

Aaron Brown

From: [redacted]
Sent: Saturday, 9 February 2019 3:45 PM
To: IPCN Enquiries Mailbox
Cc: [redacted] climate and community!

Categories: Aaron

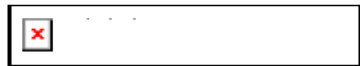
Dear David,
Vickery Extension Project
Public Hearings 4th 5th February Boggabri and Gunnedah 2019

Please refer my supplementary written submission contained in this E mail to the IPC Commissioners Vickery Extension Project.
This is a landmark legal win for climate change and community.
There are many parallels with the new Vickery Extension Project and this recent decision in the Land and Environment Court.
The VEP is definitely a new project and should not be given development consent under any circumstances. The spur railway location is unacceptable for the hydrogeological reasons covered extensively in the Crawford submission against the Project.
The multistage process is flawed as is doesn't allow access to the Land and Environmental court.
The Commissioners are now under extreme pressure to show fairness in their decision to the Liverpool Plains communities.
Vickery Coal Pty Ltd gave good economic arguments however, virtually left out environmental and social aspects of triple bottom line sustainability issues. The EIS is not balanced.

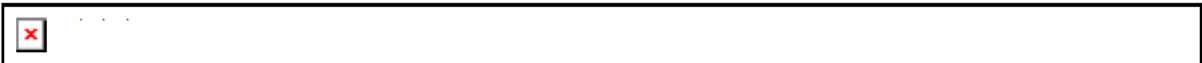
I ask the commissioners to address these issues in their report.
Particularly, the legal precedent that has been set by the ruling in the Rocky Hill case

Yours Sincerely,
Ken Crawford
9th February 2019

From: Environmental Defenders Office NSW [redacted]
Sent: Friday, 8 February 2019 4:46 PM
To: [redacted] climate and community!



Stop the presses!
Landmark EDO NSW legal win for climate and community
in Rocky Hill case



Apologies that you have not received your regular weekly e-bulletin today - we've been busy in Court. You may see something about it on the news... We'll send you a full update next week.

Today the Chief Justice of the Land and Environment Court Brian Preston SC handed down his judgment in our landmark case, refusing approval of a new coal mine to be built just outside of the town of Gloucester in the NSW Upper Hunter Valley. **This is the first time an Australian court has refused consent for a coal mine on the basis of its climate change impacts. The Court also poses a foundational question for all future fossil fuel projects: “the wrong time” test.**

The Court accepted our scientific evidence and the concept of a global carbon budget. NSW Environmental Defenders Office CEO David Morris stated *“In the face of that acceptance, the judgment presents a foundational question for all decision makers. It is this: given that, if we are to remain within the global carbon budget, only a finite amount of additional carbon can be burned, and that existing approvals already exhaust that budget, why should this particular project be prioritised over any other, or displace an existing approval? That is ‘the wrong time’ test and will prove an insurmountable barrier for many projects going forward”*.

Representing community group Groundswell Gloucester, EDO NSW argued the mine was contrary to the public interest and principles of ecologically sustainable development because of its significant social and climate change impacts.

The Court accepted those arguments in deciding to refuse approval for the mine, finding that carbon emissions from the mine will contribute to global warming, such that approving it will not assist in achieving the rapid and deep reductions in emissions needed in order to meet Australia’s Paris targets.

Significantly, the Court held that **it was not important that emissions from the mine would be a fraction of global total emissions, noting that the global problem of climate change needs to be addressed by multiple local actions to mitigate emissions.** The Court also found that the mine’s economic benefits had been substantially overstated.

The Court found that the Rocky Hill coal project will cause a variety of serious negative social impacts to the Gloucester community, including visual, noise and dust impacts, and significant impacts to Aboriginal Cultural Heritage, stating that the mine will severely impact on people’s sense of place.

In summing up his judgment, Chief Justice Preston SC said: *“In short, an open cut coal mine in this part of the Gloucester valley would be in the wrong place at the wrong time. Wrong place because an open cut coal mine in this scenic and cultural landscape, proximate to many people’s homes and farms, will cause significant planning, amenity, visual and social impacts. Wrong time because the greenhouse gas emissions (GHG) of the coal mine and its product will increase global total concentrations of GHGs at a time when what is now urgently needed, in order to meet generally agreed climate targets, is a rapid and deep decrease in GHG emissions. These dire consequences should be avoided. The Project should be refused.”*

David Morris concluded, *“This is a seminal moment in the development of climate litigation in Australia – and will weigh heavily on the minds of decision-makers considering whether to approve new fossil fuels projects.”*

This landmark case puts Australia well and truly on the map in terms of international climate change litigation. The NSW Environmental Defenders Office (EDO NSW) is at the forefront of public environmental interest lawyers using the law to protect our climate and environment for current and future generations.

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BACKGROUND

This was a once in a generation case: the first hearing of its kind since the historic Paris Agreement, in which a superior jurisdiction Australian court heard expert testimony about climate change, the carbon budget and the impacts of burning fossil fuels.

Acting for local community group, Groundswell Gloucester, the Environmental Defenders Office, with counsel Robert White, heard from expert witnesses on visual and noise impacts, climate science and energy finance, the economics of coal, town planning and the social impacts of a mine on the town’s doorstep.

This included detailed evidence from Emeritus Professor Will Steffen on the global carbon budget, which must not be exceeded if temperature rise is to be kept at less than 2C on pre-Industrial levels. Steffen said that in order for Australia to meet its obligations under the Paris Agreement, the coal reserve at Rocky Hill cannot be developed: *“Step number 1, if you’re really serious about the Paris targets, is no new fossil fuel developments... You cannot reduce*

emissions by increasing them.”

The court also heard from energy analyst Tim Buckley on the risk that the coal mine would become a stranded asset, given market trends away from coal; acoustics expert Stephen Gauld on the noise nuisance from the mine; and anthropologist and expert on regional communities and displacement Dr Hedda Askland on the social impacts should the mine go ahead.

David Morris, CEO of EDO NSW: *Our argument was based on science, economics and – we argued - the proper application of the law. The climate contention as a ground for refusing this mine was innovative; the first time climate change has been addressed this way in an Australian court using the concept of a carbon budget as its basis.*

*Like so many great ideas – its strength was its simplicity. While there was lots of necessary evidence and discussion about the carbon budget, geopolitical climate policy and Australia’s legal framework for climate change, ultimately our argument was simple: **if you accept the science, then the local legal framework compels you to refuse the mine because it’s clearly not in the public interest to increase emissions.***

As Professor Steffen said “it’s one atmosphere, it’s one climate system, it’s one planet - and so we need to start thinking more carefully about the net effect of wherever coal is burnt, or oil or gas... The project’s contribution to cumulative climate change impacts means that its approval would be inequitable for current and future generations”.

60 community objectors, including farmers, doctors, Traditional Owners, old people and young people, gave evidence. Some were opposed because of noise impacts, others worried about how the mine might tear at the fabric of their community. Many were very concerned about their children and grandchildren and the kind of world they will live in if projects like this, which contribute to climate change, continue to be approved.

Julie Lyford, Chair, Groundswell Gloucester, “The Gloucester community is deeply grateful to EDO NSW staff and Barrister Robert White for their unstinting support of the Gloucester residents and assisting in the protection of our beautiful valley.

We are ecstatic that the court has ruled against the proposal for an open cut mine, 250m deep and less than 1km from family homes. Climate change is the major threat to our regions, water, health and to the planet.”

You can read more about the case [here](#) and look out for next week's e-bulletin with all the details.

[Donate to our Environmental Defence Fund](#)

EDO NSW recognises the traditional owners and custodians of the land, seas and rivers of Australia. We pay our respects to Aboriginal and Torres Strait Islander elders past and present, and aspire to learn from traditional knowledge and customs so that, together, we can protect our environment and cultural heritage through law.

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