

**MINUTES OF THE DARTBROOK COMMUNITY CONSULTATIVE COMMITTEE
MEETING – 16 DECEMBER 2020**

ATTENDEES:		
Lisa Andrews	LA	Independent Chairperson
Cr Kiwa Fisher	KF	Upper Hunter Shire Council (UHSC) Representative
Paul Smith*	PS	UHSC Representative
Sharon Pope*	SP	Muswellbrook Shire Council (MSC) Representative
Annette Rahn	AR	Community Representative
Jennifer Lecky	JL	Community Representative
David Conry*	DC	AQC Representative
Tony Lonergan	TL	Community Representative
Arthur Mitchell	AM	Community Representative
James Bailey	JB	Hansen Bailey
Dorian Walsh	DW	Hansen Bailey
APOLOGY:		
Noel Downs	ND	Wanaruah Local Aboriginal Lands Council Representative

* Attended the meeting remotely via Zoom.

1. INTRODUCTION & APOLOGIES:

- 1.1 The meeting was opened by LA at 10:00am for those attending on site at the Dartbrook offices and remotely via Zoom. LA confirmed that minutes from the meeting would be drafted by DW and sent to the CCC members before end of the year.
- 1.2 LA noted that ND had stepped down as CEO of the Wanaruah Local Aboriginal Lands Council Representative (WLALC) in the previous week and was an apology. LA to approach the WLALC for a new delegate to the CCC.

2. DECLARATIONS

- 2.1 LA declared that she is an approved Independent Chair with DPIE, appointed by the Secretary and engaged by AQC to chair this CCC.
- 2.2 No changes to members' previous declarations.

3. CORRESPONDENCE

- 3.1 Correspondence received since the previous meeting:
 - 3/11/20 – Email from DW advising of the IPC announcement on the agreement with AQC regarding MOD 7 and providing a link to its statement.
 - 3/11/20 – Email to members providing this information.
 - 10/11/20 – Email to members advising that the Hunter Thoroughbred Breeders Association has joined the LEC proceedings for MOD 7.
 - 7/12/20 – Email to members with the meeting notice and agenda for this meeting.
 - 9/12/20 – Questions provided by KF, which were forwarded on to AQC for response.

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- 3.2 DW referred to questions on notice provided by KF before the meeting. In relation to the questions, LA referred to the CCC guidelines and noted the questions that were outside of the scope of the CCC charter. JB provided responses to the questions provided, which are reproduced below in Section 9.
- 3.3 AR asked why people on AQC land being sold were being asked to vacate their premises. DC noted that tenants were informed of the potential sale of properties and the expectation that they may have to move, subject to any new owner.
- 3.4 AM asked whether any of the blocks have been sold? DC confirmed that as yet, none had been sold. AM noted that one of AQC's agents had told him that some had been sold and as such, may not be acting in a very truthful manner regarding the status of the sales. DC to follow this up with the agent.
- 3.5 LA requested that the questions on notice relating to the Land and Environment Court (LAEC) challenge that could not be responded to at the meeting (see Section 9) are responded to by AQC after conclusion of this matter.

4. PREVIOUS MINUTES

- 4.1 There were no comments or changes on the minutes from the meeting of 2 September 2020.

5. BUSINESS ARISING FROM PREVIOUS MINUTES

- 5.1 There were no actions from the previous minutes.
- 5.2 There was no other business arising raised by members from the previous meeting.

6. PROJECT UPDATE – MODIFICATION 7

- 6.1 DW updated the CCC on the status of the DA 231-07-2000 Modification 7 application and the key steps in the assessment and LAEC process since the previous CCC meeting in September 2020. DW noted that AQC plan to appeal the decision over the Hunter Thoroughbred Breeders Association joinder to the LAEC proceedings and confirmed that this appeal was required to be made before 18 December 2020.

7. GENERAL BUSINESS

- 7.1 DW provided a summary of environmental monitoring results (for meteorology, air quality and surface water) and land management undertaken since the last CCC meeting. This update included a summary of elevated air quality monitoring results from depositional dust gauge 885. DW confirmed that these results were influenced by adjacent agricultural activities and not as a consequence of Dartbrook care and maintenance activities. DW also noted that the result was not considered to be a reportable incident, however the results and reasons for the high readings would be presented in the 2020 Dartbrook Annual Review report.
- 7.2 DW also confirmed that no environmental incidents or community complaints had been recorded since the previous CCC meeting.
- 7.3 DW described the preparation of updated Dartbrook Care and Maintenance Mining Operations Plan (MOP) and Mine Closure Plan documents. The updated draft MOP was submitted to the Department of Planning, Industry and Environment (DPIE)-Resources Regulator on 30 November 2020 to cover ongoing care and maintenance activities over the period 2021-22.

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The updated draft Mine Closure Plan was provided to MSC, UHSC, DPIE and DPIE-Water for review and comment on 4 December 2020. Review comments on both draft documents have been requested for February 2021 and will be incorporated in final documents for approval.

- 7.4 DW described the current concept for post-closure land use for the site. TL noted that the Stage Discharge Dam would be too large for its catchment area following closure and that resizing of the dam would be required if it was to be retained after mining. DW will include the rehabilitation of the Staged Discharge Dam catchment in the revised Mine Closure Plan document. JB also noted that one other remaining issue in relation to site infrastructure was whether the mine access road and its associated bridges over the Hunter River and Dart Brook would be of value as a community asset and to this end, whether MSC would be prepared to take ownership of this asset and on what terms. In a similar vein, JB noted that there is the potential that ARTC may want to continue using the Dartbrook rail loop as a siding.
- 7.5 KF asked whether the Mine Closure Plan would impact on the current land sales. JB suggested not as they do not house any material mine associated infrastructure that would warrant rehabilitation.
- 7.6 LA enquired as to whether there was any further general business? No further business was raised by the attendees.
- 7.7 LA referred to the general interest from CCC representatives in a site inspection on the day of the next CCC meeting. In conversation it was generally agreed that the site inspection should cover the major remaining surface infrastructure including the Boxcut, Staged Discharge Dam, CHPP, REA and River Red Gum rehabilitation area. LA requested that the site tour occur prior to the more formal part of the meeting and as such, additional time should be allowed for this particular meeting.

8. MEETING CLOSED

- 8.1 LA scheduled the next CCC meeting for Wednesday 10 March 2021, site tour starting at 10:00am. Other meetings for the next year were scheduled for 23 June, 22 September and 8 December 2021.
- 8.2 The meeting was closed by LA at 10:40 am.

9. RESPONSE TO QUESTIONS TAKEN ON NOTICE

- 9.1 Questions from KF that were provided in writing prior to the meeting are below in *italics*, along with to AQC responses to each.

Q1: *Can AQC provide a detailed update to the CCC on their proposed property and water sales?*

Expressions of interest were due October 29th 2020.

The RtS states that AQC are ‘considering the sale of some of its lands and Water Access Licences ... Sparke Helmore Lawyers has sought Hansen Bailey’s advice on the potential air quality, acoustic and water supply implications of selling these sales (if executed).’

Response:



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Commercial in confidence expressions of interest in relation to the potential sale of some of AQC's land and water licence entitlements assets have been received and are being considered by AQC.

Q2: *Can AQC explain the discrepancy in the amount of Water Access Licences proposed to be sold?*

AQC informed the s34 Conciliation Conference a total of 3760.8 ML was proposed to be sold, whereas 5388.8 ML was listed for sale by the agent acting for AQC.

4 of the 8 properties are listed with various water entitlements, being;

- Garoka Dairy with '3723 MgL irrigation entitlements'*
- Kayuga Homestead with '842 MgL irrigation water'*
- Redrock with '254 Mgl irrigation water'*
- Landino Park with '519 MgL irrigation water'*
- Total water entitlements offered for sale 5388 ML.*

Response:

Expressions of interest have been sought in relation to the sale of various water entitlements. AQC are unable to comment on the court proceedings or information before the court.

Q3: *Can AQC please confirm their total water access licence entitlements? In the Response to Submissions Received Following Notification of Proponent's Response to Contentions" [RtS] Document, the total is 5517.8 ML, whereas several AEMRs and the earlier Modification Application list a total of 5535.8 ML. Has 18 ML been sold, disposed of or miscounted?*

Response:

AQC currently holds a total water entitlement of 5543.8 ML (all purposes) under the Dartbrook, Hunter Regulated River Alluvial, Hunter Regulated River and Sydney Basin-North Coast Groundwater Water Sources.

Q4: *Can AQC provide an updated and detailed Water Management Plan to the CCC?*

The RtS document implies that water ex the Wynne Seam goaf will be used for AQC's water needs and specifically for dust suppression and coal washing.

The Wynne Seam goaf stores AQC's lowest quality water. The seepage into the Hunter Tunnel is low quality water, the run off from the CHPP is pumped there, it is low quality water too. The Kayuga seam inflows gets pumped into the Wynne Seam and the Wynne seam has its own inflow seepage too, it is coal seam water.

How will this low quality water be integrated into operations?

Response:

The current Site Water Management Plan for Dartbrook is available on the AQC website (<http://www.aqcltd.com/site/community/dartbrook-environment>). AQC are required to update this document prior to any future mining operations. Water sourced from the Wynn Seam goaf that is used in any surface operations will be retained in the site water management system.

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Q5: *In the Revised Modification 7 application submitted to the s34CC, why were “representative climatic conditions” for Air Quality presented rather than actual ‘real world’ conditions? AQC picked a random year, 2014, and then added AQ estimates for Dartbrook and AQ estimates for Mt Pleasant taken from MACH’s EIS.*

Response:

AQC are unable to comment on the court proceedings or information before the court.

Q6: *In that Air Quality report why did AQC say Air Quality data from Mt. Pleasant and from AQC’s own monitors at Dartbrook “was not available”? MACH Energy publish their AQ data online monthly <https://machenergyaustralia.com.au/mount-pleasant/documentation/> and AQC’s data is all in their AEMRs. Why did AQC’s AQ expert not have access to this up to date data?*

Response:

AQC are unable to comment on the court proceedings or information before the court.

Q7: *AQC say “Elevated dust concentrations recorded in recent years are attributed to the severe drought conditions experienced in the region”. Are the AQ impacts of mining applications to only be assessed against relatively good years of rainfall and background Air Quality?*

AQC rely on one year’s historical data to predict the future, a future the BOM, CSIRO, the bushfire Royal Commission and every other reputable agency say is going to be drier, hotter and more prone to drought / bushfires. Is that methodology appropriate or adequate?

Response:

AQC are unable to comment on the court proceedings or information before the court.

Q8: *Does AQC stand by the methodology used to calculate the fugitive emissions from the mine - whilst mining is taking place - presented in the Greenhouse Gas section of the revised modification?*

“As discussed in Section 11.1.2.2, Dartbrook reports scope 1 and 2 CO₂-e emissions under the NGER scheme and these have been reported for 2018 and 2019 when the mine was not operating. The assumption has been made that these are likely to therefore represent fugitive emissions of methane and increased slightly from 2018 to 2019. This is a conservative assumption but in the absence of other information this annual increase has been carried forward for the life of the project, as shown in Table 11-5.”

Remembering the original Mod 7 was to produce a maximum of 1.5 mtpa while the Revised Mod 7 is to produce up to 6 mtpa, AQC is therefore claiming that Dartbrook will produce 38% less Scope 1 & 2 Emissions while potentially producing 400% more coal. How is that even remotely feasible?

Simply adding 10,430 tCO₂e per annum to the fugitive emissions totals, based on the difference between fugitive emissions in 2018 and 2019, two years when no mining took place, to estimate actual fugitive emissions when mining will take place seems unrealistic. Even more unrealistic is describing this assumption as “conservative”. Why wasn’t historical fugitive emissions data from when mining was taking place used?



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Response:

AQC are unable to comment on the court proceedings or information before the court.

Q9: *Why did the original Modification 7 application include a Low Frequency and Tonal Noise Assessment but the revised Modification 7 (which includes operation of the CHPP) did not?*

Response:

AQC are unable to comment on the court proceedings or information before the court.

Q10: *Why was the UHSC's submission misrepresented by AQC in the RtS?*

Council lodged an 82 page submission to the s34 CC including a jurisdictional issue the Gateway Certificate. The Jurisdictional issue was fully addressed in the RtS.

The submissions summary on page 431 indicates UHSC submitted on Jurisdictional Matters and Economics only, the summary also lists Singleton Council submitting rather than Muswellbrook Shire Council.

No other issue was listed in the table except economics, whereas the submission covered

- *Land and water sales*
- *Mine safety*
- *Fit and Proper Persons - technical capacity to mine*
- *Air Quality*
- *Decline in Airshed*
- *Methodology*
- *The availability of 'not available' data*
- *Greenhouse Gas Emissions*
- *Errors in fugitive emission calculations*
- *Economics*
- *Assumed price/ product coal / output*
- *Market conditions*
- *Capital cost estimates*
- *Capex costings*
- *Third party Royalties*
- *GHG errors*
- *Fit and Proper Persons - Financial capacity to mine*
- *The CHPP and REA*
- *Noise*
- *Low Frequency Noise C-weighting*
- *VLAMP criteria / property sales*
- *Community Consultation*

On economics, UHSC submitted 12 pages (53 - 65) of which one paragraph concerned the September REQ and included a chart from the REQ (see below)...

The section quoted and paraphrased above are taken from the final conclusions of the REQ (Page 63

<https://publications.industry.gov.au/publications/resourcesandenergyquarterlyjune2020/>

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documents/Resources-and-Energy-Quarterly-June-2020-Thermal-Coal.pdf) which is reproduced below –...

AQC’s consultant responded “UHSC’s discussion of the REQ is limited to the predicted decline in China’s thermal coal demand from 2018-2021. This limited analysis of the REQ is erroneous for two reasons:

- Coal production associated with the Revised Modification will not commence until 2021 (at the earliest); and*
- China accounts for only a fraction of Australia’s thermal coal exports*

UHSC has extrapolated the medium-term trend in China’s thermal coal demand to conclude that demand for Australian coal will continue to decline”

UHSC’s submission did not mention China with regard to the revised modification, nor extrapolate anything. Why did AQC claim otherwise?

UHSC’s submission quoted the Q2 REQ (see above) - thermal coal export forecasts have been revised down, for both volume and value in the identified years. Higher cost operators are feeling the pinch and deferring investment. Does AQC dispute that this is the conclusion of the Chief Economist in the Q2 REQ?

Would AQC agree that, under normal market conditions, China accounts for around 21% of Aus thermal exports and is the largest “only a fraction” of any export destination by some margin?

Has AQC read the IEA’s World Energy Outlook 2020 which predicts declines in thermal coal consumption across every modelled scenario through to 2040?

Response:

AQC are unable to comment on the court proceedings or information before the court.

Q11: *Why was part 7 of AQC’s original Section 75w Modification Application (dated 27/02/2018) not accompanied by a Political Donation Disclosure Statement?*

The Political Donation Disclosure Statement, requires “Persons making a request to modify a project ... are required to declare reportable political donations made in the previous two years”.

The EP&A Act s10.4(3) specifies the requirement for the reportable political donations of “any persons with a financial interest in the application” to be disclosed.

3 of AQC’s top 10 shareholders at the time of the application made reportable political donations during the relevant 2 year period.

AQC’s largest shareholder and “cornerstone investor” Trepang Services Pty Ltd made 8 political donations totalling \$260,000 during the reportable two year period (27/02/2016 to 27/02/2018).

Notably, on 28/04/2016 Trepang Services donated \$70,000 to the National Party of Australia, the first and only donation Trepang Services has made to that entity.

AQC’s 9th largest shareholder Mibro Pty Ltd donated \$20,000 to the National Party of Australia on 01/05/2016 - within the same reportable period. This is Mibro Pty Ltd’s only donation to the National Party of Australia.

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Another Darwin based company, Northwake Pty Ltd, also donated \$65,000 to the National Party of Australia during the reportable period (two donations of \$40,000 and \$25,000 both made on 13/05/2016) and a further \$100,000 to the Liberal Party of Australia (30/06/2016).

These 2016 payments are the only recorded reportable political donations Northwake has made to either the National or Liberal Party. All except one of Northwake Pty Ltd's 6 political donations was made in 2016.

ASIC records show Northwake Pty Ltd's two directors Shane Dignan and John Halikos are also the two directors of Halikos Pty Ltd. Halikos Pty Ltd is AQC's fourth largest shareholder holding 3.81% of the company.

Over a period of 16 days in 2016, three Darwin based companies, all either directly or indirectly associated with AQC at that time, made donations to the National Party of Australia. AEC's public records show these three donors had not donated to the National Party of Australia previously, nor donated to it since.

A total of \$255,000 was donated to the Federal National and Liberal parties, during the reportable period two years prior to the development application being lodged by companies that either held stock or shared directors with a company that held stock in AQC. No donations were disclosed with AQC's modification application.

Response:

AQC has met the requirements of the NSW Department of Planning, Industry and Environment in relation to Political Disclosures for the original Dartbrook Modification 7 application.