

28 November 2016

Mr Paul Forward  
Chairman  
Review PAC - Drayton South  
GP Box  
Sydney NSW 2001

By Email:  
[pac@pac.nsw.gov.au](mailto:pac@pac.nsw.gov.au)

Dear Commissioners

## **Drayton South**

This submission is made by Coolmore Australia ("Coolmore") in relation to State Significant Development Application SSD\_6875 lodged in December 2014 by Anglo American Metallurgical Coal Pty Ltd ("Anglo") in respect of the Drayton South Coal Project.

Coolmore welcomes the opportunity to make this submission. It follows detailed submissions made by Coolmore to the Planning Assessment Commission ("PAC") on this application in September 2015, and a further one to the Department of Planning and Environment ("the Department") on 29 June 2016. This submission focuses on the PAC Review findings in 2015, and responds in particular to the Department's Final Assessment Report of September 2016.

This submission expresses the same extreme concern about the impacts of the proposed project on Coolmore's operations and the ongoing efforts by Anglo, supported by the Department but not, to date, the PAC, to gain approval for a new mine with consequential threats to the adjoining thoroughbred stud farms. The impacts remain so severe that continuation of our business in the Hunter Valley is at risk if the mine is granted approval. This point is not made lightly but unfortunately reflects reality. The PAC's consideration of the latest application is of critical importance to the future of Coolmore at Jerry's Plains, and the Hunter Equine Critical Industry Cluster.

Coolmore is conscious that this PAC, like others before it, has already received volumes of information, has visited the farm, and has heard from a large number of people, especially from the thoroughbred industry, at the recent two-day public hearing. The preliminary submission of 24 November 2016 included two of Coolmore's previous submissions as well as new expert reports. In light of all this, we consider that the Commission is very well informed of the scale, scope and significance of Coolmore

Australia's business and we do not intend to repeat that detail here. However, such information is of course available to the PAC should it be sought.

**Overview**

- 1. PAC Review 2015**
- 2. Department's Final Assessment Report**
- 3. Factors in the Department's Recommendation**
  - 3.1 Scientific analysis
  - 3.2 Government policy framework
  - 3.3 Objections / public opinion
  - 3.4 Economic contribution
- 4. Other Arguments Made by the Department**
  - 4.1 Consistency in objections
  - 4.2 History of land use / investment by Coolmore
  - 4.3 History of application
- 5. Bennett Review: factual errors**
- 6. Impacts on Coolmore**
  - 6.1 Direct impacts
    - 6.1.1 Physical
    - 6.1.2 Operational
  - 6.2 Reputation
- 7. Investment in other States**
- 8. Key Points for the Determination PAC to Consider**
- 9. Conclusion**

**Appendices****Appendix 1 – Satellite Image 1991****Appendix 2 – 'Raised and Grazed' Marketing Campaign**

## 1. PAC Review 2015

This PAC found that there is an inherent incompatibility between the competing land uses of thoroughbred breeding and open cut coal mining in this location, and that this conflict could not be overcome. It concluded despite the proponent's best efforts, "The two land uses are vastly different and are not compatible in close proximity."<sup>1</sup>

The Review PAC quite rightly focused on the negative implications for Coolmore's reputation and business viability, and the consequential impact on the Equine Critical Industry Cluster in the Hunter Valley. It found that there would be unmanageable direct operational impacts from blasting at Drayton South on Coolmore. The PAC also noted that there would also be direct physical impacts on Coolmore, although it accepted that they might be within established general standards acceptable elsewhere.

The PAC was correct in drawing a distinction between other areas and the neighbourhood of the Drayton South proposed project. The generally accepted criteria are irrelevant in this situation which needs to identify and assess impacts upon existing, well-established and highly sensitive land uses by a proposed new mining development.

Coolmore emphasises the evidence of significant direct physical impacts, and the absence of any standards applicable to raising thoroughbred racehorses, intended to be elite equine athletes.

## 2. Department's Final Assessment Report September 2016

The Department is clearly predisposed to open cut coal mining in this area, having supported approval of the proposed project even at much closer proximity to Coolmore. Its report must be read in this context. The report is inaccurate in part and relies heavily on two flawed pieces of work. It makes assertions which are untrue and it misrepresents Coolmore's arguments and position at numerous points. On occasions, these misrepresentations appear almost intentional, as the Department goes to some lengths to re-interpret information provided to it by Coolmore. Significant resources have been deployed including the engagement of a consultant.

Contrary to Anglo's claims, the PAC need not place any more weight on the Department's report than on any other evidence submitted to it, and in particular that of the 2015 PAC Review. It would be irresponsible for the PAC to place greater priority or importance on one report over

---

<sup>1</sup> Review PAC November 2015, p ii.

another. It would be an error of law for the Determination PAC to give "little, if any, weight" to the report of the Review PAC, as encouraged by Anglo<sup>2</sup>.

The Determination PAC should question to what degree it can rely on the report of the Department considering that:

- it varies considerably in tone and argument from the Department's Preliminary Assessment Report of August 2015, even though it relates to exactly the same mine plan
- it relies heavily on the works of Houston and Bennett, which are wrong in facts, flawed in argument and refuted by the evidence submitted by multiple senior participants in the thoroughbred industry, and by economists Dr Philip Williams and Dr Jill Stowe and other experts jointly commissioned by Coolmore and Darely
- it omits highly relevant information, for example nowhere does the Department state that the setback is just 900 metres, nor does it refer to the Mining SEPP amendment prohibiting open cut mining at Bickham in 2010 due to impacts on the equine industry
- it effectively ignores most of the points raised in Coolmore's submission of June 2016, unfairly presents Coolmore as unreasonable and seems to criticise Coolmore for having invested in the Hunter Valley over the past 30 years
- the level of support from the Department for this proposed project in all its phases over the past four years seems to go beyond what many might regard as an independent assessment.

Ultimately, the Department says it recommended approval of the proposed project, because in its "view" Coolmore and Darley are unlikely to leave the Upper Hunter<sup>3</sup>. It also dismisses the evidence that the Equine Critical Industry Cluster would be adversely affected by the departure of

---

<sup>2</sup> AngloAmerican Response to PAC Review Report May 2016. p 35

<sup>3</sup> DP&E Final Assessment Report 2016 p 26

the two main players. In advancing this view, it takes comfort from the reports of Houston and Bennett. What it sets aside in order to maintain this view are:

- the stated intentions of the two businesses involved regarding relocation
- the overwhelming confirmation of likely consequences from all those in the breeding and racing industry
- evidence from multi-disciplinary bloodstock industry experts
- the conclusions of nine Planning Assessment Commissioners to date.

The Department is an outlier in its view that the Equine Critical Industry Cluster would not be affected by the departure of the two main players. There has been a remarkable consistency of the contrary position among others assessing the proposed project.

The PAC in 2013 concluded that:

*"the studs are **highly important** to the Equine CIC and consequently to the broader region and should be protected from the impacts of mining... The Commission has found that the Coolmore and Woodlands studs are **critical** to the broader Equine CIC and should be protected. The Coolmore and Woodlands horse studs should be recognised as **essential** to the broader Equine CIC and given the highest level of protection from the impacts of mining."*<sup>4</sup>

In 2014 the PAC concluded that:

*"Both Coolmore and Darley stud farms are the **critical central players** in the Equine CIC. If they decide to relocate because of perceived or actual mining impacts on their operations, it would impact on the clean green image and reputation of the region. Without this status it is unlikely a similar calibre thoroughbred industry operator would replace those lost given the importance the industry has placed on the need to have a pristine environment for the breeding and care of thoroughbred horses and the perception of investors. The equine industry may survive, but it is unlikely to retain its economic significance and international reputation. The loss of 'clean green' branding will also have a flow on impact on the viticulture and tourism industries."*<sup>5</sup>

The 2015 PAC Review which addressed the current application states that Coolmore and Darley are 'two of the state's **most significant** thoroughbred breeding studs', 'The studs are **core pillars**

---

<sup>4</sup> PAC Review 2013 pp ii and iii

<sup>5</sup> PAC Determination 2014 p 1

of the Equine Critical Industry Cluster', '**central to the cluster's reputation** as the most significant thoroughbred breeding cluster in the Southern Hemisphere', "**highly important** and sensitive horse studs" and perhaps most importantly: "Coolmore and Darley's Woodlands have been found to be **key to the sustainability** of the Equine Critical Industry Cluster in the Upper Hunter and to NSW."<sup>6</sup>

The Department itself stated in August 2015 that: "the Department recognises that both the Coolmore and Woodlands studs are **essential** to the equine industry in the Upper Hunter, and should be afforded the highest level of protection from the impacts of mining."<sup>7</sup> (emphasis added). Now however, the Department reports that it is "of the view that the CIC would not suffer a long term terminal decline, should one or both studs choose to relocate away from the Upper Hunter."<sup>8</sup>

The Department emphasises what it describes as the 'substantial amount of new information provided by Anglo' - which is just the Houston report - and the 'arm's length review of this information' by Prof Bennett as significant additional evidence on the likely implications of the proposed project.

In fact, nothing has changed to warrant such a dramatic shift in the Department's position. Unless the Department has decided, and informed the PAC, that its priority land use for the Hunter Valley is coal mining above all others, and therefore the decline of the Equine Critical Industry Cluster is an acceptable risk, then the recognition of Coolmore and Darley's significance must stand.

### 3. Factors in Department's Decision

The Department identifies the following factors as important to its decision to recommend approval of the proposed project.

- the weight of scientific analysis
- consistent application of government policy framework
- support of the community
- the economic contribution the project would make to the local area.

#### 3.1 Scientific Analysis

---

<sup>6</sup> PAC Review 2015 pp i, ii and iii

<sup>7</sup> DP&E SEAR August 2015, p 43

<sup>8</sup> DP&E Final Assessment Report 2016 p 9

It is not disputed that the proposed project would have significant, tangible physical impacts on the general environment and on Coolmore's property and this is evidenced in the technical reports submitted by Darley from Dr. Peter Bacon, Dr. Pam Hazelton, Dr. Tim Owen, Ms. Sharon Veale, Mr. Michael White, Dr. Peter Stephenson, Mr. Owen Droop, Mr. Frank Butera, Mr. Michael Wright Dr. Brett Tennent Brown, and Mr. Peter Scott.

Anglo seeks simply to deny that any effects would or could occur, which is implausible. Even Professor Jeff Bennett, the economist engaged by the Department to review Greg Houston's work, writes of mining's impacts on neighbouring lands:

*"These include the surrounding air space (relevant for noise and views but especially for dust that can contaminate off-site pasture and crops) and perhaps most importantly, both surface and underground water."*<sup>9</sup>

It is well-established that open cut coal mining and its impacts on air quality have significant effects on population health. Large scale population studies in the United States evidence this and are detailed in Coolmore's August 2015 submission to the PAC.<sup>10 11</sup>

The NSW Environment Protection Authority published an Issues Paper on load based licensing in November 2016.<sup>12</sup> It states "there is no safe level of PM<sub>2.5</sub> exposure"<sup>13</sup> and that the new Ambient Air Quality Standards for PM<sub>2.5</sub> are unlikely to be attained in Singleton and Muswellbrook due to coal mining.<sup>14</sup> These areas are much closer to intensive coal mining than Coolmore but do indicate the effect of coal mining in proximity.

The same report states "PM10 is associated with significant health impacts, including a variety of lung and heart problems. Both long-term (years) and short-term (hours or days) exposure to PM<sub>10</sub> has been linked to health problems."<sup>15</sup>

There is no scientific study which explicitly assess the impact of proximity to open cut coal mining on thoroughbred racehorses, and nor will there ever be. The obligation is on the proponent to address the lack of full certainty. The PAC Review concluded that "the information provided throughout the application and review process has been unable to satisfy the Commission that

---

<sup>9</sup> Bennett, Jeff. Little Green Lies. Connor Court 2012. p228

<sup>10</sup> Ahern, M et al. (2011). "Residence in Coal Mining Areas and Low Birth Weight Outcomes" Maternal & Child Health J 15: 974-979.

<sup>11</sup> Hendry, M and Ahern, M (2008) "Relations between health indicators and residential proximity to coal mining in West Virginia," American Journal of Public Health 98(4) 669.

<sup>12</sup> NSW EPA Review of the Load-based Licensing Scheme: Issues Paper November 2016

<sup>13</sup> ibid p 34

<sup>14</sup> ibid p 17

<sup>15</sup> ibid p 34



the impacts, real and perceived, to the studs could be tolerated by their clients and investors."<sup>16</sup> (emphasis added).

Coolmore has provided detailed evidence that thoroughbred horses proportionately are more exposed to the impacts of open cut coal mining than humans, because of:

- the much larger size and rate of their respiratory systems - at rest, per breath, a thoroughbred respire 5,550ml of air compared to the average male who respire 602ml - nine times as much exposure
- the fact that they spend most of their time grazing with their nostrils to the ground - on which the dust will fall
- the greater range of their hearing which would suggest a mine blast is a different experience for them than for humans
- their highly-developed fright and flight response which has been selectively bred into thoroughbreds to maximize their racing performances by making them highly reactive to their environment

This innate sensitivity is increased in this situation because horses at Coolmore are being raised to be elite athletes, winning or losing races in fractions of seconds. The horses pictured on the front of the Department's report, in a photograph provided by Anglo, are standard-breds, used for trotting, on average worth 1/11th of a thoroughbred. They are known as placid animals, and are very different in disposition to the thoroughbred.

Dr Andrew McLean, a specialist in equine behaviour, has detailed to the PAC the particular traits and qualities that have been deliberately bred into the thoroughbred, in particular the highly developed flight response which renders them more sensitive to the impacts of the proposed project than other horses.

It is accepted by the NSW Government - including the Department of Planning- that in regard to standards for human health and dust, some segments of the population are more sensitive than others: "infants and children, elderly people, people with existing respiratory conditions, heart disease or diabetes may be more susceptible to the health effects from fine and coarse particles."<sup>17</sup>

---

<sup>16</sup> PAC Review 2015 p iii

<sup>17</sup> NSW Government Environmental compliance and performance report: management of dust from coal mines 2010. p3

There is every reason to believe the same would be true of horses - that some will be affected more than others.

The point here is not at all to compare equine health to, or prioritise it over, human health, but rather to show that the Government recognises that air quality standards are not appropriate to the most sensitive individuals, and they are not 'one size fits all'. Nor are such standards fixed forever, with typically more stringent standards being introduced over time.

The PAC has been correct in recommending refusal of the project on the basis of impact, irrespective of current standards, and the PAC Review referred to the very close proximity: "the Commission has found that these impacts – mitigated to a reasonable extent – are still in relatively close proximity to the studs. At this proximity, the impacts represent a real risk to the brand and image of the studs, and more importantly to the studs 'reputation, and consequent viability in this location."<sup>18</sup>

### 3.2 Government Policy Framework

Coolmore contends that the PAC has taken into consideration the existing policy framework sufficient to make an informed decision.

For example, the PAC is aware that all of Coolmore Australia's property has been designated as Strategic Agricultural Land, and as part of the Equine Critical Industry Cluster. The incompatibility of any proposed State significant mining project with existing land uses is a key consideration under the Mining SEPP. In concluding that there is a fundamental land use incompatibility between Coolmore's thoroughbred breeding operations and the proposed Drayton South mine, the Review PAC has clearly observed Clause 12 of the Mining SEPP which states:

*"Before determining an application for consent for development for the purposes of mining, petroleum production or extractive industry, the consent authority must:*

- (a) *Consider:*
  - (i) *the existing uses and approved uses of land in the vicinity of the development, and*
  - (ii) *(whether or not the development is likely to have a significant impact on the uses that, in the opinion of the consent authority having regard to land use trends, are likely to be the preferred uses of land in the vicinity of the development, and*

---

<sup>18</sup> Review PAC 2015 p 47

- (iii) *any ways in which the development may be incompatible with any of those existing, approved or likely preferred uses."*

Furthermore, the Department's own Upper Hunter Strategic Regional Land Use Plan (SRLUP) 2012 expressly recognises the need to balance the competing interests of mining and agriculture. It states in relation to the thoroughbred and wine industries:

*"If the critical mass of these industries declines (due to mine expansions or mining impacts) or the image of the region suffers, there could be appreciable damage to the wider industry and economy... Significant and well established agricultural activities need to have confidence that their future in the region is secure and there are opportunities for their industry to develop and grow, particularly as these industries have the potential to continue sustainably well beyond the expected lifespan of most coal mines."<sup>19</sup>*

The Hunter Regional Plan, Draft exhibited in November 2015 and final released in October 2016, identifies future opportunities for the equine industry. The Muswellbrook Local Environmental Plan 2009, which is an environmental planning instrument made under the EP&A Act and that applies to the Drayton South site, includes as its aims, among other things, expanding Muswellbrook's economic base and the proper management of productive agricultural land, and places of heritage significance.

The Review PAC has taken the policy background and its limitations into account and stated "the mining industry is not heavily reliant on this one mine. The same cannot be said of NSW's thoroughbred breeding industry, the standing of which is integrally connected to the quality of the stallions it stands".<sup>20</sup>

### 3.3 Objections / Public Perspective

The Department's assessment of public reaction is influenced by a campaign by Anglo and the NSW Minerals Council in 2015. The Department supports its decision to recommend approval of the proposed project partly because 17,943 emails of support were received, 17,765 of which were generated through the 'Voice for Mining' website run by the NSW Minerals Council. The 'Voice for Mining' section on Drayton South has not been updated since September 2015, more than a year ago.<sup>21</sup>

Coolmore recognises that many people support mining jobs, with good reason. Coolmore too is in favour of sustainable job creation in all industries, including mining. If directly asked in a shopping centre to support continued employment for mine workers, without any further context,

<sup>19</sup> SRLUP pp 44 and 45

<sup>20</sup> PAC Review 2015 p ii

<sup>21</sup> <http://www.nswmining.com.au/voice-for-mining/support-drayton-south>

it is not surprising that very many people would agree to do so. It is not at all clear that the context of the new mine was explained. It is a matter of public record that Anglo assigned a full-time, paid team to solicit this support over a lengthy period in 2015. This solicitation took place in some cases at locations quite distant from the local community.

An independent, properly sampled and demographically representative poll of adults in New South Wales was carried out by Newspoll in February 2015 and its results included in the June 2016 submission to the Department. It found that public opinion is not favour of locating an open cut coal mine 900 metres from large-scale thoroughbred breeding<sup>22</sup> with only 13% of the general public finding it acceptable. Furthermore, 72% of poll respondents believe that at least 4km should separate the two land uses and 55% of the population believe the distance should be at least 8-9km.

In its September 2016 report, the Department writes that "sections of the community maintain entrenched objections to the project (ie the studs and their local representative association)"<sup>23</sup> This is echoed in the comments of Anglo in their letter to the PAC of November 2016 which reduces all objections to those "from two horse studs." As the Department and Anglo know very well, these statements are just wrong and are easily disproved. The Department and proponent make them in the full and certain knowledge that it is simply untrue to say that only Coolmore, Darley and the Hunter Thoroughbred Breeders' Association are opposed to the proposal.

On-the-record opponents and objectors to the Drayton South project include:

---

<sup>22</sup> 666 people aged over 18 years in New South Wales were polled between 30 January and 1 February 2015

<sup>23</sup> DP&E Final Assessment Report September 2016 p 24

- Upper Hunter Shire Council
- Scone Chamber of Commerce
- Upper Hunter Wine Makers' Association
- Hunter Valley Wine and Tourism Association
- NSW Farmers' Association
- The Australian Turf Club
- NSW Trainers' Association
- NSW Farriers' Association
- Nature Conservation of NSW
- Thoroughbred Breeders Australia
- Private sector enterprises including local, state and national businesses, for example The Hunted Gourmet, Inglis Auctioneers, Magic Millions Auctioneers, Scone Race Club, Hollydene Estate, Australia and New Zealand Bloodstock News, Goldners Horse Transport, Upper Hunter Tours
- Prominent individuals and experts including: Dr Denis O'Brien, Chris Waller, John Hawkes, John Murray, Gai Waterhouse, Katie Page, Gerry Harvey, Lloyd Williams, John Ingham, the late Bart Cummings, John Camilleri, and John Quayle.

All told, the objectors to Drayton South represent more than 100,000 individuals and the breakdown of this number can be provided to the PAC.

The Department has also seriously misrepresented the findings of Coolmore's anonymous survey of its clients. Conscious of protecting perceptions of and promoting the Hunter Valley to thoroughbred breeders, and not wishing to alarm clients even further by giving them the impression that Coolmore was other than confident in the outcome of the PAC process, clients were not asked whether or not they would move their mares should Drayton South proceed. Coolmore is not encouraging clients to speculate on their plans should the proposed mine be approved and Coolmore forced to move its operations out of the State.

Rather, Coolmore's response to client queries on the issue is that it is fully committed to the planning process, putting in every effort possible to defend the farm, our staff and our clients, and that Coolmore is hopeful that the proposed project will be again refused. In the interests of

transparency, Coolmore provided all client comments to the Department, including the very few more equivocal statements. For the Department to manipulate spontaneous responses to the survey, and present it as a finding of that survey is highly dubious and not in good faith.

The important facts for the PAC from the Coolmore survey are that:

- there was a high level of response in a short period of time, showing a high level of engagement
- 96% of clients say it is not acceptable to locate an open cut coal mine 900 metres from a stud farm
- 95% believe if Drayton South goes ahead, it will damage the reputation of the Hunter Valley as the prime location for breeding thoroughbreds
- when asked on a scale of 1 to 5, where 1 is less damaging and 5 is most damaging to the Hunter's reputation, 79% selected 5 and 16% selected 4.

### 3.4 Economic Contribution

The Department's report states that the equine industry is a highly important industry, that in the region it generates around \$300m in income each year, including \$100m of exports and is a significant employer. PAC reports have previously placed weight on the sustainable and enduring nature of the thoroughbred industry. The PAC's position is that "The risk of putting an industry of considerable international standing, which has a sustainable long term future, into decline and value reduction needs to be weighed against a project with potentially immediate and tangible employment and community benefits, but arguable over-all economic public benefit and a relatively short 15 year lifespan."<sup>24</sup>

Some useful perspective on the proportionality of the effect on mining and the thoroughbred industry in the Hunter Valley is that the Drayton South project would contribute less than 2% to overall output and value of the NSW coal industry,<sup>25</sup> whereas Coolmore and Darley account for 40% of total stallion fees in Australia and 47% in NSW.

Coolmore notes that there have been a number of very large mine expansions and continuations approved in the region since 2014, creating potential for hundreds of jobs, including at Mount Arthur, Bulga, Bengalla and Wambo. There are also up to 40 long-term jobs likely to be created as a result of the rehabilitation of the Drayton mine. Drayton workers have commented previously and very recently that even should Drayton South be approved, the mine would be operated by

---

<sup>24</sup> Review PAC 2015 p iii

<sup>25</sup> Review PAC 2015 p 11

contractors at greatly lower wage levels. It is relevant to ask whether employee or contractor wage levels were used in the economic model, and whether future automation was factored in.

While Drayton has been winding down, and notwithstanding large-scale lay-offs from other local mining operations, to date in 2016 the unemployment rate in Muswellbrook has declined.<sup>26</sup> The thoroughbred industry is a service and export-oriented sector which can assist in the region's transition and diversification.

#### 4. Other Arguments made by the Department

##### 4.1 Consistency in Objection

Contrary to the Department's assertions, all of Coolmore's submissions over the past four years have been fully consistent in identifying the risks posed by Drayton South to its operations.

Coolmore's position that no open cut coal mine would be acceptable in such close proximity to its business was made explicit to Anglo and reinforced to them prior to the initial PAC in 2013. Coolmore's response to the 2012 Environmental Assessment stated clearly that Coolmore would "object to the project in the strongest terms."<sup>27</sup> The first three paragraphs alone of the 18 January 2013 submission on the Drayton EA states: "Of great importance to Coolmore is its **reputation** as an ideal environment for thoroughbred horse breeding... Coolmore is **highly sensitive** to any impacts on our environment, especially in the context of coal mining and exploration activities. The Project Application as described in the EA involves **grossly unacceptable impacts to Coolmore in relation to visual intrusion, groundwater and surface water impacts, noise and vibration, and air quality**.... The Project is a clear example of inappropriate land use conflict."<sup>28</sup> These are precisely the same concerns Coolmore has today.

Coolmore's engagement on the visual bund was to demonstrate that Anglo's stated position that no smaller bund could be developed was not credible and was disingenuous. Coolmore engaged an expert to review Anglo's proposals and that expert proved the visual bund could in fact be 40% smaller. The Department has placed enormous store on this single issue as evidence that somehow Coolmore's opposition to the proposed project has hardened over time, and sets out to characterize Coolmore as being unreasonable, inconsistent and irrational. This is not the case. It is important to restate that Coolmore is not generally opposed to coal mining and has never objected to any other coal mine in the Hunter Valley. Anglo American and the Department are not correct to characterise this conflict as between two industries in the Hunter Valley.

<sup>26</sup> <http://www.economicprofile.com.au/muswellbrook/trends/unemployment>

<sup>27</sup> Coolmore's response to Environmental Assessment 18 January 2013 p 2

<sup>28</sup> *ibid* p 1

Coolmore has been consistent in its objections, has engaged more than 30 technical experts to assess the proposed project, has participated fully and whole-heartedly in the planning process, and three PACs have supported the position that an open cut coal mine and international level, large scale thoroughbred breeding are incompatible land uses at close proximity. The Department's support for Drayton South at every iteration, despite contrary evidence, challenges the concept of a professional, independent and even-handed public sector body.

#### 4.2 History of land use / investment by Coolmore

The Department devotes extensive space in its Final Assessment Report to the history of the separate development of the thoroughbred and mining industries in the Hunter Valley, which it claims is 'useful context' in relation to the current land use conflict.<sup>29</sup> It is not at all clear why this is relevant or useful to the decision the PAC must make. It provides little insight other than to confirm that two incompatible land uses can thrive as long as there are appropriate distances between them.

The PAC must make decisions based on today's reality, which is that of the existing, flourishing thoroughbred stud farms 900m from the proposed project, and with the objective of meeting government policy, which includes a sustainable and diverse economy in the Hunter region. From a planning perspective, the existing Drayton mine is not relevant in assessing the impact of a new mine in an area not previously mined and in close proximity to sensitive and economically significant land uses.

The Department report goes into great detail regarding the growth in both coal mining and thoroughbred breeding in the Hunter Valley over the past 100+ years. This is not disputed. Both sectors have expanded, but they have been at a reasonable distance from each other. The situation to date is not relevant and this is acknowledged by the Department which says that Drayton South "bringing the two industries together... poses unique challenges for the management of interactions between differing land uses."<sup>30</sup> The Department is wrong in asserting that a 'well-established history of co-existence between the two industries'<sup>31</sup> is proof that reducing that distance from over four kilometres to less than a kilometre will not have any impact on Coolmore's operations.

The parallel development, and the importance, of both industries is not in dispute. The facts are that:

---

<sup>29</sup> DP&E Final Assessment Report September 2016 p 2

<sup>30</sup> *ibid* p 15

<sup>31</sup> *ibid*



- there are two international thoroughbred breeding operations in close proximity to the Saddler's Creek exploration licence (now known as Drayton South)
- these farms are central to the Equine Critical Industry Cluster which is an important component of the regional economy
- these farms, and Coolmore in particular, were extremely well-established at these locations when Anglo acquired the exploration licence in 2008.

Thus, Anglo made its investment decision in a far more informed and certain environment in relation to adjacent land uses than did Coolmore 25 years ago when there was no open cut coal mining in the locality (Appendix A). When Coolmore invested, mining activity was at a much greater distance. Capacity to co-exist has changed due to encroachment towards Coolmore's property by Drayton South and the cumulative effects of mining in the region.

During the course of, and prior to, Anglo's initial application for development consent, the Government was putting in place a series of planning policies and instruments designed to protect agricultural industries. During this period, Coolmore was officially mapped as part of the Equine Critical industry Cluster and protected from the risks of coal seam gas ('fracking'). This was the process that identified the Equine Critical Industry Cluster in the Hunter Valley, and there was a high level of public knowledge of this work. Certainly the Department and Anglo would have been aware of the objectives, content and evolution of this process.

To recap, as far back as 2010, the Department and Anglo would have been well aware that a proposed coal mine at Bickham was rejected by the PAC which determined that coal mining and large-scale thoroughbred breeding were incompatible land uses.<sup>32</sup> Significantly, the Government acted on this by prohibiting future mining on this site by placing a permanent protection on that land through an amendment to the Mining SEPP.

In February 2011 the NSW Liberals committed to the strategic regional land use planning process as part of their election policy. This was to introduce triple bottom line assessment and identify the best places for agriculture, mining, coal seam gas extraction, viticulture, thoroughbred breeding, conservation, urban development and all other types of land uses in regional areas.

In March 2012, the Government released the Draft Strategic Regional Land Use Plan (SRLUP) for the Upper Hunter. The then-Minister announced that the policy was "to ensure prime agricultural land and critical industry clusters like the thoroughbred and wine industries are safeguarded" and the Premier's Foreword states "For the first time this plan maps and protects a

---

<sup>32</sup> Bickham PAC 2010 p vi

large part of the region as high-value agricultural land. This mapped land includes the world-famous horse breeding industry around Scone.”

In September 2012, prior to the lodgement of Anglo’s Environmental Assessment Report (in November 2012), the SRLUP was finalised and this time the Premier stated “The national and international significance of the Upper Hunter’s wine and thoroughbred industries has also been recognised, with large areas of the region also identified for heightened protection.” The Department maintains that the SRLUP is an adequate process for protecting land uses and in August 2015, they wrote “If meaningful protection is to be afforded to the studs in accordance with the SRLUP, *the proximity of mining must not be permitted to materially diminish the brandscape of these businesses.*”<sup>33</sup> (emphasis added).

In January 2014, the Government announced that new coal seam gas activity would be banned in the mapped Equine Critical Industry Cluster and in July of that year, this was introduced into legislation through an amendment to the Mining State Environmental Planning Policy 2007, Part 2, Clause 9A.

These are very important contextual events, omitted from the Department’s report, that were the backdrop to the investment decisions of Coolmore and should have at a minimum moderated the confidence and ambitions of both the Department and the proponent in relation to the feasibility of achieving consent at Drayton South.

Coolmore notes that the Department implicitly criticises its investment decisions over the past 30 years, and in particular, since the development application for Drayton South was lodged. The Department erroneously refers to Coolmore’s acquisition of the Hollydene property in 2013 which it says was an expansion of the stud farm. In fact there has been substantial additional investment in the hospitality and vineyard enterprises at that site, which was part of the original Arrowfield property, which is now the Coolmore property. Coolmore’s purchase was also to mitigate the risk to its operations by ensuring for example that no animals that posed a disease risk to the Coolmore herd were kept on that land.

#### 4.3 History of application

The Department’s focus on previous applications at this location is also irrelevant to the PAC’s decision. The Department uses amendments to the 2012 mine plan as the primary justification to approve the proposed project: “a critical matter for the present Commission to take into account in determining the project is that Anglo has adopted the recommendations of the Commission’s first two previous assessments.”<sup>34</sup>

<sup>33</sup> DP&E SEAR August 2015 p 49

<sup>34</sup> DP&E Final Assessment Report 2016 p 20

First of all, this is not the case. It is very important for the PAC to be aware that the Determination PAC for the previous applications made no such recommendations, and that the recommendations of the Review PAC for that project are also not fully met in the new mine plan. The 2014 Determination PAC concluded that: "Although one can assume that a smaller mine further away from the studs will have less impacts, there are no qualitative or quantitative assessments before the Commission to support such assumptions".<sup>35</sup>

The fact is that the past three PACs have expressed concern about impacts and while commenting on a range of issues, the overwhelming theme underpinning refusal has related to proximity. The PAC has not established criteria by which an application would or could be approved, quite the contrary.

Secondly, the Department's position is illogical. It is akin to a judge deciding that because one individual strikes another person five blows instead of the 10 they originally intended, that there was no harm done. The PAC must assess and decide on the proposed mine plan submitted by Anglo in May 2015 on its own merits, not on how it compares to its previous, rejected mine plan.

It is important to bear in mind that the Department found this project approvable even at its original dimensions and proximity, and that Anglo argued vociferously that any reductions to it would render the project unviable. There is therefore a significant question of credibility over the extent of the mine plan presented today.

The 'legally enforceable', 'guaranteed', 'voluntary' buffer which the Department relies on to prevent future mine creep has never been communicated to Coolmore by Anglo or the Department, despite Coolmore agreeing to sign a confidentiality agreement in order to receive further details. The Department errs in stating that such a buffer is 'enforceable'. It is, at best, an intention. Coolmore's advice is that nothing that is open to be done under the development consent process can have such effect. Furthermore, the Drayton South licence and lands are being sold by Anglo and there is no commentary about how subsequent owners would respect such an intention, if it exists.

The proposal by the Department of a consultative committee meeting three times per year to manage impacts on the stud farms does not in any way address or resolve the risks to Coolmore's operations and viability. This is a bureaucratic, retrospective response which will not prevent or repair damage done.

---

<sup>35</sup> Determination PAC (Payne) 2014 p 17

## 5. Bennett Review: Factual Errors

In its June 2016 submission Coolmore identified substantial factual errors, omissions and misinterpretations contained within the report of Greg Houston. These were largely glossed over in the subsequent peer review and in the Department's report. This submission has been provided to the PAC and therefore there is no need to repeat all those issues here. Furthermore, the report of Dr Jill Stowe responds to Houston's misapprehensions, provides data to support her argument and reaches the opposite conclusion.

The reports of Dr Philip Williams and Dr Jill Stowe respond to the economic arguments in the review by Professor Bennett, commissioned by the Department. However, this is Coolmore's first opportunity to respond to his errors about the bloodstock industry. A number of these originate in Houston's work but are repeated and endorsed by Bennett.

In brief, Dr Stowe of the University of Kentucky shares her expertise in bloodstock economics and her knowledge of the thoroughbred breeding industry to show that in fact there are high barriers to entry in the stallion business, because of scarcity of prospects, capital investment required, lack of substitutability and that shuttle stallions cannot fill the void for horses leaving the region. She discusses cluster decline with evidence from Kentucky's standard bred industry. With incentives made available in another state and changes to artificial insemination regulations, within 10 years the number of mares covered in Kentucky had halved, within 20 years they had fallen by three-quarters, and after 30 years there was effectively no standard bred, breeding industry left, with a fall from 2,171 mares in 1986 to 38 in 2015.

Dr Philip Williams of Frontier Economics assesses the Bennett and Houston reports and addresses the question of economic analysis of incompatible uses of land. He points out if Houston and Bennett were correct that the loss of amenity and reputation to Coolmore was immaterial, the business would not be putting so much effort and resources into defending itself. Crucially, Houston and Bennett's reasoning is based on judgements about respective magnitudes of loss of amenity / reputation and the costs of moving without in fact having any data about either, nor any business experience in making judgements of this kind. (emphasis added).

Dr Williams agrees with Dr Stowe about the error in the assumption that other stud operators would move in if Darley and Coolmore were forced to leave. He says Bennett and Houston fail to distinguish the barriers that face the establishment of a small scale stud compared with the barriers that face the establishment of a stud on the scale of Coolmore or Darley. Given that Coolmore and Darley would still be active players in the market, such a replacement would require Australia's national market for stallion nominations to grow by 16%. He agrees with Dr Stowe that

the effects of Coolmore and Darley being forced to leave the Hunter Valley will not be trivial. He refers to the Coase theorem which states that the most economically efficient outcome will occur and queries why Anglo is not seeking to pay Coolmore and Darley to withdraw their objections – ie to compensate them for the rights that are in dispute. This approach echoes the comments of Commissioner Geoff Carmody in the Review PAC:

*“The NSW Government is taking a risk that the move will occur if the Drayton South project goes ahead. Is the Applicant sufficiently confident of its own probability assessment to accept in some way a share of the costs faced by NSW if the studs do move out of the state? If the probability that the studs will move is accurate, the Applicant should be indifferent, or close to indifferent, about shouldering some of the risk, whatever its cost.”<sup>36</sup>*

### Factual Errors

Coolmore identifies the following problems with Prof Bennett’s review:

- The most fundamental error in his analysis is an omission - he does not consider that Coolmore would be forced to relocate, most likely to Victoria, in the event of an approval of Drayton South, and that Coolmore, with all its stallions, would continue to be in competition with other stallion farms. Coolmore would not disappear as a market force.
- In relation to Edinglassie, he writes ‘it seems clear that stallions’ capacity to cover is not impacted by adjacent mining operations’. There are no stallions at Edinglassie.
- He states that submissions say the industry is highly competitive - this is true of agistment but not of proven, high quality sires where very high fees can be achieved because of high demand. There are only five elite stallion farms in Australia.
- He asserts that ‘stallion services, even of very high breeding quality, are readily substitutable’ – again this is not true.
- He continues by saying ‘internationally there are substitutes for even the most prized stallion, shuttle or otherwise, at the right price’ - it is very unclear what market and pedigree analysis Professor Bennett has done of stallions standing internationally or even in Australia to be able to make such a claim.

---

<sup>36</sup> Review PAC 2015 p 25

- He refers to “data relating to entry and exit of firms” provided by Houston as evidence of mobility . This is a very poor data set. Of the market entrants identified by Houston and relied upon by Bennett to form his argument, only one, Newgate, is currently in business, with an average stallion fee in 2016 of \$22,000. Wattle Grove’s combined annual revenue from three stallions was \$200,000, and they no longer stand stallions. Baerami is out of business, Lincoln Farm no longer stands stallions and did so at very low fee levels. Ilala Stud is no longer operational and equine infrastructure has been removed. None of these stud farms were at any stage in the same sector of the market as Coolmore or Darley. While clearly Bennett accepted Houston’s ‘data’ without checking it, one must wonder at the process used by Houston to carry out any analysis or checks on the information he selected to make his argument. The other example mentioned by Houston, Patinack, has been on the market since 2013. The second ranked selling point in the estate agent’s materials for that farm is that Richmond Grove / Sandy Hollow is “close to two of the internationally best known thoroughbred studs; Darley and Coolmore.”<sup>37</sup> This hardly substantiates Greg Houston’s argument that there are many other players of scale ready to enter the market or that the critical industry cluster would not be affected if Darley and Coolmore were forced from the Hunter Valley.
- He identifies the rise of shuttle stallions as a disruptive technology. This was the case back in the 1990s but it seems Professor Bennett is seriously confused about the development of shuttle sires. Coolmore pioneered the commercial shuttle sire and therefore can speak with some authority on the subject. Shuttle sires have likely peaked and are at saturation. Currently colonial sires achieve higher prices as they are more in demand. More than three-quarters of mares in Australia are covered by domestic sires.
- He argues that ‘the transportation costs of mares to stallions... is the key component of the locational decision’ - there is no research done to support this and it does not tally with Coolmore’s experience of the industry. At the top end of the market, transportation costs are quite marginal compared to the nomination fee and it would be strange for them to determine breeding decisions.
- Bennett says that Coolmore’s business is similar to any retail operation where customers travel to a point of sale to buy a product and therefore businesses want to locate in a central place relative to their customers’ locations. Actually, proven stallions are more like tourist destinations or distinctive restaurants where consumers make effort to access a rare and special product.

---

<sup>37</sup> <http://www.meares.com.au/search-properties/details/Richmond-Grove>

- He quotes the ACCC that barriers to entry in stallion services are low. The ACCC did write this in 2008, but Coolmore is not aware of any investigation carried out by the ACCC nor what market level they were considering. The statement may be true of stallions standing for \$1,000, as with many of those suggested as possible replacements for Coolmore and Darley by Houston, but certainly is not the case for the stallion roster offered by Coolmore to Australian breeders.
- Bennett confuses broodmare farms with the broodmares themselves, referring to an exodus of broodmare farms. The ownership of the farms and the broodmares are not equivalent. The broodmares are easily relocated. He quotes 'Coolmore acknowledges broodmare farms would stay in the region' – but we do point out that there would be fewer and much lower value horses; which is not included.
- He asserts 'once on site, clients of the studs would not be aware of the adjacent mining activities' - Prof Bennett has never visited Coolmore. This statement is not true and is not a position held even by Anglo or the Department. Visitors would hear blasts and see plumes, even in the best of conditions. In many cases they would have seen the mine on their way to Coolmore and they are hardly likely to forget it is there once they turn in the gates.
- Bennett maintains that Edinglassie shows that if Coolmore left it would be highly likely that alternative stallion suppliers would set up or expand to fill the market niche. First of all, there are no stallions at Edinglassie. Secondly, there is no evidence that if BHP were to put Edinglassie on the market, that it would be purchased for thoroughbred use. A valuation by an estate agent put an estimate half that per acre for other thoroughbred studs in the region and pointed out that most bloodstock buyers would be deterred from purchasing it because of the mining activity adjacent.
- Bennett says the proponent must believe in the profitability of the Drayton South project because it has most 'skin in the game' yet Anglo is trying to offload the exploration licence. He asks why the proponent would continue to seek approval if coal prices were not expected to be higher but doesn't factor in the liabilities Anglo must address at Drayton. This is a possible motivation for seeking approval that has nothing to do with Anglo's real views on the project's viability.
- He ignores the costs that would be added to Coolmore's business by virtue of having a mine in close proximity and the destruction of property value.

## 6. Impacts on Coolmore

### 6.1 Direct Impacts

We ask the PAC to refer to the technical assessments submitted by Darely for confirmation that the proposed open cut coal mine would indeed have significant direct physical and operational impacts upon Coolmore. They further challenge the viability and economic arguments put forward for the project by Anglo.

Physical impacts include millions of kilograms of dust deposited on Coolmore's paddocks, more than 1,000 blast events within two kilometres of Coolmore, risk to water, changes in landscape, and the continual risk of accidents, especially around blasting and the consequent release of noxious gases in orange plumes and fire. The physical impacts for the proposed 15 years of mine life are not reduced in other than a very marginal way compared to those of a previous mine plan, refused by the PAC in October 2014. This is because the original mine plan proposed a 27 year mine life; the current plan is for 15 years but the intensity of mining activity will be almost the same over the period. The new mine plan is only 400 metres further away from Coolmore than the original 2012 mine plan. We note that nowhere in the Department's report is the actual distance between the proposed mine and Coolmore specified. It is characterised instead as 'double' the set back, which is immaterial when the original distance was less than 500 metres. It remains still so close as to be a real threat.

The Review PAC confirmed that "the blasting requirements of the mine represent a potential risk to the operations of the studs, particularly Coolmore. These risks are three fold, namely: potential safety concerns for workers handling horses that might be startled by blasting at the mine; potential business impediments, should Coolmore's suggestion that it would not be able to conduct live coverings during scheduled blast periods prove necessary; and, most significantly; potential reputational impacts should evidence of blasting become apparent to clients during visits, or via media."<sup>38</sup> The Commission considered but could not reach a management solution to these risks.

Dr Stephenson of Stephenson Environmental reviewed the proponent's Environmental Impact Statement and found that "if this project is approved, the air quality in the region will further diminish, particularly at the studs." Mr Droop of OD Hydrology affirms that the proponent's water analysis ignores the advice of the Independent Expert Scientific Committee's concerns about its impacts on Saddlers Creek and the Hunter River system. Mr Butera of Arup notes that the noise

---

<sup>38</sup> Review PAC 2015 pp 41-2



and blasting assessments are incomplete. They do not assess the noise and blasting impacts on people and horses, are not calibrated for local conditions and will be exceeded.

The Department maintains the 2015 PAC was 'conservative' in its approach. Given what is at stake in this location, any reasonable person would consider this is the correct attitude. The impacts on Coolmore must be considered not on yearly averages or best days, rather, given the sensitivities, worst case outcomes should be the focus. Mining is a dynamic and high-impact activity, affected by weather conditions, mechanical failure and human error. Nowhere does the Department consider the consequences of accidents at the proposed mine site for Coolmore. Coolmore has made the point previously that an approval for Drayton South would demand of us to operate in close proximity to a third party whose activities comprise enormous capacity for damage to Coolmore, and with no significant self- or shared interest in protecting Coolmore's operations or reputation.

Operational impacts are very significant and directly affect Coolmore's viability in its current location. Coolmore has specified these in considerable detail in its September 2015 submission, and many of these points were accepted by the Review PAC. In particular the 2015 PAC agreed that the impact of blasting would be so disruptive to Coolmore's operations that there was no appropriate or practicable means of managing it.

The Department's report and those of Greg Houston and Professor Jeff Bennett are wholly inadequate in addressing impacts on Coolmore's business, and even in understanding how that business operates. This is a matter of some frustration given the extent of the detail provided by Coolmore to all parties in the assessment of Anglo's proposals over the past three years. We refer the PAC to the report of Dr Jill Stowe at Appendix C Preliminary Submission, for an expert review of the economics of the breeding industry and to reports of Dr Lance Bell, Appendix E & F Preliminary Submission on issues of marketing and brand perception in the bloodstock industry.

Coolmore Australia's business is made up of two primary activities. The first is the management and standing of stallions for the syndicates that own them, for which Coolmore is paid a management fee. This requires a major investment, is subject to high risk and demands a significant level of expertise. It is the stallions Coolmore stands that act as value generators to the Australian breeding industry. Of the top three premium thoroughbred yearling sales in 2013, at the very highest end of the market, progeny of Coolmore sires averaged 37% higher prices than the premium horses excluding Coolmore. This part of the business is not 'highly competitive' as asserted by Bennett. If it were, it is unlikely that top stallions would be able to secure such high stud fees, at times in excess of \$150,000.

The second part of Coolmore's business, which is not at all addressed by the Houston and Bennett reports, is agistment. As has previously been shared with the Department and the PAC, fees from boarding mares is a very important element of farm income. This part of the business is competitive, as there are about 150 farms in the Hunter Valley providing the same service. The vast majority of these farms are not located anywhere near open cut coal mining, and therefore Coolmore would be at a significant disadvantage were the proposed project to be approved. Coolmore has also shared details as to the premiums it charges on its boarding fees compared to other farms. This has not been considered by Houston or Bennett, nor by the Department.

It would be entirely rational for a broodmare owner to choose another farm to board their mare, rather than one in close proximity to a coal mine. It would avoid any risk from blasting and dust and any buyer concerns about the environment in which a yearling was raised. This is unfortunately a rational, commercial position.

## 6.2 Reputation

The Department states "Anglo also highlighted that reputational damage is not an impact that has any proper standing under the EP&A Act."<sup>39</sup> It is very surprising that the Department would use the term 'highlighted' rather than just 'states'. It suggests that the Department agrees with Anglo's assertion. If this is the case, the Department is incorrect in law.

Clause 12(1)(a)(iii) of the Mining SEPP provides that before determining an application, the consent authority must consider "any ways in which the development may be incompatible with any of those existing, approved or likely preferred uses." The existing uses are those in the vicinity of the development (see clause 12(a)(i)). This is a broad area for assessment, and of course and obviously includes reputational impacts.

The provisions of the Mining SEPP, as an environmental planning instrument, are a relevant matter to be taken into consideration under section 79C(1)(a)(i) of the EP&A Act. Successive PACs have been absolutely correct to take reputational impacts into consideration, and we suggest the current PAC must also consider these impacts. The Department is wrong in law to agree with Anglo's assertion.

Indeed, in August 2015, the Department gave proper weighting to the issue of reputation:

*"the assessment considers those attributes of the stud properties that contribute to their suitability in supporting successful horse breeding"*

---

<sup>39</sup> *ibid* p 10

*enterprises, including visual amenity, air quality, noise and access to water. Other less tangible (but equally important) aspects associated with having a mine in the vicinity on the reputation of these businesses are also considered*<sup>40</sup> (emphasis added)

It continues:

*"image and visual presentation are critical to the business model of the studs as they are inherently linked to client perception, investor confidence and the reputation of the thoroughbred breeding operations."*<sup>41</sup>

Reputation is considered by Anglo's economist, Greg Houston, as one of the four most important qualities of the Equine Critical Industry Cluster, so important that it would be enough to hold Coolmore in the Hunter Valley should the Drayton South mine proceed. He does not identify the factors he believes to be most important in creating and safeguarding that reputation. And Anglo itself in May 2016 stated that it "acknowledges the importance of the 'brandscape' developed by Coolmore and Darley consistent with their place in the equine industry cluster and the perception and reputation derived from it."<sup>42</sup> It is therefore strange to see both the Department and proponent seek to downplay its significance at this juncture.

The Department of Primary Industries, like Greg Houston, focuses on the importance of reputation to the Hunter thoroughbred sector: "it is the quality of bloodlines and the value of horses bred in the region; the reputation of those studs and the consequent fees they can attract for servicing and agisting mares and rearing foals; [and] the very extensive flow on values generated by the industry via employment, investment and support services"<sup>43</sup> that define its significance. It is important to note that the Department of Primary Industries identifies quality and value as crucially important, and distinguishes between the bloodlines and the reputation of the stud farms.

The Department's view is that the most important factor in Coolmore Australia's reputation is the bloodlines and quality of the stallions it stands. This is not entirely the case. The bloodlines are the most important consideration for the selling of stallion services. But the farm's reputation depends in large measure on the horsemanship, environment, care and management provided to clients' horses there. Coolmore runs a marketing campaign themed '*Raised & Grazed*' targeted at the agistment business [samples at Appendix B]. It is not dissimilar to a department store, with each individual brand stocked having an identity and reputation, and then an overall umbrella brand which is the name of the store and the shopping environment. Each individual stallion has

<sup>40</sup> DP&E SEAR August 2015 p 43

<sup>41</sup> DP&E SEAR August 2015 p 49

<sup>42</sup> Anglo American May 2016 p 19

<sup>43</sup> Department of Primary Industries 2013 Upper Hunter Region Equine Profile Factsheet No 6

his own reputation and market, while Coolmore Australia as a whole is like the department store that selects the brands and manages the environment in which they are made available.

Reputation is a business asset and results in financial benefits to the business and its investors. A 2012 study showed that reputation accounting for more than one-quarter of the total market capitalization of the S&P500.<sup>44</sup> Accounting standard AASB 138 Intangible Assets deals with the valuation of reputation and brand name. The Chartered Institute of Management Accountants has published a paper on the topic *Corporate Reputation: perspectives of measuring and managing a principal risk* which states "Reputation is a major risk issue for all organisations and needs to be considered alongside all the other major risks such as operational, strategic and financial risk".<sup>45</sup> Reputation is not a trivial or tangential matter. In a service industry which is inherently risky, such as thoroughbred breeding, reputation is crucial.

The importance of reputation is also explicitly recognised and protected in each of the three Planning Assessment Commissions that have assessed the proposed project to date. This is sensible planning, because one important element of an economic cluster is a sense of a clear identity.

*As established by Mr. Short, a core pillar of these businesses is founded on reputation and image. Any perceived impact on the bloodstock could be detrimental from a business perspective. Even in the absence of any risks to the horses, the visible presence of the mine in such close proximity has the potential to tarnish the reputational image that has been so carefully developed on and around the properties.<sup>46</sup>*

*If they [Coolmore and Darley] decide to leave because of perceived or actual mining impacts on their operations, it would impact on the 'clean green' image and reputation of the region. Without this status, it is unlikely a similar calibre thoroughbred industry operator would replace those lost given the importance the industry has placed on the need to have a pristine environment for the breeding and care of thoroughbred horses and the perception of the investors. The equine industry may survive, but is unlikely to retain its economic significance and international reputation. The loss of 'clean green' branding will also have a flow-on impact on the viticulture and tourism industries.<sup>47</sup>*

<sup>44</sup> Cole, Simon. "The Impact of Reputation on Market Value," World Economics 13/3 2012. Pp 47-68

<sup>45</sup>

[http://www.cimaglobal.com/Documents/Thought\\_leadership\\_docs/Corporate%20reputation%20perspectives%20of%20measuring%20and%20managing%20a%20principal%20risk.pdf](http://www.cimaglobal.com/Documents/Thought_leadership_docs/Corporate%20reputation%20perspectives%20of%20measuring%20and%20managing%20a%20principal%20risk.pdf)

<sup>46</sup> Review PAC December 2013 p 15

<sup>47</sup> Determination PAC October 2014 p 1

*In the circumstances when there is uncertainty of the potential negative impacts on equine health, thus the operations of Coolmore and Darley, the Commission considers a precautionary approach should be adopted. In coming to this conclusion, the Commission had regard to the economic and reputational importance of Coolmore and Darley not only to the Hunter Valley CIC, but also to NSW and Australia.<sup>48</sup> (emphasis added)*

*The combined reputational risks posed by the mine, are sufficient to convince the Commission that the threat to the studs and the broader Equine Critical Industry Cluster is real and that the studs may leave the Hunter Valley should the mine proceed. The Commission concludes that there are a range of uncertainties in relation to the project benefits, that the risks to the Equine Critical Industry Cluster are real and that the risks are likely to outweigh the relatively short term benefits of the mine.<sup>49</sup> (emphasis added)*

## **7. Investment in Other States**

A number of submissions at the public hearing referred to bloodstock investment that has recently been lost to the Hunter Valley. It is important to bear in mind that the prime factor in these investments going elsewhere are not to do with the environmental conditions in equine areas of the Hunter, but rather directly related to the long-running and ongoing uncertainty within the planning process which sees no protection provided to core actors in the Critical Industry Cluster, even after a full planning process. In a real sense, this investment is being lost, and jobs are being created in other states, because of the reputational damage suffered by NSW due to the protracted nature of this planning application.

Coolmore has pointed out that other locations are suitable for thoroughbred breeding. For example, Victoria and South Australia have previously had very significant stallion farms and related clusters. However the many qualities of the Hunter Valley, including agglomeration benefits, mean it remains the premier and outstanding location in Australia.

Coolmore is certain that if the recommendation to refuse approval of Drayton South is upheld, and followed by a permanent solution which safeguards Coolmore and Darley, that investor confidence and interest in the Hunter Valley will swiftly return.

On the other hand, were the fulcrum of the breeding industry to shift out of New South Wales, it will be very difficult ever to re-establish the dominance of the Hunter Valley, particularly given the

---

<sup>48</sup> *ibid* p 17

<sup>49</sup> Review PAC November 2015 p iii

land use conflicts that would be the reason for the shift. The Department seizes on the fact that Coolmore states that some broodmare farms will remain in the region, even though this is a statement of the obvious. What was actually written was that: "Coolmore would acknowledge that there may be some lower value mares that would remain in the Hunter Valley".<sup>50</sup>

Many broodmare farms would have little choice but to remain and to try to manage their businesses, but with many fewer broodmares and lower value bloodstock. This should not be interpreted that Coolmore believes that the Equine Critical Industry Cluster would be anything other than a shadow of what it is today. It is not coincidental that since 1996, when Coolmore took over the operations of Arrowfield and increased its operations in Australia, that the Hunter Valley's share of national coverings has doubled and the value of stallion fees has quadrupled.

## 8. Summary

Coolmore submits that the Determination PAC should uphold the recommendation of the Review PAC that the Drayton South open cut coal mine should not proceed because:

- there has been no change in the impacts or mine plan of the proposed project on Coolmore's operations
- standards for mining have been developed for impacts on people or property. Thoroughbreds are more sensitive to environmental factors
- the reports on which the Department relies are shown to be based on inaccurate empirical evidence and are contradicted by real-world experience. The third-party views that the studs are unlikely to relocate, or if they did, it would be elsewhere in the Hunter Valley is absolutely incorrect.
- the proposed project will create significant direct impacts on Coolmore's property which are incompatible with the activity of breeding and raising elite thoroughbred horses. These include dust, blasting, visual, high risks to water
- owners and clients will react negatively to their valuable assets residing so close to an open cut coal mine and will make rational decisions to avoid real and perceived risk
- Coolmore would not be able to operate in such close proximity to the proposed project due to increased risks, operational impacts, lack of market acceptance and increased

---

<sup>50</sup> Coolmore submission to Department of Planning & Environment, June 2016. p 23

- costs. As there is no suitable alternative property in New South Wales, Coolmore would be forced to move its business, most likely to Victoria
- such a forced move would have a more significant impact on the Equine Critical Industry Cluster than it would on Coolmore itself as it would see current and future champion sires moving out of New South Wales
  - the Equine Critical Industry Cluster makes an important economic contribution to the Hunter region and to New South Wales, is part of the State's culture and heritage, has an international reputation and supports related industries such as tourism and viticulture – not least in terms of image. Thoroughbred breeding creates employment - jobs which cannot be mechanized, delivers the highest possible economic return from agricultural land, fosters specialist support service businesses and is not destructive of the environment.

The 2015 PAC concluded:

*Coexistence is an outcome whereby different land uses can occur in proximity to one another. Each land use type should be sustainable and should not pose any significant threat to the success or longevity of the other... Balancing these competing and conflicting land uses is not inherent in the existing planning frameworks for the region and espousing coexistence does not make it so.<sup>51</sup>*

Ultimately, the PAC is the most truly independent of all parties to this development application. Successive PACs have found that the Equine Critical Industry Cluster in the Hunter Valley is important to the State. We are grateful and gratified also that they have recognized Coolmore's contribution to the industry and sport over the past 30 years. As a consequence, they have concluded that our farm should be protected, and recognized the fundamental incompatibility between open cut coal mining and our operations.

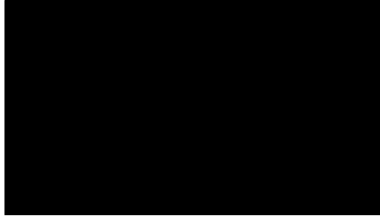
There is an overlap of only nine per cent between exploration licences and Equine Critical Industry Cluster land in the Hunter Valley. The uncertainty created by this and the previous applications is having a detrimental effect on all concerned, including those associated with the mining industry. This is not a good outcome for the community, the region or the State. While Coolmore understands that the planning system allows ongoing applications, we ask again for certainty for both industries in this particular location.

---

<sup>51</sup> Review PAC 2015 p iv

Coolmore will be a long-term investor in Australia, which we have also identified as our springboard into Asian markets. We have every intention of remaining one of the central parts of the bloodstock industry for generations to come. We aspire to continue to operate from the Hunter Valley with our clients, competitors and suppliers. A refusal of Drayton South, and a permanent protection from close proximity of mining, provides us with the certainty we need and from which we can develop.

Yours faithfully



Tom Magnier  
Principal



**Appendix A – Satellite Image 1991**

**Appendix B – Raised and Grazed Marketing Campaign**