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Dear Commissioners

Drayton South Coal Project – Submission to Planning Assessment Commission (PAC)

The Hunter Thoroughbred Breeders Association appreciated the opportunity to present to the Planning Assessment Commission at its public meeting on 21 August 2014 and to make this submission on the Secretary's Environmental Assessment Report. This submission incorporates the presentations made at the public meeting and attaches other relevant advice from our experts.

The HTBA

The Hunter Thoroughbred Breeders represent over 150 industry organisations including thoroughbred breeders and suppliers of support services. The Hunter Valley's Thoroughbred Breeding Industry is Australia's premier multi-billion dollar breeding industry, representing over half of all thoroughbreds produced in Australia and over 90 per cent of Australia's thoroughbred export earnings.

It is Australia's largest supplier and exporter of premium thoroughbreds and is acknowledged as one of only three international centres of thoroughbred breeding excellence in the world (alongside the USA's Kentucky and UK's Newmarket). The Hunter Valley studs represent the second largest concentration of studs in the world outside Kentucky in the USA.

The industry in the Hunter Valley is vertically integrated and interconnected. The stallion farms form the nucleus around which a very sophisticated network of equine support industries (broodmare farms, veterinarians, equine transport, saddlers, farriers, feed merchants – to name a few) are based. We are the largest agricultural industry in the Hunter Valley, the largest agricultural employer and a significant regional employer in our own right. We are the nursery of Australia's racing industry and support some 250,000 Australian jobs nation wide.

Prior Submissions

The HTBA has provided experts' advice, made numerous submissions (18 January 2013, 3 October 2013, 16 October 2013 and 4 June 2014), and presented at the PAC public hearing on 10 October 2013 and PAC public meeting on 21 August. This submission supports and supplements our previous submissions and submissions lodged with you by Coolmore Australia and Darley Australia. We ask that this submission be read in conjunction with our earlier submissions, particularly the submission to the Director General dated 4 June 2014.

PAC Review

The Review PAC, in its December 2013 report, recognised that the Darley and Coolmore studs are core businesses in, and vital to, the equine Critical Industry Cluster (CIC) and consequently the broader region, and should be completely protected from the impacts of mining.

Independent advisors to the Review PAC noted that Coolmore and Darley were "*likely the most important of all central actors*" and "*These studs are central to the functioning of the cluster*" (PAC 2013, p11)

The Review PAC found that the thoroughbred breeding industry complements the Hunter's wine and tourism industries, both as an iconic industry and as a highly scenic industry and therefore a valuable component of the Upper Hunter. It recognised the unique combination of scenic, historic and agricultural qualities which lend themselves to equine and tourism industries *but could also be argued to have a significant heritage value of their own.* (PAC 2013, p12)

The Commission understood that open cut mining by its nature is an intrusive industry and that a core pillar of the studs' businesses is founded on reputation and image. It noted that the presence of a mine in such close proximity to the studs (500m) has the potential to tarnish the reputational image that has been so carefully developed on and around the Coolmore and Darley properties.

Further, it concluded that any signs of mining, whether causing real or perceived impact, could create questions and doubt in the mind of buyers, investors and other industry representatives. In this fiercely competitive industry the Review PAC acknowledged that the studs would have to consider their future in this area (PAC 2013, p15).

The Review PAC also noted the substantial and deliberate protections afforded to other world class thoroughbred breeding clusters, particularly Newmarket (UK) and Kentucky (USA).

The HTBA concurs with the Review PAC recommendations that:

- the Coolmore and Woodlands horse studs should be recognised as essential to the broader Equine Critical Industry Cluster and given the highest level of protection from the impacts of mining (PAC 2013, R1); and
- the mine plan proposed for the site should not be approved (PAC 2013, R2).

We note that these recommendations are consistent with the recommendations of an earlier PAC (Bickham, 2010), the decisions of a former Government to prohibit open cut mining on the Bickham Coal site, the views of the Review PAC's independently commissioned experts and the conclusions of the Government's Independent Gateway Panel. They also accord with both the policy intent and the process outlined in the Government's Strategic Regional Land Use Policy.

On the matter of any future application for a much smaller mine on the northern portion of the site, we note that Review PAC's recommendations were that:

- any open cut mining contemplated on the site should be required to demonstrate that its impacts would not affect the viability of the Coolmore and Woodlands horse studs (PAC 2013, R3);
- if mining on any portion of the site was proposed, a new mine plan would need to be developed for extraction from a considerably reduced mining area. **As an absolute minimum, the mine plan would need to be constrained to adopt the following physical restrictions:**
  a) open cut mining **must be** setback behind the existing natural ridgelines;
  b) **considerable buffering** to shield the studs from the mine would be necessary and, having regard to the topography of the area, open cut mining must not be allowed to extend through the second ridge to the north of the Golden Highway (marked in yellow on Figure 5).

  These physical constraints were put forward as the **minimum setbacks** and any proposed mining area on the site would need to be subject to rigorous assessment to ensure compliance with the other recommendations (PAC 2013, R4); and

- any new mine plan for the site would need to be further assessed to ensure the visual, blasting, noise and dust impacts could be managed to an acceptable level at the neighbouring stud properties and should take into account **worst case scenarios.** Other impacts would also need to be carefully considered both in relation to any impacts to the horse studs and more broadly, particularly in relation to the long term water impacts and the final landform (PAC 2013, R5).

We further note the Commission's unequivocal conclusion "that these recommended changes may prove either technically and/or financially unviable. If this smaller mine footprint is found unviable, then the Commission considers that **the project cannot proceed"** (PAC 2013, p25).

Secretary's Environmental Assessment Report (SEAR)

Based on the advice presented to you by various experts commissioned by the HTBA and its members, Coolmore and Darley, we submit that:

- the Retracted Mine Plan (RMP) submitted by Anglo American fails to meet the minimum physical constraints stipulated by the Review PAC;
- Anglo American has failed to provide the necessary information needed to assess the impacts of the RMP and take into account *worst case scenarios* recommended by the Review PAC – this is particularly the case with respect to **demonstrating** that the RMP will not affect the viability of Coolmore and Darley Woodlands horse studs, and assessments relating to visual, blasting, noise and dust impacts, long term water impacts and the final landform;
- the SEAR has failed to apply the Review PAC's recommendations but has acknowledged the Proponent's position that a retracted mine plan in line with that proposed by the Review PAC is unviable;
- the SEAR has failed to properly and independently assess the impacts of Anglo American's RMP – due to the lack of information provided by Anglo American, uncritical adoption of Anglo American's information, and a serious lack of appreciation of our industry and the business principles that underpin it (including reputational harm posed by mining in such close proximity as the proposed Drayton South open cut mine);
- in reaching the conclusions that it has, the SEAR has uncritically adopted the position of the Proponent and effectively reversed the onus of proof from the Proponent to the stakeholders;
- the economic case in support this mine plan is flawed, does not present a net economic benefit to NSW, or the Hunter Valley's regional economy. In fact when more credible economic assumptions and coal prices are applied, the project will deliver a net economic loss to NSW (of up to $457m), the regional economy will be poorer by $120m per year, and at least 640 sustainable jobs in our industry will be at risk;
- the concerns and risks posed by the RMP on air quality, visual intrusion, noise and blasting, water impacts and the final landform have not been subjected to a rigorous assessment regime: all of the proponent's assessments have comprehensively failed to address the *worst case scenarios* called for by the Review PAC; and
- the damage to our industry if this mine proceeds in such close proximity (500m from the boundaries of the two studs), our breeding and racing reputation, our landscape, history and heritage will be irreversible.

More details on our specific concerns relating to the SEAR are attached to this submission.

Legal Advice

The advice provided by Beatty Legal is that:

- The Review PAC had the benefit of all the material comprising the assessment of the Preferred Project Report including Anglo's responses to detailed, project specific Director Generals Requirements (DGRs), detailed comments from all key State agencies and comprehensive advices from various experts before and after the public hearing in October 2013 (including, notably, the Runge PIncock Minarco report of July 2013 commissioned by the Department of Planning itself).
- The Review PAC was well placed to assess and reach conclusions on the impacts which the mine would have on the whole equine industry. Their findings were both carefully drawn and unequivocal.
- Substantial weight should be accorded to the findings of the Review PAC and in particular its conclusion that if a new mine proposal, with physical changes conforming to the "absolute minimum" stipulated by it, was either technically and/or financially unviable … the Commission considers the project cannot proceed". Beatty Legal notes that this is the clearest and most

relevant advice from the Review PAC to the Decision PAC: advice which in the present circumstances (especially having regard to the analysis of Marsden Jacob Associates) the Decision PAC should accept and implement.

- The SEAR and Review PAC report reach opposite conclusions – the Decision PAC must reconcile these stark differences in coming to its decision. In particular, it will need to:
  a) consider whether, and to what extent, the proponent, and the Department of Planning and Infrastructure (DPI) in its SEAR adequately respond to the recommendations of the Review PAC; and
  b) assess what planning outcome best serves the public interest.
- Any analysis should start by recognizing the *prima facie* incompatibility between established thoroughbred horse studs and an open cut coal mine. There can never be any harmonious "co-existence" of the kind the DPI posits.
- Ultimately the Decision PAC can give little or no weight to the SEAR (or the proponent's assessment reports supporting the RMP which the SEAR uncritically adopts) as it fails to assess the many of the expected impacts of the mine and does not offer up any sound or reliable data upon which the mine may make to the State's economy.
- Given the risks posed by this mine to these businesses – studs which together support the State's entire Equine Critical Industry Cluster (ECIC) – the Decision PAC will need to look carefully at the **precautionary principle** and in particular, the need to "avoid, wherever practicable, serious or irreversible damage to the environment" where as we know, the "environment" is defined to include "all aspects of the surroundings of humans, whether affecting any human as an individual or in his or her social groupings".
- In balancing competing elements of the public interest, the only safe and reasonable decision is one which does not jeopardise an entire industry for the sake of a single, short term component of another industry.

A copy of the presentation and supplementary advice provided by Beatty Legal is appended to this submission.

Industry Practice and International Best Practice

In our submission to the Director General dated 4 June 2014, we highlighted international best practice that underpins the activities of international scale thoroughbred breeding enterprises world-wide. We also presented examples of best practice planning and protection that occurs in the only other two centres of thoroughbred breeding excellence, Kentucky in the USA and Newmarket in the UK.

We noted that both of these markets are Australia's international competitors – particularly for investment and growth in the highly competitive thoroughbred breeding and racing industry. These examples were also cited in the Review PAC report, along with others.

We submitted letters from preeminent international leaders in our industry attesting to the industry's global business model and the significance and importance of our environment to the production and development of elite equine athletes.

At the Decision PAC meeting in Denman on 21 August 2014 there were also submissions to the same effect provided to you from industry representatives who had themselves been involved in the Thoroughbred Industry in the Hunter and around the world (Mr A Mitchell of Scone Race Club/Yarraman Park Stud, Mr H Field of Newgate Farm, Mr A Williams of Ballymore Thoroughbreds, Mr P Hodges of Bowhay Pastoral, and Mr Peter O'Brien of Segenhoe Stud, for example).

Investors in our industry are highly internationally mobile. Perception is reality and the importance of clean air, water, soil quality and topography is paramount. Any threat to our environment is a threat to our reputation, performance and future viability. It is these very qualities that underpin our domestic and international success and are the fundamental reasons why the Hunter Valley is the epicenter of Australia's multi-billion dollar thoroughbred breeding industry and our racing industry's nursery.

We strongly dispute the advice presented by the Proponent's equine consultant and therefore the "evidence" upon which the SEAR bases its conclusions. In this respect we agree with our legal expert that no weight should be placed on the SEAR's conclusions and recommendations.

Over the past 50 years in particular, Australia has developed into a mature thoroughbred breeding and racing industry that is world renowned, respected and coveted. We are poised for future growth as Asian and other markets mature and open. This will not happen however if the very core of our industry, Coolmore and Darley, are threatened and forced to leave. The impacts on our critical industry cluster should this occur would be devastating.

Conclusion

We remain strongly of the view that this is not a suitable site for this project and that this project is not in the public interest. By their own admission both the Proponent and the SEAR confirm that an RMP that complies with the Review PAC's recommendations is not viable.

Economic and Financial Consultants Marsden Jacob Associates confirm that when credible coal prices are applied and the impacts on the two studs are taken into account, the project will result in a net economic loss of $457m to NSW, a loss of $120m to the regional economy and place at least 640 sustainable jobs at risk.

Given the material risk that the project will result in an economic loss to NSW, Marsden Jacob Associates further conclude that if the project is approved and Coolmore and Darley are forced to leave the Hunter Valley, the economic impacts on our entire thoroughbred breeding industry would be immense. We question whether this is worth $15m per annum (or less) in revenue from royalties?

Given the threats to our industry and environment, the risks and irreversible damage this project would cause, we strongly urge the Determination PAC to apply the precautionary principle to reject this mining proposal.

We would be pleased to provide any further information or answer any further questions from you or any independent advisors you may appoint.

Yours sincerely

Dr Cameron Collins
President

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1. Summary of Concerns - Secretary's Environmental Assessment Report

The concerns, and those of our expert advisers, that we have raised throughout this process remain unaddressed in the Secretary's Environmental Assessment Report.

The Secretary's Environmental Assessment Report (SEAR) :

- does not address key Director General's Requirements – particularly those relating to the impact of this proposed open cut mine to the studs and the Hunter Valley's Thoroughbred Breeding Industry, heritage and visual, rehabilitation and final landform, social and economic assessments;
- does not comply with the Review PAC's recommendations – particularly the recommendations relating to minimum setbacks, rigorous assessment and that the project should not proceed if a retracted mine plan of the nature recommended by the PAC is proven to be technically and/or financially unviable;
- dismisses the recommendations of the Review PAC and the advice of the Government's Independent Gateway Panel;
- ignores the independent and scientific advice provided by our experts and international industry leaders;
- fails to respond to significant water concerns, heritage, landscape and visual amenity issues many of which have been raised in previous submissions.
- fails in particular to recognise the heritage and history of the Upper Hunter's landscape near Jerrys Plains and Denman which will be irreversibly damaged if mining proceeds;
- presents little if any new information to address the environmental impacts of the Retracted Mine Plan - by its own admission the Department acknowledges that "*little additional information has been provided by Anglo to assess the environmental impacts of the retracted mine plan*…"
- fails to address or assess the *worst case scenarios* – including the visual, blasting, noise and dust impacts and particularly impacts on surface and groundwater flows, final landforms and voids;
- is not based on independent, stringent and scientifically based assessment;
- demonstrates a significant lack of understanding of our industry;
- demonstrates a lack of willingness or capability of acknowledging, or responding to the importance and critical sensitivity of, the operations of the two studs and the families that reside on our studs to proposed mining within 500m of these studs;
- is based on an uncritical adoption of the Proponent's views, particularly with respect to the operation and impacts of the mine on our industry, which have been discredited by the advice of our experts, international industry leaders and veterinarians; and
- does not accord with relevant Government policy.

Accordingly, the Decision PAC can give no real weight to the SEAR or the recommendations which flow from it. The findings and recommendations of the Review PAC, the advice provided by Beatty Legal and other experts commissioned by the HTBA and its members (summarised in the attached section) all support our submission that this project will deliver a net economic loss to NSW and is not in the public interest economically, socially or environmentally.

2. Summary of Expert Advice

Economics

Financial and Economic Consultants, Marsden Jacob Associates have found that the Proponent's economic assessment continues to demonstrate critical deficiencies that call into question the economic merit of the mine. These include:

- non-compliance with NSW Government guidelines and the Director General's Requirements;
- a continued over-estimation of the benefits and under-estimation of the costs of the Project;
- a failure to recognise the impact of the project on Coolmore Australia and Darley Australia, their critical contribution to the regional and NSW economies and the economic impact that would result if they were forced to move inter-state;
- the use thermal coal price assumptions by the Proponent's economic consultants that are unjustified, unrealistic, do not accord with forecasts from credible and respected sources (such as the World Bank, Bureau of Energy and Resources, and the Reserve Bank of Australia) despite consistently using lower thermal coal prices in other economic assessments of other coal projects;
- that the NSW community will be worse off if the mine is developed and that, contrary to the SEAR conclusions, the economic costs exceed the benefits when realistic coal prices are used and discredited benefits are excluded;
- that the economic loss to NSW is worse when the economic impacts that would result if Coolmore and Darley were to relocate interstate;
- contrary to the Proponent's and SEAR's royalty claims of $333m – which is a key justification for the project underpinning both these reports – royalty payments of around $125 - $150 m (present value) are more likely. This equates to $15m per annum (or less) on average;
- an incorrect focus on royalty payments, which are financial transfers between the Proponent and the Government. The economic analysis of the project should focus on the economic benefit or loss of the project. The SEAR fails to do this and in turn fails to assess and comply with its own DGRs with respect to the social and economic impacts of this proposal; and
- a failure to acknowledge the importance of Coolmore and Darley to the industry as a whole, as important employers in their own right, and to their contribution to a diversified regional economy.

Marsden Jacob Associates note that the above criticisms are not new. They have been raised in previous reports and submissions and have been the subject of serious criticism from the judiciary (Justice Preston *Bulga Milbrodale Progress Association Inc V Minister for Planning and Infrastructure and Warkworth Mining Limited* (2013), the NSW PACs for the Stratford Extension and Wallarah 2 Coal project Review.

Marsden Jacob Associates also note that it is not possible to have confidence in the Gillespie Economics 2014 "brief" Economic Assessment. It is not an accurate reflection of the economic merit of the mine because it lacks transparency (the Gillespie 'brief' assessment is only 2 pages long); provides no detail on the present values for costs and benefits or the assumptions that underpin the results); and the analysis does not consider the costs and benefits of the project as a whole and whether it would result in a net benefit for the NSW community. In their own words Gillespie state:

"Any comparison of the results of this assessment and those in the original Economic Assessment are confounded by the changes in assumptions" (Gillespie Economics, 2014, p3)

Water

Concerns relating to the Hunter Valley's vital water systems, particularly the Hunter River (the lifeblood of our industry) which have been raised throughout this process, remain unaddressed. These have been outlined in previous submissions. Expert advice provided by OD Hydrology on the RMP and the SEAR notes that:

- the SEAR has failed to take into consideration both the DGRs and the Review PAC's recommendations – the latter particularly in respect of providing the … *highest levels of protection (to the studs) from the impacts of mining; …further assessments of any new mine for the site; … taking into account worst case scenarios; and …carefully considering the long term water impacts and final land form;*
- the SEAR states that the impacts associated with the proposed mine can only be mitigated to "*some degree"* are "*common in the Hunter Valley"* and are "*unavoidable"*. The SEAR's acceptance of these impacts does not accord with providing the highest level of protection;
- no further modelling assessment has been undertaken in respect to the Review PAC's recommendations by either the Proponent or the SEAR;
- the SEAR is based on a combination of the Proponent's Environmental Assessment and Preferred Project Report **not the currently proposed project;**
- there is no material available to assess the RMP apart from the original, flawed material on the previous mine plan which was rejected by the review PAC;
- without any further assessment, the SEAR conclusions and recommendations are based on outdated material that has not addressed significant concerns regarding its accuracy;
- previously raised concerns include a flawed understanding of the probability of events exceeding the capacity of the proposed water management system, invalid assumptions and outcomes in the final void water balance modelling, including a **physically impossible long term void water balance**; and
- the SEAR cannot be relied up to support a well-founded decision on the Project because:
    - there is no new information,
    - the findings are based on an assessment of an outdated and discredited mine plan,
    - it does not address concerns on water matters, and
    - it presents a standard set of findings and recommendations that fail to ensure the highest levels of protection for the studs.

Air Quality

Advice provided by Advitech Environmental also confirm that a significant number previously raised concerns remain unanswered by the Proponent and the SEAR. These relate to:

- dust emissions, dust control factors, dust deposition rates and inadequate air dispersion modelling;
- cumulative air quality assessment relating to the RMP;
- the methodology used to assess and account for cumulative dust impacts of the project;
- the impacts of PM10 emissions from new RMP draglines;
- uncertainty regarding mining area revegetation and control factors;
- appropriateness of statistical assumptions used for aerial seeding;
- a lack of quantified air quality management procedures;
- inconsistencies in assumed PM10 and TSP ratios and the absence of critical wind roses information; and
- a lack of attention being paid to power station PM2.5 contributions which are significant contributors to PM2.5 emissions in the area.

Noise and Blasting

Noise and blasting impacts were recognised by the Review PAC as having the potential to impact on people, structures and horses. The Review PAC noted that "*blasting could be perceived to put the horses on the studs at risk*". Blasting in particular "*would have noticeable amenity impacts and blasts would be obvious, particularly in the closer pits, and …" visual impacts would remain from the cloud of dust and gases created by each blast"*. They concluded that " *… any evidence of blasting could be detrimental to the reputation of the studs*." (p 19)

For the above and other reasons, blasting impacts were specifically identified by the Review PAC for further assessment in the case of any new mine plan.

We note that the SEAR concedes that the Proponent "*has not submitted any additional noise modelling to quantify the noise differential with and without the Redbank mining area*" (p46).

Despite this, the SEAR suggests that the Proponent would have to "*adopt a risk based assessment of blast design, meteorological and ground conditions and verify blast predictions against monitoring results as mining progresses towards the studs. If blast criteria cannot be met, this would effectively constrain the southern extent of the Redbank mining area*." (p47)

This is an extraordinary statement for many reasons including:

- the unacceptably high level of risk and liability to which the studs would be exposed;
- the counterintuitive suggestion that if blast criteria cannot be met the southern extent of the Redbank pit would be effectively constrained. To use a horse analogy, this is seriously placing the cart before the horse:
    - the Proponent has made it abundantly clear that without the Redbank Pit the project is not viable.
    - the Review PAC has unequivocally stated that should any new small mine plan, in line with its recommendations, prove technically and/or financially unviable then it cannot proceed.
    - yet the SEAR suggests an extraordinary "trial and error" strategy which if not met would constrain the Redbank pit, render the entire project unviable – stranding the mining investment and jeopardising the future of two international scale studs and the entire thoroughbred breeding industry.

Heritage, Visual Amenity and Landscape

The Review PAC considered that the Coolmore and Darley Woodlands properties " *have a cultural landscape value that stems from a combination of scenic and historic qualities – combined with that appears to be a near continuous use of the properties for horse breeding, or one sort or another, for over 100 years if not more."* The *"unique combination of scenic, historic and agricultural qualities … have a significant heritage of their own. …this combination of attributes is extremely difficult**, if not impossible** to find elsewhere." (p12)*

The Review PAC further acknowledged that "*the significance of the historic homesteads (on Coolmore and Darley) is not disputed and is identified in the Proponent's environmental assessment. However the additional value derived from the surrounding cultural landscape setting and continuity of land uses on the properties has not been recognised to any clear extent nor given any meaningful consideration by the Proponent*." (p12)

The Review PAC further recognised that "*excellent soils on the alluvial flats, and the availability of undulating hills is a highly sought after combination of qualities conducive to the development of elite thoroughbred athletes. These qualities appear to be valued and sought after worldwide …"* (p13)

The Review PAC's independent advisor corroborated the view expressed by Ms Veale of GML Heritage, "*that the cultural landscape of this area would likely satisfy criteria for heritage significance at a state and perhaps even national level*." (p12)

Both Ms Veale of GML Heritage Consulting and Mr Wright, Registered Landscape Architect, made oral and written submissions to the Review PAC, to the Department and at the Decision PAC's public meeting. We commend those reports to you and ask that you take them into account in conjunction with Ms Veale's and Mr Wright's latest reports which reinforce, inter alia, that **the SEAR fails to**:

- address key and ***project specific*** DGRs relating to non-Aboriginal heritage values of the location related to its settlement by Europeans and its pastoral history;
- assess the heritage values which is **a specific DGR unique to this Project**;
- acknowledge the cultural landscape may qualify for State and National Listing and thereby consider a key reason why this project **should not proceed**;
- undertake an adequate and comprehensive assessment of the cultural landscape, as required by the DGRs – an assessment that remains outstanding throughout this process.

In Ms Veale's opinion, **the cultural and heritage values in this area will be irrecoverably impacted should the proposed Drayton South open cut mine proceed**.

In his previous reports, Mr Michael Wright, Registered Landscape Architect, attested to the scenic qualities, unique landscape topography and productivity of the Denman - Jerrys Plains area and the longstanding and rich cultural pastoral history of the area dating back to the early 1800's. Mr Wright also remarked on the importance of an attractive and well ordered landscape to studs' image, reputation and viability of their businesses. This is true of all international scale thoroughbred breeding operations around the world.

Mr Wright has previously commented on the deficiencies of visual and landscape assessment and that open cut coal mining is one of the most incompatible land uses that could neighbour a thoroughbred breeding stud – not only due to open cut and overburden emplacement activities but the risk of dust, toxic gases, noise, vibration, heavy machinery on public roads would also contribute to the direct, indirect and dynamic views in the stud's immediate surrounds. We commend Mr Wright's earlier reports to you and trust you will read them in conjunction with his latest advice.

In his presentation to the Determination PAC meeting and his most recent report, (September 2014) Mr Wright confirmed the:

- uniqueness of the Jerrys Plains Denman picturesque and highly cultural landscape;
- conclusions of the Review PAC and Gateway Panel recognised that the loss of landscape values was one of the most important consequences of the proposed Drayton south open cut coal project. In both Mr Wright's and Ms Veale's view these "consequences" are significant and irreversible;
- findings of the Review PAC and Gateway Panel that international scale thoroughbred breeding and open cut coal mining are incompatible land uses – particularly in such close proximity.

Mr Wright notes that the SEAR:

- fails to adequately address the DGRs;
- disregards the Review PAC's and Gateway Panels assessments of the studs ' vulnerability to the impacts of mining - by ignoring these important elements the SEAR is in effect ignoring its own DGRs for this project.
- disregards the Review PAC's and Gateway Panel's recommendations and findings – particularly with respect to providing the studs' with the highest levels of protection, shielding the studs from mining through minimum setbacks;
- fails to recognise and assess the studs' extremely high sensitivity to direct, indirect and dynamic visual impacts of the mine;
- does not evaluate the effectiveness of vegetation screening proposed by the Proponent to attempt to shield some of the views of the proposed mine;
- accepts that the Proponent has not undertaken further rigorous visual assessments, as required by the Review PAC, and fails to undertake any independent assessment itself.

Contrary to the Review PAC's expert advisors and the Independent Gateway Panel - both of whom supported their findings with scientific research, the SEAR report makes a number of questionable and judgemental statements which are not well informed, not based on any evidence and uncritically

adopts (in parts by using the Proponent's own words) the views of the Proponent over the expert views of our industry. For example, the SEAR states:

- *"The Department does not discount the reality of 'dynamic views' but questions to what extent visitors to the studs would be aware of the debate in regard to the Drayton South project" (p42)*
    - The Department has clearly either not read our submission to the Director General or completely disregarded the evidence we presented from international industry leaders who were not only aware of the impact of mining in the Hunter Valley, the impact this mine would have on the two studs Coolmore and Darley, but were contemplating decisions not to invest in the Hunter Valley as a consequence.
- *"The proximity of large open cut mining projects to horse breeding operations is not something new to the region, and it does not appear to have prevented Coolmore and Woodlands from operating successfully for many years" (p42)*
    - This statement aligns with the arguments and perceptions propagated by the Proponent. Anyone who has travelled to the Hunter Valley and visited these stud farms will know that their operations are very well sheltered and that the closest mining operations are at least 8-10 km away. To suggest otherwise is both misleading or mischievous. As officers of the Department who wrote the SEAR have visited the stud farms we fail to understand how they could now advance these conclusions..
- *"Furthermore the Department understand that most horse owners would be unlikely to visit the studs and even if they did, it is difficult to visit this areas without seeing other coal mines."(p42)*
    - This statement is a propagation of the statements made by the Proponent and completely ignores the advice contained in our submission to the Secretary and the testimony of domestic and international industry leaders (also attached to our submission).
    - Tens of thousands of clients and visitors (including a growing number of tourists) frequent the studs regularly and during specific events (including the Scone Cup which attracts some 10,000 people), the Scone Horse Festival, Stallion Parade weekend (which also attracts upwards of 5,000). Further, as two of Australia's finest studs, Coolmore and Darley attract tourists on a regular basis. Tours through these studs not only support our local tourism operators but have been growing over the past years and are now an integral part of the Upper Hunter Shire's "*Come on Up*" tourism attraction campaign for the Upper Hunter.
    - It is disappointing that the Department has ignored the advice of our industry, the advice of the Review PAC and Independent Gateway Panel, the conclusions of the Bickham PAC (2010) and the decisions of a former Government and come to a conclusion on "co-existence" which has not basis in fact or commercial reality for our industry.

The Review PAC and Independent Gateway Panel provided substantial evidence in support of their visual and landscape findings and the sensitivity and vulnerability of the studs' operations and reputation to mining threats. This included expert advice from Dr Richard Lamb and international research conducted by the Gateway Panel. By contrast the SEAR makes value judgements based on the pronouncements of the Proponent, disregarding all other expert advice, and the advice of our own industry.

This is a very disappointing outcome from a process that is meant to be based on transparency, accountability, science, evidence and independent analysis.

For these reasons, and those cited by our experts, we completely reject the findings of the SEAR and submit that the Determination PAC should place no weight on the SEAR's findings and recommendations.

3. Industry Matters

In our previous submissions the HTBA has outlined the size, structure and nature of our industry, its recognised national, state and regional significance (including by the current NSW Government), its international performance and reputation and the significance of Coolmore and Darley to the Hunter Valley's entire equine Critical Industry Cluster.

While we will not repeat this information in its entirety in this submission (as we commend you read our earlier submissions) we would like to reiterate a few key points:

1. As the Hunter Valley is recognised as the pinnacle of Australia's multi-billion dollar thoroughbred breeding industry, Coolmore and Darley are its epicentre upon which the rest of our industry relies.
2. The Hunter Valley is the only one of three centre of thoroughbred breeding excellence in the world that is not protected from the threats and impacts of mining or other incompatible land use developments.
3. Any impacts (direct or indirect) to Coolmore and Darley will reverberate throughout our industry, trigger a domino effect and fragment our equine critical industry cluster.
4. The impacts of mining are already having a detrimental impact on future investment decisions in the Hunter Valley's thoroughbred breeding industry.
5. Previous PACs, the Gateway Panel and former Government decisions recognise that international scale thoroughbred breeding operations and open cut mining are incompatible land uses and that the studs should be afforded the highest levels of protection.
6. The proposed open cut mine at Drayton South is only 500m away from the boundaries of these two international scale studs and poses unacceptable risks to their environment, viability and to the reputation and growth of our entire thoroughbred breeding industry in the Hunter Valley.

The SEAR relies unquestioningly upon the Proponent's misleading and incorrect comments and those of its consultant Dr Kannegieter.

As a consequence the SEAR's findings are not only based on wrong information they demonstrate a complete lack of understanding of our industry, its business model and its vulnerability to threats from mining.

The SEAR disregards the independent PAC and Gateway advice, ignores the advice we provided in our previous submission and makes no effort to conduct any independent analysis or research of its own. Had the SEAR done this it should have reached very different conclusions.

A copy of the comments and critique of Dr Kannegieter's comments on our industry is re-appended to this submission.

We question why the SEAR has disregarded all of the independent evidence placed before it on this matter.

We comprehensively reject the SEAR's comments and conclusions on the proposed mine's impacts on the studs and our industry

We submit that no weight be placed on the SEAR's recommendations.

4. Equine Health

In our previous submissions we have demonstrated that Australia's Thoroughbred Breeding Industry breeds elite athletes that are world-renowned. Published information on the possible effects of coal mining dust on equine health is scant. However the absence of evidence does not equate the evidence of absence.

We have repeatedly commented that the equine health impacts presented by Anglo American and their consultant (Dr Kannegieter) are inaccurate, not soundly based, misleading and do not reflect the conditions that apply to the Hunter Valley. We have submitted that:

- the information presented by Anglo American and their consultant Dr Kannegieter is based largely on studies of stabled horses in race training and has little relevance to the majority of horses in the Hunter Valley region;
- the implication that horses commonly inhabit dusty environments but are well adapted to high levels of dust is inaccurate (as documented by the author himself throughout the report);
- it is well established that a significant proportion of horses are adversely affected by the "dustiness" of their environments;
- no information is provided about the specific adverse effects associated with dust generated by coal mining;
- no information is provided to support the statement that "horses have a highly refined respiratory tract that greatly protects against contamination";
- the advice from Anglo American attempts to trivialise the potential effects of environmental pollutants on equine airway by stating that these effects would be difficult to differentiate from the contribution of other factors. This is not a valid argument.
- the statement that horses exposed to "high levels of dust can compete to the best of their ability" is incorrect and contradicted on numerous occasions in the body of the report;
- Dr Kannegieter's comments that dust without endotoxin does not contribute to inflammatory airway disease (IAD) however this is not known for certain. Further this line of argument is not relevant to the potential effects of coal mining-related dust on horses on breeding farms; and
- the conclusions referring to cleaning practices and bedding types in stabled horses is irrelevant to dust associated with coal mining activities.

With regards to Anglo American's most recent Justification Report, we have submitted that:

- the bulk of Dr Kannegieter's response in the Justification Report references his own material from his earlier report (Drayton South Project – Horse Health Literature Review: The effects of dust on the equine lower respiratory tract);
- this report contains no information on the possible effects of noise, vibration or blast overpressure;
- it should be recognised that very little scientific information (as opposed to personal opinion) has been provided to allay the concerns of the Planning Assessment Committee;
- the greatest deficiency of Dr Kannegieter's initial report and his comments contained in the Justification Report is the almost complete lack of information regarding the possible effects of dust arising from coal mining activities on the respiratory health of horses;
- in the Justification Report (Appendix D p4) Dr Kannegieter states that "… *dust from the Project will be free of any other irritants, in particular endotoxins, moulds, bacteria and other allergens which are the primary causative factors in equine lower respiratory tract disease* …" This statement completely ignores the contribution coal mining dust to respiratory disease that is well recognised in human medicine;

- the effects of dust related to coal mining activities of the respiratory health of horses are largely unknown. However, the frequency of reports within the veterinary scientific literature do not necessarily reflect the incidence of disease;
- components of coal and coal dust other than silicates cause significant disease in human coal miners;
- differences between the human and equine respiratory tract are described in a simplistic way and Dr Kannegieter has suggested that these differences might protect the equine lungs from inhaled dust. No scientific evidence is provided to support this suggestion;
- despite differences in anatomy, a proportion of inhaled fine particulate material is clearly deposited in the peripheral airways of horses. Particles measuring less than 5 micrometers are deposited in the lungs of both horses and humans, and it is these particles that pose the greatest health risk;
- if the amount of particulate matter in the environment increases, then the amount of material reaching the peripheral lung can be expected to increase;
- Dr Kannegieter's initial report focused on Inflammatory Airway Disease and Recurrent Airway Obstruction which is completely irrelevant when considering the potential effects of airborne particulate matter arising from coal mining;
- this distracting focus has been continued in Anglo American's Justification Report; and
- the apparent conclusion that horses commonly live in very dusty environments but are well suited to those environments is patently incorrect and should be disregarded.

The SEAR seems to unquestioningly and without any independent analysis or assessment, adopt the comments made by the Proponent and makes unsubstantiated comments and conclusions. For example:

- *"… the Department **believes** (emphasis added) that there is some merit to the argument that horses would become habituated to the acoustic impacts from the mine, even over relatively short periods" (p47);*
- *"the Department acknowledges that there is uncertainty about the potential impacts of noise and blasting on horses at the studs. However, if anything, the Department **believes the weight of evidence** supports a view that there is unlikely to be any adverse impact of noise from the project on the safety of the horses and their reproductive capacity" (p47); and*
- *"there is no reason to **believe** that horses are more sensitive than people or that a more stringent criteria should be applied to horses." (relating to air quality, p53)*

On all of these matters the Department has demonstrated that it does not have relevant information, has failed to present the "weight of evidence", has failed to undertake any independent analysis and has based its findings entirely on the comments of the Proponent's consultant – it entirely disregards the information our industry has presented.

Comments in and the conclusions of the SEAR do not reflect the operation of our industry in the Hunter Valley. The SEAR perpetuates a misunderstanding, and misrepresents the operation of, our industry and bases it findings on the Proponent's information on horse health which is incorrect, not well researched, without foundation, not supported by empirical data and has little relevance to thoroughbred breeding operations and the majority of horses in the Hunter Valley.

In our view, and that of industry experts, the equine health analysis presented by Anglo American – throughout all their reports is misleading and unreliable and does not properly or seriously address relevant Director General's Requirements. The fact that the SEAR relies on this information unquestioningly represents a fundamental flaw in SEAR and as such it should be given no weight.

5. Government Policy

There has been a long history of Coalition Government members' stating their intentions to protect our strategic agricultural lands, critical industry clusters and vital water resources. These date back to the 2011 Liberal and National Party election policy platform: *The NSW Liberals & Nationals Strategic Regional Land Use, Triple bottom line assessment to protect our regions* which states:

- A key part of the strategic land use planning process will be to identify strategic agricultural land and associated water **and ensure that it is protected from the impacts of development."** (p2)
- The NSW Liberals and Nationals **believe that agricultural land and other sensitive areas exist in NSW where mining and coal seam gas extraction should not occur**." (p2)
- The NSW Liberals and Nationals have committed to rewriting the State's planning laws. Our planning policy includes three key elements:
    - Scrapping Part 3A of the EP&A Act;
    - Ensuring local input into regional strategic plans
    - Commencing an overhaul of the planning system soon after March 2011, with community input prior to the final determination of the DA. This would include a thorough examination of **enhanced buffer zones and "ring fencing" with particular reference to proximity to communities and effect on established industries.**" (p4)

The Government's Strategic Land Use Policy is the product of this election commitment. While not as stringent as the election commitment in its final form, the intention to protect strategic agricultural lands, critical industry clusters and vital water resources remains. Along with the formalisation and institution of the Gateway Panel, the Gateway process and the need for transparent, scientifically based and independent Government analysis and advice - particularly that of the Government's Independent Planning Assessment Commission.

The Government's Strategic Regional Land Use Policy (SRLUP) recognised the Hunter Valley's thoroughbred breeding industry as having state and national significance and identified it for **heightened protection**. The industry has been mapped and is recognised as a critical industry cluster. Further in line with the Government's 2014 policy on coal seam gas, the equine CIC is protected from CSG developments.

The Government's SRLUP is clearly designed to restore balance and resolve land use conflicts – particularly in the Hunter Valley and ensure that our **rich agricultural sector is protected along with our strategic agricultural lands, critical industry clusters and vital waterways.**

Former and current NSW Premiers, the Deputy Premier and Government Ministers have publicly attested to the fact that the Government's new policy is intended to **protect** strategic agricultural lands and industries. Two examples include:

"*The message I want to leave you all with today is this: if any proposed mining or gas extraction activity is likely to harm our prime agricultural land or other important rural industry clusters or the water resources associated with those areas,* ***it will not go ahead under this government."*** (Emphasis added). Deputy Premier's Address to the May Day Rally 2012.

"*The processes we have set up, which will apply to the whole state when it is mapped,* ***will guarantee that the sorts of high agricultural land you have described will be safeguarded, will be protected, no doubt about it.****"* (Emphasis added, Alan Jones interview of Minister Hazzard, former Planning Minister and architect of the SRLUP – high agricultural land referred to here includes the Hunter Valley's thoroughbred breeding industry).

The decision on the Drayton South project is the first test of the Government's new policy, policy commitments and processes. This is a watershed decision and will signal whether the Government was genuine in its commitments and whether the processes it has instituted actually work to deliver its states policy outcomes.

The SEAR's recommendations are in direct contrast to the PAC's recommendations, the advice from the Government's Independent Gateway, the conclusions and recommendations of a previous PAC, former Government decision (prohibiting open cut mining at Bickham) and we submit the Government's Strategic Regional Land Use Policy.

In his advice to the Department of Planning, the Director General of Trade and Investment of February 2014 stated:

" DPI confirms the Panel and PAC identified the Coolmore and Woodlands horse studs as core businesses that are pivotal to the sustainability of the Equine CIC due to their scale, financial value, international reputation and representation."

"DPI additionally supports the Gateway Panel and PAC's findings and recommendations that:

- *The Coolmore and Woodlands (Darley) thoroughbred stud enterprises are pivotal (core businesses) to the sustainability of the Upper Hunter Equine Critical Industry Cluster and should be protected: and*
- *The potential impacts from the Drayton South mining proposal should be mitigated by providing additional buffers (set back distances) between the mining activities and the Equine and Viticultural CIC and the landscapes that are recognised as critical for the continued operations."*

Despite the intentions of the Government's SLURP, the recommendations of the Review PAC and the conclusions of the Government's Independent Gateway Panel (many of which are disregarded by the SEAR) and public pronouncements by NSW Government Ministers, the SEAR makes the following comments and conclusions:

- that the impacts on the thoroughbred breeding industry are "*unavoidable consequences of co-existence" (piv)*
- *"It also does not consider these impacts to be significant enough to cause the thoroughbred operations to leave the Hunter Valley,* ***even though there is always a risk that this may occur."*** *(piv)*
- *"…the Department does not believe that the Government's policy position equates to no or nil impacts from mining on CICs" (p35)*

This interpretation of Government policy does not reflect the public statements made by Government Ministers nor the underpinning intentions of the SRLUP, which was developed in an iterative manner with input from the Stakeholder Reference Group (including the HTBA) and the community more broadly.

Despite issuing specific supplementary Director General's Requirements requiring the Proponent to comply with the Gateway process the SEAR disregards the advice of the Gateway Panel.

By seeking to find some technical loophole to justify the advancement of this project, despite all advice to the contrary, without any scientific or independent analysis, and contrary to the intentions of the SRLUP, the Department seems predisposed to advance this mine despite the significant and irreversible impacts on the landscape its heritage and history, and the detrimental impacts on the studs and the Hunter Valley's equine critical industry cluster.

The absence in the SEAR of a fulsome net economic cost and benefit analysis, which should take into account the social and economic costs of this proposed mine, reinforces this bias. Importantly it does note present a full or true picture of the economic impact of this mine to NSW – which Marsden Jacob Associates find will result in a net economic loss to the NSW community and it not in the public interest.

We submit that the Determination PAC should give no weight to the SEAR report and reject the Drayton South open cut coal mine proposal.