

Dartbrook Coal Mine-Modification 7 (DA 231-7-2000 MOD7)

Sue Abbott,

Harriet's grandmother, on behalf of Harriet

INTRODUCTION

1. I am a local resident of the Upper Hunter Shire. I live at Moobi near Scone with my husband, and we came to live in the Upper Hunter in 1983.
2. I am also a councillor on the Upper Hunter Shire Council but today I write as a Harriet's grandmother on behalf of Harriet.
3. I object to the entire modification, and I consider that consent to the entire modification should be rejected.
4. My submission focuses on the Department's recommended conditions of consent which in my opinion do not address key community concerns.

BY MINISTERIAL DELEGATION, IPC THE APPROVAL AUTHORITY

5. The Department of Planning and Environment Dartbrook Coal Modification 7 Assessment Report states: "The Department is recommending strict conditions requiring compliance with revised air quality standards and updated air quality, noise, subsidence and water management practices. Where AQC has made commitments to mitigate or reduce impacts from the modification, the Department has also recommended contemporising a broad range of existing management, monitoring, reporting and regulatory conditions in the underlying consent, which has not been modified since 2005."¹
6. The community relies on the IPC to hear our views and to critically assess whether (a) the aforementioned 'strict conditions' go far enough to resolve identified concerns and historical inadequacies or whether (b) the 'strict conditions' merely postpone unicorn thought bubbles to be revisited again after consent has been granted leaving nothing resolved.
7. In my submission, if the answer is (b) the modification should be refused.

¹ Dartbrook Coal Mine Assessment Report, p iii.

RECOMMENDED CONDITIONS OF CONSENT & MY CONCERNS

8. My presentation focuses on the sub-heading of the air quality recommended condition, the Australian elephant in the room, climate change.²

Climate Change and *Gloucester Resources Limited and the Minister for Planning (2019)*

9. In relation to climate change and the Dartbrook modification, I believe it is relevant to consider the persuasive *Gloucester Resources Limited and the Minister for Planning* case.³
10. When the Chief Judge of the New South Wales Land and Environment Court delivered judgment in the Rocky Hill case on 8 February 2019 it drew attention around the world because it was the first time an Australian court had refused a coal mine (or any development) on the basis of its climate impact.
11. The court concluded that the mine would be in the “wrong place at the wrong time.”⁴
12. The wrong place because of its incompatibility with residential amenity and other land uses, its visual impacts, and its social impacts (including those caused by noise, dust and visual impacts).⁵
13. The wrong time because “the greenhouse gas emissions of the coal mine and its coal product will increase global total concentrations of greenhouse gases at a time when what is now urgently needed, in order to meet generally agreed climate targets, is a rapid and deep decrease in greenhouse gas emission.”⁶
14. In relation to climate change and its catastrophic impacts on the world at large, the Rocky Hill case demonstrates that “climate change must be in the minds of decision makers when assessing the impacts of greenhouse gas emissions on the climate, environment and people, and that decision makers are obligated to make decisions having regard to limit global warming to 1.5 degrees Celsius above pre-industrial levels.”⁷

² Dartbrook Coal Mine Assessment Report, p 32.

³ *Gloucester Resources Limited and the Minister for Planning* [2019] NSWLEC 7

⁴ *Gloucester Resources Limited and the Minister for Planning* [2019] NSWLEC 7: at 699

⁵ *Gloucester Resources Limited and the Minister for Planning* [2019] NSWLEC 7: at 699

⁶ *Gloucester Resources Limited and the Minister for Planning* [2019] NSWLEC 7: at 699

⁷ Cerin Loane, Senior Policy and Law Reform Solicitor, and Rachel Walmsley, Director Policy and Law Reform EDO NSW, *Climate-ready planning laws for NSW: Rocky Hill and beyond* (10 April 2019) NSW EDO https://www.edonsw.org.au/climate_ready_ldaws_nsw_blog at 6 April 2019.

15. In relation to climate change impacts and the modification, I note the recommended condition in the Final Assessment Report states that:

- “revised operating conditions to ensure that mitigation measures proposed are implemented and monitoring is undertaken so compliance with air quality criteria can be demonstrated” and that,
- “AQC are to describe these measures in an Air Quality and Greenhouse Management Plan, to be approved prior to recommending mining operations”⁸ and that,
- “these conditions address cumulative impacts, amenity and health concerns.”⁹

16. The recommended conditions fall short of addressing cumulative impacts, amenity and health concerns, and the mitigation measures mentioned in the recommended condition are only proposed and not clearly specified.

17. I do not accept that the recommended conditions put forward by the proponents can condition away poor air quality, cumulative impacts, amenity and health concerns. In my opinion the proponents have not turned their minds to the ‘causal link’¹⁰ between the modification’s “cumulative greenhouse gas emissions and climate change and its consequences.”¹¹

18. In the Rocky Hill decision, Chief Justice Preston (Preston CJ) said that:

“it matters not that this aggregate of the Project’s GHG emissions may represent a small fraction of the global total of GHG emissions. The global problem of climate change needs to be addressed by multiple local actions to mitigate emissions by sources and remove GHGs by Sinks.”¹²

In his judgment, Preston CJ highlighted that Professor Will Steffen, an earth systems scientist, had pointed out that:

⁸ Dartbrook Coal Mine Assessment Report, p32.

⁹ Ibid.

¹⁰ *Gloucester Resources Limited and the Minister for Planning* [2019] NSWLEC 7: at 525.

¹¹ *Gloucester Resources Limited and the Minister for Planning* [2019] NSWLEC 7: at 525.

¹² *Gloucester Resources Limited and the Minister for Planning* [2019] NSWLEC 7: at 515.

“global greenhouse emissions are made up of millions, and probably hundreds of millions, of individual emissions around the globe”¹³

and that,

“all emissions are important because cumulatively they constitute the global total of greenhouse gas emissions, which are destabilising the global climate system at a rapid rate.”¹⁴

19. In the Rocky Hill decision, the court accepted that:

“Australia is a party to both the Climate Change Convention and the Paris Agreement. Under the Paris Agreement, each party commits to make its contribution to keeping the global average temperature rise to between 1.5-2°C range by reducing their GHG emissions through their Nationally Determined Contributions (NDC). Australia’s NDC is to reduce GHG emissions by 26-28% below 2005 levels by 2030. The NSW Government has endorsed the Paris Agreement and has set a more ambitious objective to achieve net zero emissions by 2050”¹⁵

20. Preston CJ went on to say in the Rocky Hill decision that:

“a commonly used approach to determine whether the NDCs of the parties to the Paris Agreement cumulatively will be sufficient to meet the long-term temperature goal of keeping the global temperature rise to between 1.5 degree Celsius and 2 degree Celsius is the carbon budget approach. The carbon budget approach is based on the well-proven relationship between the cumulative anthropogenic emissions of GHGs and the increase in global average surface temperature. The carbon budget approach ‘is a conceptually simple, yet scientifically robust, approach to estimating the level of greenhouse gas emission

¹³ *Gloucester Resources Limited and the Minister for Planning* [2019] NSWLEC 7: at 515.

¹⁴ *Gloucester Resources Limited and the Minister for Planning* [2019] NSWLEC 7: at 515.

¹⁵ *Gloucester Resources Limited and the Minister for Planning* [2019] NSWLEC 7: at 440.

reductions required to meet a desired temperature target’ such as the Paris Agreement targets of 1.5 degree Celsius or 2 degree Celsius ... once the carbon budget has been spent (emitted) emissions need to become ‘net zero’ to avoid exceeding the temperature target. Net zero emissions means the magnitude of CO2 emissions to the atmosphere is matched by the magnitude of CO2 removed from the atmosphere.¹⁶

21. In the Rocky Hill decision, the court accepted Professor Steffen’s expert opinion that:

“most of the world’s existing fossil fuel reserves – coal, oil and gas – must be left in the ground, unburned, if the Paris Accord climate targets are to be met ... the exploitation, and burning, of fossil fuel reserves leads to an increase in CO2 emissions when meeting the Paris accord climate targets requires a rapid and deep decrease in CO2 emissions”¹⁷

And that:

“no new fossil fuel developments should be allowed.”¹⁸

22. I note again that recommended conditions in the Dartbrook Coal Modification 7 Assessment Report cannot condition away the fact that “the emission of GHGs impacts the environment”¹⁹ nor can it condition away the fact that the Dartbrook modification is inconsistent with the carbon budget approach we need to take towards climate stabilisation and the meeting of our Paris accord climate targets.

CONCLUSION

23. The Department says it has assessed the merits of the proposed modification having close regard to concerns raised by the community and advice provided by key government agencies and that on balance it considers the modification’s benefits would outweigh its costs and that the modification would improve the overall

¹⁶ *Gloucester Resources Limited and the Minister for Planning* [2019] NSWLEC 7: at 441.

¹⁷ *Gloucester Resources Limited and the Minister for Planning* [2019] NSWLEC 7: at 446.

¹⁸ *Gloucester Resources Limited and the Minister for Planning* [2019] NSWLEC 7: at 447.

¹⁹ *Gloucester Resources Limited and the Minister for Planning* [2019] NSWLEC 7: at 431.

viability of the mine by enabling underground mining operations to recommence, thereby allowing its potential social and economic benefits to be realised.

24. But our children are objecting to the burdens of fossil fuel projects; burdens that are being distributed to their generation and to future generations²⁰ – they are not as confident as the Department that the benefit of this fossil fuel project modification outweighs its costs.
25. Children across the world are eschewing their education, they are striking on Fridays and taking to the street to protest against their leaders’ wilful disregard of the catastrophic climate emergency we face today.
26. Children are fed up with the lip service we pay to intergenerational equity, distributive equity, distributive inequity, distributive justice, the precautionary principle, ecologically sustainable development.²¹
27. I live in the Upper Hunter shire where the local council has a ‘NO-mining policy.
28. I am proud to live in a shire where the local council has this policy, as I am equally proud to live in a shire where the local council has resolved that we are in a state of climate emergency and has acknowledged that urgent action is required from all levels of government including local government.
29. The Dartbrook modification 7 is not in the public interest or our children’s interests.
30. As a result of its potential contribution to climate change and associated detrimental environmental impacts, the Dartbrook modification 7 is not consistent with the principles of Ecologically Sustainable Development (ESD).
31. When my granddaughter, Harriet, grows up and says to me “what did you do to protect the world for me” what am I going to say?²²
32. What are we all going to say?
33. The Independent Planning Commission must refuse the proponent’s application.

²⁰ *Gloucester Resources Limited and the Minister for Planning* [2019] NSWLEC 7: at 416.

²¹ *Gloucester Resources Limited and the Minister for Planning* [2019] NSWLEC 7: at 389, 399, 400, 401, 402, 403, 404.

²² Ruth Mundy, Adani, <https://youtu.be/2CqE37lmsvs> at 15 April 2019.