

LAND COURT OF QUEENSLAND

REGISTRY: Brisbane
NUMBERS: MRA092-11 & EPA093-11 (MLA 50229)
MRA098-11 & EPA099-11 (MLA 50230)
MRA105-11 & EPA106-11 (MLA 50231)

Applicants: **XSTRATA COAL QUEENSLAND PTY LTD (ACN 098 156 702)**

and Others

AND

Objectors: **FRIENDS OF THE EARTH - BRISBANE CO-OP LTD (QC0239)**

and Others

AND

Statutory Party: **DEPARTMENT OF ENVIRONMENT AND RESOURCE MANAGEMENT**

REQUEST FOR FURTHER AND BETTER PARTICULARS OF THE OBJECTIONS OF FRIENDS OF THE EARTH – BRISBANE CO-OP LTD (the *Objector*)

The Applicants request that the Objector provide the following further and better particulars of facts and circumstances relied on in support of the grounds of its objection filed 25 February 2011 (***Objection***):

1. As to paragraph 20 of the Objection, provide particulars of (by identifying):
 - (a) the paleoclimate evidence referred to therein; and
 - (b) the ongoing climate change referred to therein.
2. As to paragraph 21 of the Objection, provide particulars of each fact, matter and circumstance relied on to contend that an initial 350 ppm carbon dioxide target may be achievable by phasing out coal use as stated therein.

Request for Further and Better Particulars of the Objections

Filed on behalf of: the applicants

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3. As to paragraph 23 of the Objection, provide particulars of the remaining stocks of the large amount of coal in the world, including:
 - (a) the areas in which they are located; and
 - (b) the estimated quantities of them, including how those quantities are worked out or calculated.

4. As to paragraph 24 of the Objection, provide particulars of:
 - (a) the current trends in greenhouse gas emissions, including how those trends are worked out or calculated;
 - (b) the current trends in temperature rises, including how those trends are worked out or calculated; and
 - (c) in respect of each of the current trends referred to in paragraphs (a) and (b) above, each fact, matter and circumstance the Objector relies on to demonstrate that the proposed mine will contribute to it, including:
 - (i) the period over which the Objector contends the contribution will occur; and
 - (ii) in respect of each year of the period, as well as the total period, the precise nature and extent of the contribution.

5. As to paragraphs 24(a), 24(b), 24(d) and 24(e) of the Objection, provide particulars of:
 - (a) each expectation stated therein, including:
 - (i) its precise nature and extent; and
 - (ii) each fact, matter and circumstance the Objector relies on to demonstrate the expectation;
 - (b) each impact and damage stated therein, including:
 - (i) its precise nature and extent and the period over which it will occur;
 - (ii) each fact, matter and circumstance the Objector relies on to demonstrate it will occur;

- (iii) each fact, matter and circumstance the Objector relies on to demonstrate it will be caused or contributed to by anthropogenic climate change, including:
 - (A) the period over which the Objector contends the cause or contribution will occur; and
 - (B) in respect of each year of the period, as well as the total period, the precise nature and extent of the cause or contribution; and
 - (iv) each fact, matter and circumstance the Objector relies on to demonstrate it will be contributed to by the proposed mine, including:
 - (A) the period over which the Objector contends the contribution will occur; and
 - (B) in respect of each year of the period, as well as the total period, the precise nature and extent of the contribution.
- 6. As to paragraph 24(c) of the Objection, provide particulars of:
 - (a) the projections stated therein (by identifying them); and
 - (b) each fact, matter and circumstance on which the projections are based.
- 7. As to paragraph 25 of the Objection, provide particulars of each fact, matter and circumstance the Objector relies on to demonstrate that the proposed mine will contribute to ocean acidification, including:
 - (a) the period over which the Objector contends the contribution will occur; and
 - (b) in respect of each year of the period, as well as the total period, the precise nature and extent of the contribution.
- 8. As to paragraph 26 of the Objection, provide particulars of:
 - (a) the current trends in greenhouse gas emissions, including how those trends are worked out or calculated;
 - (b) each expectation stated therein, including:
 - (i) its precise nature and extent; and

- (ii) each fact, matter and circumstance the Objector relies on to demonstrate the expectation;
- (c) each impact and damage stated therein, including:
- (i) its precise nature and extent and the period over which it will occur;
 - (ii) each fact, matter and circumstance the Objector relies on to demonstrate it will occur;
 - (iii) each fact, matter and circumstance the Objector relies on to demonstrate it will be caused or contributed to by anthropogenic climate change, including:
 - (A) the period over which the Objector contends the cause or contribution will occur; and
 - (B) in respect of each year of the period, as well as the total period, the precise nature and extent of the cause or contribution; and
 - (iv) each fact, matter and circumstance the Objector relies on to demonstrate it will be contributed to by the proposed mine, including:
 - (A) the period over which the Objector contends the contribution will occur; and
 - (B) in respect of each year of the period, as well as the total period, the precise nature and extent of the contribution.
9. As to paragraphs 27 and 28 of the Objection, provide particulars of:
- (a) the countries emitting the majority of greenhouse gases globally; and
 - (b) each of those country's contributions to the emission of greenhouse gases globally.
10. As to paragraph 28 of the Objection, provide particulars of:
- (a) what the Objector contends is the foreseeable future; and
 - (b) each fact, matter and circumstance the Objector relies on to contend that an international agreement is unlikely.

11. As to paragraph 30 of the Objection, provide particulars of:
 - (a) what the Objector contends is the foreseeable future; and
 - (b) each fact, matter and circumstance the Objector relies on to contend that the enactment of laws is unlikely.

12. As to paragraph 39 of the Objection, provide particulars of:
 - (a) the current supplies of thermal coal, including:
 - (i) the areas in which they are located; and
 - (ii) the estimated quantities of them, including how those quantities are worked out or calculated; and
 - (b) each fact, matter and circumstance the Objector relies on to demonstrate that the current supplies of thermal coal are sufficient to:
 - (i) meet current needs, including the current needs and how they are worked out or calculated; and
 - (ii) allow a transition away from coal fired power stations in coming decades.

13. As to paragraph 40 of the Objection, provide particulars of each fact, matter and circumstance the Objector relies on to demonstrate that cost-effective baseload electricity can be supplied from the sources stated therein, including:
 - (a) the period the subject of the contention;
 - (b) each source the subject of the contention; and
 - (c) in respect of each source:
 - (i) the estimated quantity of electricity it will supply, including how that quantity is calculated or worked out;
 - (ii) the estimated cost of the electricity it will supply, including how that cost of calculated or worked out; and

- (iii) each fact, matter and circumstance relied on to demonstrate that the estimated cost is cost effective compared with baseload electricity supplied from coal fired power stations.

14. As to paragraph 41 of the Objection, provide particulars of:
 - (a) the agricultural land which the Objector contends will be lost as a result of the proposed mine, including its precise location, area and agricultural use; and
 - (b) each fact, matter and circumstance the Objector relies on to demonstrate the loss of that agricultural land will prejudice the public right and interest, including the precise nature and extent of the prejudice.

15. As to paragraphs 41 and 42 of the Objection, provide particulars of each fact, matter and circumstance the Objector relies on to contend that the proposed mine will result in economic, social and environmental harm, including:
 - (a) each economic harm, including its precise nature and extent and the period over which it will occur;
 - (b) each social harm, including its precise nature and extent and the period over which it will occur;
 - (c) each environmental harm, including its precise nature and extent and the period over which it will occur; and
 - (d) in respect of each harm, each fact, matter and circumstance the Objector relies on to demonstrate it will be caused by the proposed mine.

16. As to paragraph 49 of the Objection, provide particulars of:
 - (a) the current rates of greenhouse gas emissions, including how those rates are worked out or calculated; and
 - (b) the current rates of atmospheric greenhouse gas concentrations, including how those rates are worked out or calculated.

17. As to paragraphs 50, 51 and 52 of the Objection, provide particulars of each fact, matter and circumstance the Objector relies on to contends that the contribution of the greenhouse gases emitted from the proposed mine:

- (a) to anthropogenic climate change constitutes serious environmental harm caused by the proposed mine for the purposes of the *Environmental Protection Act 1994*, including:
- (i) each environmental harm, including its precise nature and extent and the period over which it will occur; and
 - (ii) in respect of each harm, each fact, matter and circumstance the Objector relies on to demonstrate it will be contributed to by the proposed mine; and
- (b) to ocean acidification constitutes serious environmental harm caused by the proposed mine for the purposes of the *Environmental Protection Act 1994*, including:
- (i) each environmental harm, including its precise nature and extent and the period over which it will occur; and
 - (ii) in respect of each harm, each fact, matter and circumstance the Objector relies on to demonstrate it will be contributed to by the proposed mine.

Dated 13 May 2011



Allens Arthur Robinson

Solicitors for the Applicants