

The Panel
Office of the Independent Planning Commission NSW

By email to ipcn@ipcn.nsw.gov.au

Hume Coal Project and Berrima Rail Project (SSD 7172 & SSD 7171)

Dear Panel members,

I make the following submission following the reopening of submissions to the Commission for this proposed mine and related project.

It is noted that only new material will be considered in this submission. I wish to make two points, the first relating to the rail crossings and increased rail movements, the second on an increasingly important factor.

1. I reside in Fountaindale Road Robertson, which is identified in the Department of Planning Industry and Environment response (para numbered 1) to the Commission's request for clarification in relation to roads with significant rail crossings that will be impacted by increased rail traffic should this mine proceed. The Department's response, given the seriousness of the potential problem, seems deliberately vague. No actual figures for anticipated rail movements are given other than for "peak road use periods". It bravely assumes that peak times are two half hour periods and predicts only two movements per day for those times. No figures are provided for increased rail traffic over a 24 hour period. It is stated that "most" of the increase of rail traffic will be between 7am and 6pm but gives no figures outside those times and seems to ignore commenting upon the increased noise pollution caused by heavy rail with train warning horns, rail flashing lights and bells, and the effect upon the many houses near the rail line. This is in addition to the obvious delay caused by almost one kilometre of rail wagons passing over the crossings.

The Department's response to the Panel's enquiry is totally inadequate and demonstrates a clear lack of research of the departmental information available to it. Transport for NSW anticipates a 12% increase in heavy rail traffic until 2036. There was a recent construction of a \$7,500,000 loop extension at Mount Murray to allow for longer trains that was put in place to specifically cater for increased heavy rail movements on this line. Of course, extra rail traffic required by the Hume Coal project was not included in any projections.

A TOC Waiver by the Transport Assets Standards Authority issued to the Sydney Rail Operations Centre Pacific National (TW 204 – 488) dated 15 July 2021 (postdating the Department's response) confirms a current trial of increased heavy loads of up to 46 wagons on the Moss Vale – Unanderra line. The waiver reads in part:

"This TOC Waiver permits a trial to increase the maximum trailing load from 3300 to 3600 tonnes for two L2/L3/L4 locomotives as a two pipe train (up to 46 wagons) on the Unanderra to Moss Vale line (UP direction)."

This can only signal an intent to operate heavier and longer (over one kilometre) trains through Robertson. It is assumed that this trial is not in anticipation of a favourable outcome for Hume Coal from the Panel.

With increasing economic activity and the stated objective of the department to move more freight by rail it surely will not be long before maximum capacity is reached. The line is already the cause of much

annoyance to the residents of Robertson without the additional stress caused by more heavy rail movements introduced by Hume Coal.

Fountaindale Road is an important corridor for many residents and farming communities to the south of Robertson with livestock movements and the school bus accessing the Illawarra Highway. Any increase in rail traffic which is the already subject to heavy use will present significant inconvenience and safety issues.

It is noted that Fountaindale Road is but one of five significant crossings (three in Robertson) likely to have increased rail traffic. There is an additional unregulated crossing across Hoddle Lane giving access to several homes on the south of Hoddle Street.

The crossing at Meryla Street divides Robertson in half and with increasing population it is likely to present considerable problems of safety and convenience for both pedestrians and road traffic in the future. The crossing on the Illawarra Highway is of particular concern. Even now there are frequent long delays for traffic several times during the day when slow moving 40 wagon freight trains cross, causing long lines of traffic queues either side of the line. Robertson is a tourist town and the Illawarra Highway is by definition a highway representing the only practical route to the coast and Wollongong for trucks, tourist vehicles and commuters from the large towns of Moss Vale and Bowral . It seems incongruous that in this day and age for a commercially important highway to frequently conflict with a busy commercially rail line. The proposed coal mine with increased rail and road traffic will be a significant issue for Robertson in the future. Making decisions that effectively increase rail movements simply makes matters worse.

2. The second point I raise may not have been addressed in prior submissions and is very much the elephant in the room. The Commission will now be well aware of the recent Federal Court judgement handed down on 27 May 2021 in the class action **Anjali Sharma and Ors v Minister for the Environment (Cwth)**. This case concerned the proposed Vickery mine extension project. The court (Bromberg J) in a long carefully constructed judgement held that the Minister has a duty to protect young people from the devastating impact of climate change. The judge found that:

“the applicants have established that the Minister has a duty to take reasonable care to avoid causing personal injury to the Children (the Applicants) when deciding underThe EBDC Act, to approve or not approve the (coal mine expansion)”.

This case opens the way for mining companies and fossil fuel polluters to be held liable for damages in negligence due to the emissions contributing to climate change.

It follows that the damage and injury which will be caused by the Hume Coal mine is reasonably foreseeable and it is incumbent on the Panel to give due consideration to this decision in deciding whether this project should proceed at all. If the federal Minister has this duty of care, then surely it extends to the Panel.

The implications of this decision are ground-breaking and should not be understated by the Panel or the Commission. This alone should be a sufficient and proper ground to refuse the application.

I have no conflict of interest in making this submission but I do have grandchildren and am concerned for their future.

Yours faithfully,

Mark Turner