

COOLMORE[®]

A U S T R A L I A

3367 Golden Highway, Jerrys Plains NSW 2330
PO Box 8, Jerrys Plains NSW 2330
Phone (02) 6576 4200 Fax (02) 6576 4299

14 November 2019

NSW Productivity Commissioner
52 Martin Place Sydney
NSW 2000
F.A.O. Mr Peter Achterstraat

Re: Review of the Independent Planning Commission: Submission in response.

Dear Mr Achterstraat,

This letter is written on behalf of Coolmore Australia and concerns your office's review (the "**Review**") of the Independent Planning Commission (the "**IPC**") that was recently requested by the NSW Minister for Planning and Public Spaces.

Coolmore

Coolmore Australia is the Australian division of Coolmore, the world's largest commercial thoroughbred breeding enterprise with stud farms in Australia, Ireland and the USA. Coolmore Australia was established at Jerry's Plains in the Hunter Valley in 1996 and from small beginnings now employs 150 people on a 9,500 acre stud farm where we breed and rear future thoroughbred racehorses. Some of Australia's greatest ever racehorses have been raised and grazed on our farm including Fastnet Rock and Winx. Further information about Coolmore and its operations can be obtained at <https://coolmore.com/farms/australia>.

The Hunter Valley

The Hunter Valley is home to the world's second largest concentration of thoroughbred studs outside of Kentucky in the USA, and as you will be aware is also an area with extensive coal deposits.

Our home in the Hunter Valley, the importance of reputation and environment to the thoroughbred stud farm business model and the proposed Drayton South open cut coal mine 500 metres from our perimeter has required us to engage at length with the planning apparatus that governs state significant developments in New South Wales, including four panels of commissioners of the then Planning Assessment Commission.

The stud farms of the Hunter Valley are part of an intertwined economic network recognised by the NSW Government as a Critical Industry Cluster - Equine. The thoroughbred industry in the Hunter Valley generates revenues for the locality and the State and provides sustainable employment and economic diversity to the Hunter Valley. Coolmore and our neighbours Godolphin were described by the 2017 Planning

Assessment Commission determination on Drayton South as being both “systemic and central to the development and international success of the Hunter Valley equine critical industry cluster”. Coolmore Australia is not opposed to coal mines save for instances where they threaten to adversely impact upon Coolmore’s business, reputation and operations.

We hope that our experience as a significant commercial enterprise and major investor in regional NSW will be of some value in your deliberations and we welcome the opportunity to make the following submission to the Review.

1. *Terms of reference 1:*

“Whether it is in the public interest to maintain the Independent Planning Commission”

Given some of the recent press coverage of the IPC one could be forgiven for thinking that the IPC (formerly the Planning Assessment Commission “PAC”) is operating in a fashion that has hindered the prosperity of the NSW economy. Having reviewed the annual reports of the IPC that are available on its website it quickly becomes apparent that the IPC/PAC has approved the vast majority of development proposals that have come before it, 94% of the 340 applications determined from 2013/4 to 2018/9 were approved.

There have been repeated claims that the IPC/PAC process is leading to undue delay which is impacting on business confidence within NSW, particularly from the Minerals Council and others. We can only refer to our own experience of the PAC process during the Drayton South application, but we believe it is important evidence.

The attached timeline (refer Appendix 1) of the Drayton South applications shows that the first Drayton South application (from proponent’s request for Secretary’s Environmental Assessment Requirements to final determination by the PAC) lasted 43 months. During this process the PAC presided over the application for 27 weeks. In our experience the bulk of the delay resided with the proponent and the Department of Planning’s processes. “State Significant Developments” can drastically alter a community and local environment for generations to come and a thorough review by an independent planning body takes time and should be encouraged.

2. *Term of reference 3(a):*

“Thresholds for the referral of matters to the Independent Planning Commission”

The IPC is the consent authority for State Significant Development predominantly in the following circumstances:

- a) The Council of the area of which the development is proposed to be carried out has made a submission objecting to the development application;
- b) At least 25 persons other than the relevant council have made submissions by way of objection to the development application; and
- c) Development that is the subject of the development application is made by the person who has disclosed or reported a political donation.

Development applications such as those for coal mines are usually proposed by very large corporations with the capability to spend vast sums of money on both their applications and on the PR that can accompany those applications. We believe that any change made to the current thresholds for referral to the IPC (such as for argument's sake increasing the quantum of objections within a community or only where the number of objections exceeds the number of submissions in support) could tip the planning process unjustly in favour of proponents whose financial heft could outweigh the legitimate concerns of both ordinary citizens and smaller enterprises like ours.

3. Term of reference 3 (f):

"The extent to which the Independent Planning Commission should rely upon the assessment report prepared by the Department of Planning."

The independent reports issued by the PAC regarding Drayton South found that the project posed a real risk to the significant equine industry that was important to the long term economic growth of the local community, the Hunter Valley and New South Wales. In its estimation these risks outweighed the benefits of the development application and the development application was not in the public interest.

This was in stark contrast to the reports issued by the Department of Planning which found the project approvable at every iteration despite the rejection and expert feedback to the contrary from four independent commissions. In the case of Drayton South, the Department of Planning:

- was unable to see the difference between the pre-existing balance between the mining and equine community and a new major open cut mine on our doorstep along with its attendant ramifications such as blasting 500 metres from our stud farm, the adverse impact on air quality and visual impacts which would have severely impacted Coolmore's reputation and eventually its business model;
- considered the lack of proximate and seamless relocation options for Godolphin and Coolmore as a reason to approve the open cut mine because they would not be likely to move;

- considered that even if Coolmore and Godolphin left the Hunter Valley the equine critical industry cluster would still prosper. This was at complete odds with the united voice of the thoroughbred industry, and international and independent experts.
- was entirely persuaded by and uncritical of the project's economic benefits as presented by the proponents
- persistently misrepresented information, including factual details provided by Coolmore in response to the EIS, both about the thoroughbred industry and Coolmore's business and operations.

Therefore, in our experience, no greater weight should be allocated to the Department of Planning's report than to any other submission by interested parties.

Conclusion

Were it not for the independence of the then PAC, the Drayton South mine would have been approved in 2014. Coolmore would not have subsequently made tens of millions of dollars of investment in New South Wales and would have relocated out of state, which would have significantly impacted on the Hunter Valley Critical Industry Cluster. Coolmore greatly appreciated the serious, objective, committed and independent manner in which all 12 PAC members addressed the Drayton South application.

Land use conflicts between the bloodstock / agriculture sectors and the coal mining industry in the Hunter Valley are inevitable. We believe it is essential that a well-resourced and independent Planning Commission be the arbiter of State Significant planning applications so that the current delicate balance between fundamentally incompatible neighbouring industries be maintained for the benefit of the Hunter Valley and New South Wales.

Yours sincerely,



Chief Financial Officer
Coolmore Australia

Coolmore – Review of Independent Planning Commissions

Timeline of Previous Drayton South planning applications

Event	Responsibility for Event	Timeline-Part Application – 11_0062-3A	Number of weeks between events	Timeline-SSD 14_6875	DA	Number of weeks between events
Proponent's request for DGRs/SEARs	Proponent	4 March 2011		December 2014		
DGRs/SEARs issued by Department	Department	3 August 2011	22 weeks	19 December 2014 (revised and updated April 2015)	Approximately 2 weeks from original SEARs To revised SEARs- approximately 15 weeks (between 19 December 2014 and April 2015)	
Environmental Report / EIS	Proponent	November 2012	Approximately 65 weeks	May 2015	Approximately 19 weeks (between 19 December 2014 and May 2015) approximately 4 weeks from revised SEARs	
Public Exhibition of EAR/EIS	Department/public	7 November 2012 – 21 November 2012	1 week	15 May 2015 - 19 June 2015	Approximately 2 weeks	
Minister refers Part 3A application to PAC for a public hearing and a review	Minister for Planning	16 March 2013	18 weeks	N/A	N/A	
Proponent's Response to Submissions	Proponent	May 2013	Approximately 6 weeks	July 2015	Approximately 2-4 weeks	

Event	Responsibility for Event	Timeline-Part Application – 11_0062-3A	Number of weeks between events	Timeline-SSD 14_6875	DA	Number of weeks between events
Proponent's Preferred Project Report	Proponent	August 2013	36 weeks	N/A		N/A
Department's Preliminary Assessment Report – recommends approval	Department	August 2013	Approximately 2-3 weeks	August 2015		4 weeks
Minister refers application to PAC for review	Minister	27 August 2013 (updated after Preferred Project report)	Approximately 2-3 weeks	13 August 2015		2 weeks
PAC Review public hearing	PAC	10 October 2013	6 weeks	10-11 September 2015		4 weeks
PAC Review Report and recommendations	PAC	December 2013	Approximately 8 weeks	November 2015		Approximately 8 weeks
Proponent's response to PAC Review Report and Recommendations	Proponent	February 2014	Approximately 8 weeks	May 2016		26 weeks
Proponent's Consequential Environmental Impact Assessment for Retracted Mine Plan	Proponent	March 2014	Approximately 12 weeks (from PAC Review Report and recommendations)	N/A		N/A
Department of Planning Assessment Report – recommends approval	Department	July 2014	Approximately 12 weeks	September 2016		18 weeks
Department refers application to PAC for determination	Department	15 July 2014	Approximately 2 weeks	15 September 2016		2 weeks
Public notice of PAC meeting	PAC	21 July 2014	1 week	9 October 2016		3 weeks
PAC public hearing	PAC	21 August 2014	4 weeks	16-17 November 2016		6 weeks

Event	Responsibility for Event	Timeline-Part Application – 11_0062-3A	Number of weeks between events	Timeline-SSD 14_6875	DA	Number of weeks between events
Further submissions to PAC by proponent and objectors	Public	N/A	N/A	November – December 2016		Approximately 4-6 weeks
PAC Report and determination of refusal	PAC	17 October 2014	8 weeks	22 February 2017		9 weeks