

Thank you Commissioners.

I am here today representing Mudgee District Environment Group.

We sought advice from the NSW Environmental Defenders Office in regard to the relevance of the recent Land and Environment Court judgement that refused the Rocky Hill Coal Mine.

I have a letter from EDO that I will table for the Commission and give a verbal summary.

The letter states that:

In relation to climate change impacts of the Rocky Hill Coal Mine project, the Court accepted Professor Will Steffen’s expert opinion and found, that *“the direct and indirect Greenhouse Gas emissions of the Rocky Hill Coal Project will contribute cumulatively to the global total Greenhouse emissions”*.

Significantly, Professor Steffen’s evidence was not contested by the Minister for Planning in the Rocky Hill case. We note that Professor Steffen has provided equivalent evidence for the consideration of the IPC in relation to the proposed Moolarben Coal Mine Stage 1 Modification 14 and Stage 2 Modification 3.

Rosemary Hadaway will be presenting this expert report on behalf of Mudgee District Environment Group shortly.

The EDO letter also states:

The Court found that there *“is a causal link between the [Rocky Hill Coal] Project’s cumulative Greenhouse Gas emissions and climate change and its consequences.”* Therefore, the cumulative impact of the Rocky Hill Coal Project’s direct and indirect Greenhouse Gas emissions on global climate change were relevant considerations to be taken into account in the Court’s decision to refuse development consent for the project.

Similarly, Mudgee District Environment Group submits that the cumulative impact of these Modifications’ direct and indirect Greenhouse Gas emissions on global climate change is a relevant consideration to be taken into account by the IPC when assessing the Modifications.

We note that in this case, the Modifications involve a request for an expansion of the annual project output, yet continue to permit mining operations to be carried out on the site until 31 December 2038, as reflected in the draft Conditions of Consent.

In relation to climate change impacts of the Rocky Hill Coal Project, the Court further found, amongst other things:

Consideration of the principles of ESD can involve consideration of climate change.

*“Although GRL submitted that Scope 3 emissions should not be considered in determining GRL’s application for consent for the Rocky Hill Coal Project, I find they are relevant to be considered”*.

The judgement states that: The consent authority’s task is to determine the particular development application and determine whether to grant or refuse consent to the particular development the subject of that development application. Where the development will result in Greenhouse Gas emissions, the consent authority must determine the acceptability of those emissions and the likely impacts on the climate system, the environment and people.

The Court concluded that the Rocky Hill Coal Project's "*poor environmental and social performance in relative terms*" justified its refusal and that included the "*Greenhouse Gas emissions of the [Rocky Hill Coal] Project and their likely contribution to adverse impacts on the climate system, environment and people*".

EDO submits that the issues raised in the judgement also form relevant considerations in relation to the Modifications before you.

The letter provides much more detail on the judgement that I won't refer to now, but trust that Commissioners will take this correspondence into account as part of the Mudgee District Environment Group submission to the community consultation process.

The Rocky Hill Coal Mine project was to produce 21 million tonnes of run of mine coal with 13 million tonnes of product coal over a 21 year period. The majority of the coal is coking coal used for steel making.

This was a production rate of less than 1 million tonnes of coal per year.

In comparison, the Moolarben Mine complex has approval to produce 21 million tonnes of run of mine coal per year with an annual product coal limit of 18 million tonnes per year.

All this coal is for thermal use through power stations.

The Modifications propose to increase the run of mine coal by an additional 3 million tonnes per year up to 24 million tonnes and the product coal by an additional 4 million tonnes per year up to 22 million tonnes.

The Modifications in themselves are a three times greater volume of annual run of mine production than the Rocky Hill Project and over a four times greater volume of annual product coal.

The proposed annual production of 22 million tonnes of thermal coal for a 19 year period until 2038 will produce a vastly greater volume of Greenhouse Gas emissions than the Rocky Hill Coal Project.

We submit to you that the Land and Environment Court judgement refusing the Rocky Hill Coal Project on the grounds of climate change impacts is highly relevant for your consideration when assessing the application before you.

I will table the EDO letter and we will email the full Land and Environment Court judgement on the Rocky Hill Coal Project for the Commissioner consideration.

Thank you

Virginia Nicholas



*Virginia Nicholas*