

Submission opposing the reopening of Dartbrook mine.

Dr Ben Ewald

The mine at Dartbrook has previously been approved to mine 6 million tonnes per year of coal during the period until 2022, however the mining operation as approved was uneconomic so will not proceed. The current development application is for a different type of mining, however without a new approval it cannot proceed. The 1991 approval to extract 6 million tonnes of coal per year until December 2022, or approximately 21 million tonnes of coal over the remaining time, is therefore not relevant to the current proposal to extract 10 million tonnes of coal which must be judged on its merit under current conditions. What was in the community and national interest in 1991 may no longer be in the community and national interest in 2019.

The current context for this mine is that Australia has signed the Paris accord to limit global warming to 2 degrees, and if possible 1.5 degrees. The global modern era carbon budget which must not be breached is 790Gt of which 575Gt have already been released leaving 215 Gt. The proposed 10 million tonnes of coal would release 24.9 million tonnes of CO<sub>2</sub> when burned, which is a small component of the total global emissions, but that total is composed of a large number of small contributions around the world. In the judgement Gloucester Resources Ltd vs Minister for Panning 2019 Chief Justice Preston determined that there is a “causal link between the project’s GHG emissions and climate change and its consequences” and that it was not relevant that the proposal contributed only a small fraction of the total global GHG emissions.

Considering the impacts of the project and the public interest, the Chief Justice held that downstream indirect GHG emissions should be considered in determining the DA, as both direct and indirect GHG emissions, ie scope 1,2 & 3 emissions contribute to the cumulative impacts of climate change.

The EIS lists scope 1 and 2 emissions as 3.69 Mt CO<sub>2</sub>e over the life of the mine, however the scope 3 emissions from burning 10Mt of bituminous high volatile thermal coal are 24.9 million tonnes of CO<sub>2</sub>e, for a total GHG impact of 28.6 million tonnes. For an operational workforce of 99 people, that is 289 thousand tonnes of greenhouse gas damage to the environment for every person employed at the mine. That is way out of proportion when the average Australian’s GHG emissions are about 25 tonnes per year. The Dartbrook mine proposal includes no carbon offsets.

It is not a valid argument that if this seam is not mined that another seam will automatically take its place. The question of market substitution was specifically addressed by Chief Justice Preston at paragraph 545 of the Gloucester Resources Ltd vs Minister for Panning judgement.

*“There is also a logical flaw in the market substitution assumption. If a development will cause an environmental impact that is found to be unacceptable, the environmental impact does not become acceptable because a hypothetical and uncertain alternative development might also cause the same unacceptable environmental impact. The environmental impact remains unacceptable regardless of where it is caused. The potential for a hypothetical but uncertain alternative development to cause the same unacceptable environmental impact is not a reason to approve a definite development that will certainly cause the unacceptable environmental impacts. In this case, the potential that if the Project were not to be approved and therefore not cause the unacceptable GHG emissions and*

*climate change impacts, some other coal mine would do so, is not a reason for approving the Project and its unacceptable GHG emissions and climate change impacts: see Kane Bennett, "Australian climate change litigation: Assessing the impact of carbon emissions" (2016) 33 EPLJ 538 at 546-548; Justine Bell-James and Sean Ryan, "Climate change litigation in Queensland: A case study in incrementalism" (2016) 33 EPLJ 515 at 535."*

## Conclusion

I submits that the prior approvals in 1991 and 2004 are no longer valid as times have changed and community needs have changed. The increasing health impact of climate change through drought, fires, and heat waves create an urgent imperative to limit atmospheric carbon emissions as a matter of urgency. Community and national benefits from the employment generated by the proposal are outweighed by the harm to the climate and health from the burning of coal. This conclusion on the Dartbrook mine reflects the conclusion to the judgement Gloucester Resources Ltd vs Minister for Panning, where Chief Justice Preston wrote

*"Wrong time because the GHG emissions of the coal mine and its coal product will increase global total concentrations of GHGs at a time when what is now urgently needed, in order to meet generally agreed climate targets, is a rapid and deep decrease in GHG emissions. These dire consequences should be avoided. The Project should be refused."*