

PROF LIPMAN: With bord and pillar would the same issues, do you think, be - - -

20 MR FISHER: Yes. I think it will, absolutely. It's the same seam. It's the same gas.

PROF LIPMAN: Were they mining the Wynn before or the Kayuga seam?

25 MR FISHER: They mined the Wynn seam originally up until 2003, I think they stopped in that, and then they moved to the Kayuga seam at a cost of 90-something million dollars, and they mined there from 2004 through to the end of mining in 2006.

30 PROF LIPMAN: Thank you.

MR FISHER: So there's no gas management plan. There's no outburst management plan. There's no spontaneous combustion management plan, either for the surface or underground. None of these plans have even been produced, let alone
35 reviewed. With a mine like Dartbrook we view this as back to front and negligent. We're deeply concerned by the comments that the events which were a demonstrated part of the mine's history are simply not expected to occur. Council is also concerned by the comment made by one of the commissioners to AQC, "There's mine safety, which is, I guess, your issue." Now, respectfully, safety is an issue for
40 all of us, and in particular the commissioners who are the consent authority, referencing the EP&A Act, objects 1.3(a), (c), and in particular (h). This matters to council too.

45 Members of our community will potentially work in this mine, and our VPA provides for the employment of two local apprentices. So we can have young people from our shire underground in that mine too. The DPEs approve now, work out the details later approach means that this is the only opportunity for us, council and

others, including you, the IPC, to comment on this. We note with astonishment and considerable concern that the resources regulator raised no specific concerns over the proposal. We contend that Dartbrook documented history is being wilfully ignored. Now, this is just a minor subset of the safety issues. It concerns the Nitrogen

5 Injection Plant. This plant was part of Mod 6, even though it had been used quite extensively prior to that application.

Now, the capex for Mod 6 was estimated at \$10 million. The plant ran continuously for five months in 2002, during which time it used ten and a half thousand tonnes of liquid nitrogen. The plant was also instrumental in the inertisation of the significant spontaneous combustion event which closed the mine in 2006. In the RTS AQC notes that the plant can be recommissioned if required. Now, previous mine operation plants have stated specifically in regards to surface infrastructure, including the Nitrogen Injection Plant, that infrastructure not required by ACDM – that’s Anglo Coal Dartbrook Management – or the landholders is decommissioned and the sites rehabilitated. As such, council isn’t sure and would seek clarification as to whether that plant is actually still on site, and whether the costs of recommissioning and/or replacing the part have been included in the capex cost for mine recommencement.

20

Air quality. Now, we note, as I think you commissioners have also noted, that the greenhouse gas emissions are simply not included in the air quality report. What you may not be aware of is that there have been 15 air quality alerts issued by the OEH for Aberdeen since Mount Pleasant was approved in June 2018. There have been 10 alerts already this year. The dates are all there. That last alert on 31st of the 3rd, that came after our significant rain event when, certainly at my house we received 78 mils. I opened up my iPad in the morning and there was an air quality alert from the OEH. It’s crazy. The OEH air quality data, which is all collated on their website is there for anyone to search through, shows that the 50 microgram per cubic metre PM10 maximum concentration threshold was breached on 50 days in Q1 in 2019. That’s in Aberdeen. That equates to exceedances at some point on 56 per cent of days.

Now, I suppose it’s a little like a smoker who smokes 20 cigarettes a day at maybe three minutes a durry. If you looked at his rolling average over 24 hours, you might see some tiny little spikes, but overall the picture over the 24 hours is one of reasonable air quality in this chap’s lungs. But it’s those three minute spikes that are going to kill him, and let there be no doubt about that. Air quality in Aberdeen is already beyond the tipping point, and we note that there is no safe level for either PM10 or PM2.5.

We also note that PM2.5 is not measured at Aberdeen, and we believe it should be. Any further additions or unplanned exceedances to the already overloaded air shed cannot be justified. The following graph illustrates the dramatic increase in PM10 emissions since construction began at Mount Pleasant in November 2016. That’s the striped vertical line on that – on that graph. That graph from the OEH’s own website

45

tells a story. It reflects what is happening on the ground, unobscured by rolling averages.

5 We know from the NPI register that mining operations – that’s the National Pollutant
Inventory – that mining operations account for 77.3 per cent of reported PM10
emissions. So we do not share the Department’s opinion that the Mount Pleasant
conditions are recent and are accurate, as far as we could be confident. Nor do we
share any confidence in the air quality modelling done by Mount Pleasant, nor do we
10 share any confidence in the air quality conditions imposed in the Mount Pleasant
Consolidated Consent. Mount Pleasant has had a dramatic and detrimental effect on
air quality and those exceedances are simply not being policed. There is no room for
any additional impacts.

15 Now, the mining SEPPS non-discretionary development standards for PM10 state
developments should not result in cumulative annual averages greater than 25
micrograms per cubic metre. And that’s for residences that are private dwellings.
The following graphs illustrate we’re well over that in Q1 in 2019 in Aberdeen and
the graph subsequent to that show that, in 2018, we’re over that at Muswellbrook,
which has an average of – the annual average was 27.2 micrograms. We are at that
20 25 microgram threshold at Muswellbrook northwest and that we’re closing in at
Aberdeen.

So the whole town of Muswellbrook, not just private dwellings close to the mine, the
whole town of Muswellbrook is either at or over the non-discretionary standard.
25 That last graph shows it all. That’s 27.2, 25 and 22.3. As I said, this is the – the
Department’s own data.

So we move on to emissions. Scope 3 emissions, those from burning Dartbrook’s
coal, have not been considered. The mining SEPP, clause 14.2 states:

30 *The consent authority must consider an assessment of the greenhouse gas
emissions, including downstream emissions, scope 3, of the development.*

Without the requisite assessment being provided, the modification cannot be assessed
35 and we believe must therefore be refused. We also note, scope 2 emissions,
generated by moving Dartbrook’s coal from the train load-out to port, are not
included in the economic report as a cost to New South Wales. We also note that the
Department has benchmarked greenhouse gas emissions against approved, rather
than care and maintenance. It has been approved to emit a level of greenhouse gas
40 associated with a much higher level of production, Mr Reed said to you.

What is that allowable level of greenhouse gas emissions? Where is it mentioned in
the original consent? We contend that conditions haven’t been contemporised for the
simple reason that they don’t actually exist. That original approval was granted in
45 1991, a very different era, before the UN framework convention on climate change
of ’92, before Kyoto in ’97 and well before Paris in 2015. Community expectations
regarding emissions have changed significantly, even since the later 2001 consent.

The five year extension sought in Mod 7 means all scope 1, 2 and 3 emissions in that period, 2022 to 2027, are effectively new emissions. Mr Reed is wrong to say, in that sense, it is not a new impact particularly when measured against the mining care and maintenance mode, and especially against the mine closed and rehabilitated in
5 2022. Further, the Department's assessment is predicated on the assumption that the approved longwall mining will not take place. However, the longwall consent has not only not been relinquished, it's being extended. There is quite possibly an additional 30 megatons of coal.

10 Council has legal advice confirming the relevance of the Preston judgment and questioning the appropriateness of the Department's inconsistent assessment. Not only does the environmental assessment not include any assessment of greenhouse gases, it does not include any proposals to minimise, mitigate or offset those emissions. This is another area where Justice Preston criticised the Rocky Hill
15 proposal.

Now, when questions by – by you, the Commissioners, the DPE launched into an extended obfuscation and the proponents said they would investigate flaring. Now, flaring, we believe, is a furphy because Dartbrook tried to trial this back in 2005.
20 That trial failed due to the quality of the gas emitted from underground operations, and that reference is included in your documentation.

So we've prepared a table and graph of scope 1 and 2 emissions from Dartbrook 2003 actually to 2018, collated from Anglo American's figures and AQC's figures. I
25 think the graph probably illustrates it more cleanly. So the blue line is total CO2 equivalent, methane and CO2. The orange lines are clearly the coal output for that year and the grey horizontal line is the proponent's estimated CO2 equivalent emissions, on the bord and pillar, not the extended thing.

30 So issues with the proposal continue. Water. Now, water is a significant issue to the community in terms of quality and quantity. We're experiencing a severe drought and, despite some recent and decent rain, no one would dare declare the drought is over, especially with El Nino hanging over our heads. Now, drought and this proposal is perhaps of greater significance to the community than normal conditions
35 and this proposal.

Now, just as background, the shire council is the water utility for the shire and the service provider. Scone takes its water from Lake Glenbawn, which is obviously the source of the Hunter, and we are currently building a water pipeline from Scone to
40 Murrurundi to give that town, and the villages along the route, Parkville, Wingen and Blandford greater water security. We've heard many stories from farmers close to the mine that their bores dropped when the mine started and recovered, to an extent, when the mine closed. Now, this is mostly what you'd call anecdotal evidence and hard to either quantify or qualify, but one landowner sent – sent us the following
45 graph from a property eight kilometres from Dartbrook and he is adamant that the Dartbrook mine had a deleterious effect on this bore when the mine was operational,

and those are the figures that you can see there. As I say, it's hard to work out because of periods of drought and high rainfall, etcetera, etcetera.

5 But in broad terms, we have residual concerns with AQC's basic approach, which I will characterise as – as we're self-sufficient for our water needs and we hold all the appropriate licences. We don't have a clear understanding what the impacts on neighbouring properties' water the recommencement of mining will have, particularly in times of drought. We have ongoing concerns that any uptake of hitherto unused high security water could place the wider region under greater stress
10 in times of drought. We note that Dartbrook was not modelled, and nor was the neighbouring West Muswellbrook project, in the Federal Government's 2018 bio-regional assessment of the Hunter, which modelled the impacts of coal resource developments on water resources in the Hunter.

15 Now, that assessment found that there was potentially a large area that potentially experiences cumulative groundwater impacts due to baseline and additional coal resource developments. Additional coal resource developments could lead to 19 per cent of the assessment extent experiencing hydrological changes that exceed the design threshold. And changes in water in the Hunter – water availability, sorry, in
20 the Hunter regulated river at Greta are very likely to exceed five gigalitres per year, but very unlikely to exceed 12 gigalitres per year over the period 2013 to 2040 – 2042.

25 Now, the Greater Hunter Regional Water Strategy of 2018 also backs up our view that drought conditions are perhaps more important than normal conditions. Drought security was found to be the primary economic risk facing the Upper Hunter. Analysis showed that droughts had been underestimated in the Upper Hunter region and repeat of the 1940s drought, the worst on record, would reduce general water security allocations to zero for 12 consecutive years. Mining and agriculture, relying
30 on the Hunter regulated river would be severely affected during a sustained drought like this. And the final note that was reductions in base flows had occurred. Sorry, I'm just going to take another sip.

35 Now, the coal conveyancy system. The Hunter Tunnel was integral to the original consent for Dartbrook. It was illustrative of a proponent proactively minimising their impacts on the community. The proponent turned an open-cut project into an underground one because of the communities concerns. Now, Aberdeen is built on a western-facing slope with stunning views across the valley to the Rossgole escarpment. Why should the community and residents of Aberdeen suffer the sights
40 and sounds, the industrialisation of their rural amenity because the proponent cannot afford to recommission the Hunter Tunnel? Now, that recommissioning figure was listed in the RTS at \$10 million Australian. So the proponent is saving. The community are paying. Now, we thank the proponent for agreeing to (a) covering those lows and (b) sealing the hall rod, the last section of it. One question we would
45 like to ask, though, is we are unsure what happens to the water and the coal dust that's going to drain at the delivery shelf where they have these water curtains.

It's just simply not explained, as far as we can tell. So we move on to the coal handling and processing plant. On numerous occasions AQC has informed the ASX that surface infrastructure, including the CHPP, was well maintained, in good condition and required minimal capital outlay to be recommissioned. At application
5 time, however, a more capital light approach has been favoured again, despite the significant material effects this decision will have on the price they can achieve for their coal. We know from the DPEs assessment of Mod 6 that Kayuga seam coal tends to have a higher proportion of fines. Neither AQC nor the department have assessed the health impacts of moving unwashed ROM coal with a higher proportion
10 of fines on the Hunter Coal chain rail network. As with the Hunter Tunnel, is it the community – now, they're and admittedly not Upper Hunter Shire residents, but is it them who will ultimately be paying for AQC's saving.

We know too that train links on the Hunter Coal Chain have increased since
15 Dartbrook closed, and we're unsure if the existing rail loop is large enough to accept the longer trains. If not, have any necessary rail loop extension works been included in the project's capex cost? So now we move into our issues with the proponents. Australian Pacific Coal is a company with no technical mining experience. They have a market cap of around 30 million. It's actually lower than that as of today's
20 price. They have not mined anything anywhere, and neither has Stella National Resource, their mooted joint venture partner.

Now, the transcript of AQC's meeting with you, I'm afraid, we can only describe as
25 extraordinary. It is not only extraordinary, but also illustrative of an underprepared and inexperienced proponent. Now, indulge me if I paraphrase, as they come in and they say:

*Who are you? Do you have any conflicts of interest? We didn't bother with the
30 presentation for you. We actually haven't made an investment decision yet. We haven't completed our joint venture partnership yet either. The whole project is as capital light as possible, but safety is important to us. Gas isn't expected to be an issue. We haven't done a hazard preparation plan or a greenhouse gas management plan or even finished our geotechnical work. Our own economic case, whether we could actually make money out of the mine,
35 well, we haven't really done that either beyond concept level costings.*

As you're well aware, this has been considered under a section 75 application, and we believe this is another illustration of their inexperienced approach.

40 The section 75 application was made on February 27 2018, just two days before the repeal of section 75W on March 1. In our view, the application bears the hallmarks of being rushed, underprepared and half-baked. The application had never been discussed or flagged with the community consultative committee or with counsel by AQC prior to its lodgement. The application had never been flagged with the wider
45 community by AQC through their Dartbrook newsletters. Indeed, the properties file of the February, supposedly February, 2018 newsletter PDF shows it was actually created on March 8. AQC, effectively, blindsided the community with this

opportunistic application which, effectively, avoided the preparation of a full EIS and the associated scrutiny that goes along with it.

5 Barely a month after they lodged the section 75W modification application AQC put out a corporate presentation with an indicative open-cut timeline. So is it any wonder that the community is both confused and concerned. Now, the joint venture partnership. This was announced with Stella Natural Resources in August 2018. The ASX announcement detailed the deal aimed to be finalised by the March quarter 2019. As of today the deal has not been finalised. Now, the deal's terms include
10 payment by SNR of 20 million with completion due, as I say, in the March 2019 quarter, and that's to form the Dartbrook joint venture.

The Dartbrook joint venture will then loan AQC \$10 million, and AQC will use that money to repay Anglo American's vendor financing for the sale of the mine. SNR is
15 responsible for the procurement of all required funding for the life of the operation. AQC and SNR are to finalise a robust bankable development plan to recommence underground mining during 2019. So, effectively, you, the commissioners, are being asked to approve a project which the proponent admits they haven't yet reached the
20 point of making an investment decision with a joint venture partner who is yet to conclude their part of the deal. The cart is more than before the horse. They don't even have a horse. This is another indicator to us of a rushed section 75W application lodged before all the ducks were in a row.

MR McDONALD: Just in regard to that, Steve McDonald here. I was the general
25 manager at Muswellbrook Shire Council for 13 years before I moved up in March to Upper Hunter Shire Council last year. Very odd that no consultation with the council or community before that was lodged, okay, and in the time that I was here there were a number of applications that were lodged with that particular process, but there was extensive consultation prior to that being lodged. So it's unusual.

30 MR FISHER: Thanks, Steve. So to continue with the joint venture partnership, and I know it's not a valid planning consideration, but it is something that we worry about considerably. So, according to AQC's own figures in the deal, SNR Mineral Assets, the Australian division of Stella Natural Resources, will need to finance at
35 least \$65 million Australian. That's 20 million to buy in to the joint venture and the 45 million that they list in the capex to recommence mining. That figure, obviously, doesn't include operational expenditure. SNR will necessarily be borrowing heavily, and in this economic climate finance for thermal coal projects is difficult to source. So we would expect that money will not be cheap. So who are Stella Natural
40 Resources? They have been described in Australian mining media as a high-powered Canadian privateer.

They describe themselves as a diversified mining and trading company across
45 multiple jurisdictions and commodities. The company's website does not bear close inspection, most notably, the SNR world map which I've reproduced there for you. To the best of council's knowledge, no SNR related entity holds a mining licence in Canada, Colorado, California, Chile, New Mexico, West Virginia, Kentucky or

anywhere shown on the SNR world map, nor can we verify the existence of SNR Marketing in Singapore which trades all SNR products, apparently. What we have been able to establish about SNR is indicative of a bottom tier Appalachian mining minnow. So, basically, that's – everything on that page is what we have been able to
5 find. There are eight companies. They did buy some bankrupt assets back in 2017 which included two mines and a preparation plant.

They have recently gained permits to operate that Ivel prep plant. Those permits were issued in December and January the last year and this year, and that one
10 company, SNR River Ops, has a current short term contract to sell 136,000 tonnes of coal to the Mitchell Power Station and no mining licence. Now, a lot of credibility around the joint venture partnership is based on the SNR CEO David Stone, and he has had a long and successful career in mining. He's a former head of global underground operations for Xstrata Coal, and he's described in the JVP
15 announcement as a highly successful leader. However, at lower tier mining companies we would just like to point out the following: that at Guildford Coal he was there for two years and four months.

He joined as vice president of operations and is actually a director. Some two years
20 later following a corporate restructure, his position no longer existed and he departed to form Stella. During his 15 month period at Wollongong Coal – January 2014 to May 2015 – as chief operating officer, the company was described as embattled and troubled. There were temporary shutdowns and two large scale rounds of job cuts and redundancies as the company struggled to get regulatory approval to continue
25 mining.

The Wongawilli underground reportedly suffered a roof collapse, burying the longwall machinery. Mr Stone left Wollongong Coal while it was in a trading halt with its shares valued at just two cents. Previously to that, he was mine manager at
30 the New Elk underground coalmine in Colorado. He joined up in July 2012, within three months the mine was shut down after failing to find near term buyers for its products. The listing stock plunged 42 per cent. The workforce was mainly laid off and although Mr Stone remained for another nine months, the mine never reopened and Cline announced his departure on the same day it delisted from the Toronto
35 Stock Exchange in May 2013. Cline is now defunct.

The rehabilitation bond – as you're aware, the bond held by the New South Wales Government against Dartbrook is 9.245 million. Anglo American booked their closure and impairment costs for Dartbrook at 125 million in their 2006 accounts –
40 that's documented in your supplementary folder. There's clearly a massive disparity in those two figures, which suggests to us that the rehabilitation bond needs to be urgently reassessed and increased. So we put this scenario to you: two debt-laden joint venture partners are operating a mine with extremely marginal economics. A further significant spontaneous combustion event closes the mine. The operating
45 joint venture partner becomes insolvent. Who's going to put the fire out; who is going to put the fire out?

Well, the answer is the State of New South Wales and as one environmental planning expert said to me, you would burn through nine million pretty quickly in liquid nitrogen costs alone. So we move onto the department's assessment, of which you might be able to tell we were slightly critical. The inconsistency against which base
5 case the department has assessed the proposal is a fundamental flaw. In each case, this favours the proponent over the community. Emissions are against approved, economics uniquely against care and maintenance. Council's legal advice notes we have not located any case law either under part 4 or part 3(a) to support an approach
10 that a modification application should be assessed only against that part of the consent approval which is currently being carried out.

To do so would be contrary to the principle that a consent approval is an authorisation permitting the holder to undertake the whole or part of the development as approved but it is not a requirement to do so. Placing so many issues into the
15 post-approval framework – that's Mr Reed's phrasing – means those issues will not receive any scrutiny other than the department's and the no specific concerns resources regulator. Council contends that with two joint venture partner companies with zero operational mining experience trying to recommence mining at arguably the most problematic mine in New South Wales makes this approach both dangerous
20 and fundamentally unsound.

Object H of the EP&A Act which addresses the health and safety of the built environment has been specifically omitted from the DPE's considerations. Is there
25 one single assumption in the whole of the EIS that hasn't actually – that has actually been tested by the DPE prior to it being cut and pasted into their recommendation? The DPE admits that it has not assessed either the financial viability or profitability of AQC, despite company tax paid in New South Wales being listed as a major economic benefit, larger than royalties, of the proposal, despite numerous
30 submissions raising the issue and despite the department background you the commission that the proposal is a short-term operation with a high value on some cashflow while it's developing its other proposal.

Now, we view that backgrounding as highly inappropriate. This modification has to stand on its own merits. It is not the Commission's job to award the proponent a
35 cashflow lifeline to finance its open cut planning. It is to assess the merits and weight the benefits and dis-benefits of the proposal before it. Now, the DPEs recommendation and the transcript of your meeting are filled with errors and omissions. Spontaneous combustion is studiously ignored, mentioned only as being raised by submitters and that it will be taken care of by the no specific concerns
40 resources regulator. The very first sentence of the recommendations states:

Dartbrook is located approximately four and a-half kilometres south-west of Aberdeen.

45 Which is news to us, because Aberdeen is within 1.3 kilometres of the ROM hopper at the CHPP, as shown on your map there and Aberdeen is within 3.2 kilometres of the Kayuga box cut entry.

More than once the recommendation states:

The Upper Hunter Valley is known for its coal mining developments.

5 Now, with respect, we believe the Upper Hunter Valley is known for the exact
opposite. That's why we're here speaking to you. It is famous for its thoroughbreds,
its beef cattle and its scenic beauty. Now, I don't want to get too nit-picky, but the
Department's potted history of the proposal given at your meeting is also incorrect.
10 The Kayuga open cut was developed by Bellambi Coal in the early 80s. The EIS for
the open cut was lodged in '84. Bellambi and their joint venture partner, Shell, then
developed the underground proposal in the late 80s and that mine was approved in
'91 and has produced coal from 1994.

15 Anglo American bought Shell's Australian coal assets in 2000 and the deal was
finalised in 2001. So in conclusion, council urges the commissioners to reject this
modification application. We have drawn our own line in the sand, with the position
statement, and for sound reasons, we ask that you respect it. The economics of this
mine do not stack up. Air quality is demonstrably beyond acceptable standards in
20 Aberdeen and Muswellbrook already. The water impacts of the proposal are too
risky and not well enough researched or defined to allow consent. Safety is a major
issue that has been ignored and simply not assessed. Emissions have not been
assessed as required by the mining SEPP, nor against the wider necessity for
emissions reduction, nor in the context of the Preston judgment.

25 The proponent has not demonstrated either the necessary experience or financial
ability to operate this mine and the community should not have to pay for the
proponent's lack of experience and resources. Questions. To us, air quality is a
critical issue. All those figures and data, that's taken from the OEH website, and
reproduced directly from that. The fact that Muswellbrook is at or beyond the
30 cumulative – excuse me – annual deposition, as specified in the mining SEPP, is – is
– is strange, and it's – it beggars belief to us that the Department wouldn't have
checked that and noticed that and investigated that. And we think it is a critical
issue.

35 PROF LIPMAN: I suppose the only thing that you didn't cover was the social
impact assessment that they provided in the ITS. What did you think of that?

MR FISHER: Personally, not – not – not a great deal. I – it's a very, very small
step in the right direction but I – I don't hold a great deal of store by it personally. I
40 don't know if the others would have comments.

MR PRINGLE: No, I would agree.

MR McDONALD: Yes, I would agree, as well.

45 PROF LIPMAN: Yes, so it's Matt Pringle here. I just want to also add to
Councillor Fisher's presentation, just in relation to the planning aspects. As you

know the site is predominantly zoned 84, primary production, small lots. And we are aware that the LEP doesn't apply to this proposal. This is being assessed under section 75W. However, if we just point out the objectives of that zone: to enable sustainable primary industry and other compatible land uses, to encourage and
5 promote diversity and employment opportunities in relation to primary industry enterprises, particularly those that require smaller lots or that are more intensive in nature and also to minimise conflict between land uses within this zone and land uses within adjoining zones.

10 In our view, it is considered that the proposed modification is inconsistent with the zone objectives, and it will enable the continued operation of an unsustainable primary industry that is incompatible with surrounding land uses, and will result in ongoing land use conflict. Furthermore, whilst the modified proposal will provide employment opportunities, these opportunities will be short-lived and unsustainable
15 in the long term. A more sustainable primary industry would provide long-term employment for the local population so I just wanted to point that out, even though I'm aware that the LEP doesn't apply.

PROF LIPMAN: I thought – I thought the LEP permitted mining with consent.
20

MR PRINGLE: Under the mining SEPP, that's correct.

PROF LIPMAN: So it is a permitted use.

25 MR1: Yes, yes.

MR2: I don't have any further questions. I thought that was very comprehensive.

30 PROF LIPMAN: Well, I think it was a most comprehensive briefing and a lot of the background and aspects that's – I would find in the assessment report or in the application so it gives us a lot of information to assess - - -

MR FISHER: Yes, yes, the - - -
35

PROF LIPMAN: - - - and consider and we really appreciate the work that you've put into it.

MR FISHER: Not at all, it's our – it's our pleasure.
40

PROF LIPMAN: Peter.

MR P. COCHRANE: Could you – could you provide us with a copy of the two papers that you refer to, the Grubb 2008 et al one and the spontaneous combustion,
45 that's referred to - - -

MR FISHER: Yes.

MR COCHRANE: There's two papers referred to on page 17 and the Morby 2005 paper.

MR FISHER: Yes.

5

MR COCHRANE: They sound worth reading.

MR FISHER: To be honest, if you – if you go into Google Scholar and type in - - -

10 MR COCHRANE: I could find them. All right

MR FISHER: - - - Kayuga – Kayuga C – no, no, I'm not saying that you will – we're happy to provide them but you will find a wealth of documentation about this mine.

15

MR COCHRANE: Okay.

MR FISHER: It's – it's possibly the most studied mine in New South Wales.

20 PROF LIPMAN: Of course, the mine does have approval to operate until 2022, whatever we do.

MR FISHER: Absolutely, yes. But that is specific to longwall mining.

25 MR PRINGLE: I'd also like to highlight too the summary of the legal advice that's provided in the supporting documentation that you've got there; there's a couple of pages just summarising that advice, I think that's important to – to note.

30 MR FISHER: Yes, that – that advice was very clear that without a proper consideration of emissions as required by the SEPP, that this – this proposal couldn't – couldn't be – you couldn't physically do your job of assessing it because they haven't provided the information, and I might add should – subsequent to that, should be refused because of that but I don't want to presuppose your considerations.

35 MR R. CARTER: So the position statement of council, that's going to be the March 2015 one which

MR FISHER: Yes, that's the current – that's the current - - -

40 MR CARTER: So it's about to be updated as well.

MR FISHER: Yes. It was – it was – yes, it was updated when it was four years old from 2011 and - - -

45 MR CARTER: Yes.

MR FISHER: - - - it is due now, I must admit. But we – yes, we will – we are working on that. Obviously, when legislation changes, you need to – you need to update it. One of the powers has been relinquished, certainly, in the Bunnan Merriwa area so, you know, we just need to keep on top of changes in legislation and
5 make sure that we're up to date in our assessment. And I think it's – it's not a short document, it's – but it does try and explain the reasoning behind the decisions that have been made and, yes.

MR CARTER: Yes. So council's position would essentially be the same sentiment,
10 but updated to reflect - - -

MR FISHER: Yes, I imagine so. Yes.

MR CARTER: - - - legislation. Thank you.
15

MR COCHRANE: Thank you. That's a lot of new material.

PROF LIPMAN: Yes, a lot of work has gone into this.

MR FISHER: Well, we feel it's very important. Maybe – maybe we did more work
20 that the Department.

MR McDONALD: That is a very important decision to be made and obviously we researched it and we believe that we've provided sufficient evidence to justify our
25 position.

PROF LIPMAN: Well, I – I think we need to, you know, take this under consideration and – and spend some time going through it. We may or may not get back to you with specific questions on it, which - - -
30

MR FISHER: Yes, absolutely.

PROF LIPMAN: - - - perhaps you would respond to.

MR FISHER: We've put our contact details on the very last page, email and phone
35 – phone numbers.

PROF LIPMAN: Thank you. But at this stage, I think – I think it's something that we need to do – to consider and discuss. Have you any specific questions?
40

MR COCHRANE: No, I don't. No.

PROF LIPMAN:

MR CARTER: I'm good, thank you.
45

PROF LIPMAN: Yes.

MR FISHER: Well, thank you very much for your time.

PROF LIPMAN: Well, I would just like to thank you. Yes. Thank you very much.
5 We've really appreciated the – the background and all the information you've put
together in the hard work you've put into it. Thank you.

MR FISHER: Can I – one last – very last point, it just relates to tomorrow's
meeting. I'm scheduled to speak for 10 minutes. I think the second speaker. I – I
10 just crave your indulgence to do that. This – this mine has provoked a lot of
community anxiety and it's – it's possibly I will be speaking more to the people
behind me than the people in front of me, so if that's okay with you, I would just run
through the - - -

PROF LIPMAN: Of course, yes. Yes.
15

MR FISHER: - - - the – the major things.

PROF LIPMAN: Certainly. That – that would be useful.

MR FISHER: It is – it is important as an elected representative to – to be seen to be
20 voicing the community's concerns on this.

PROF LIPMAN: Yes, of course. That's – that's right.

MR FISHER: Yes, so – so even though you will have heard most of it before, I – I
25 do crave your indulgence and I thank you for your – for that.

MR COCHRANE: But you will need to stick to 10 minutes because - - -

MR FISHER: Yes, that's fine.
30

MR COCHRANE: - - - we're going to run through till 6 o'clock, I think.

MR FISHER: No, no, I can - - -
35

PROF LIPMAN: Yes.

MR FISHER: Yes, yes.

PROF LIPMAN: Yes. Be a lot - - -
40

MR FISHER: I will be quick. I will be quick.

PROF LIPMAN: Be a lot shorter than it was today.
45

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[5.06 pm]