

Mr Sam Haddad  
Director General  
NSW Department of Planning and Infrastructure  
23-33 Bridge Street  
Sydney NSW 2001



5 July 2013

Dear Mr Haddad

**HTBA SUBMISSION – TERMS OF REFERENCE FOR THE STRATEGIC ASSESSMENT OF A BIODIVERSITY PLAN FOR COAL MINING IN THE UPPER HUNTER VALLEY, NSW**

The Hunter Thoroughbred Breeders appreciate the opportunity to comment on the draft terms of reference for the strategic assessment of a biodiversity plan for coal mining in the Upper Hunter Valley.

As a key stakeholder in the Upper Hunter, the major industry and non-mining employer in the Upper Hunter, and a member of the NSW Government's Strategic Regional Land Use Reference Group, we are disappointed that we have not been included in briefings on this matter to date. We are aware that other agricultural groups have been and request that we be included in future briefings on policy issues that are of critical importance to our industry and our future.

Our comments on the draft terms of reference:

**1. Proactive Identification and Protection of Biodiversity Values**

The HTBA supports the proactive identification of potential cumulative impacts on biodiversity resulting from coal mining in the Upper Hunter Valley and protection of these biodiversity values. The identification of the cumulative impacts of mining on the Upper Hunter's biodiversity values should apply to, and take account of, all established and new mining operations (both coal and coal seam gas). They should not be limited to new coal developments – this is a seriously restricting parameter, which would defeat the purpose of developing a comprehensive and effective Biodiversity Plan. **An effective Biodiversity Plan for the Upper Hunter should result in the upfront protection of those areas of high biodiversity value.** It would be a waste of time and effort if this Biodiversity Plan results in nothing more than more process, bureaucracy and uncertainty.

The HTBA notes that the Federal and State Governments are also talking about more streamlined environmental assessment processes.

The HTBA is strongly of the view that the best way to achieve better biodiversity protection and outcomes is to protect up front those areas, industries and environmental values that have high strategic agricultural and biodiversity values. **Governments (Federal and State) should make up front commitments that areas of highest strategic and biodiversity value should be out of bounds for any kind of mining.** This is the only way to provide certainty that our vital assets will be protected and security for all other stakeholders to invest in the future with confidence.

The identification and mapping of all other areas in the Upper Hunter should be based on sound, credible and independent science and should aim to protect and preserve our vital strategic and biodiversity assets based on a strong precautionary principle.

**2. Appoint Independent scientific analysts to underpin the development of a credible strategic assessment of a biodiversity plan for the Upper Hunter.**

The development of strategic assessment of a biodiversity plan for coal mining in the Upper Hunter **must be, and must be seen to be, independent.**

It is not acceptable that the Upper Hunter Biodiversity Plan is developed by the Government with the exclusive assistance of "participating mining companies". All appropriate stakeholders should be equally consulted and involved in this process.



Further we do not support the concept that consultants appointed for and by mining companies conduct surveys and provide information limited to their exploration licence areas. The public and communities like ours, have no confidence in these surveys. Further, mining company exploration and mining licences only represent a limited portion of the analysis that is required. It would be a significant omission to base the development of a biodiversity plan on these limited parameters.

We strongly recommend that the \$1.1 million contribution by mining companies be directed towards the **engagement of independent scientific analysts appointed by the Government** tasked with strategically assessing and developing a biodiversity plan for the Upper Hunter Valley. We further recommend that this plan be **independently peer reviewed**.

### **3. Fair, even and balanced Stakeholder Input**

The assessment and development of a 25-year biodiversity blueprint/plan for the Upper Hunter is of key importance to all Hunter Valley community, agricultural and environmental interests.

It would not be appropriate for this exercise to be dominated, or be seen to be dominated or unduly influenced, by the mining industry. All key community stakeholders should be fairly and actively involved in the development of this Plan. It would be counterproductive and divisive to the purpose and outcomes of the strategic plan and the integrity and independence of the NSW Government's planning process if all stakeholders were not involved equally and fairly in its development.

The HTBA strongly supports the need for fair, even and balanced stakeholder input which should be extended to all significant stakeholder groups.

### **4. Coal seam gas mining in the Upper Hunter should be included in the development of the Biodiversity Plan for the Upper Hunter Valley**

It is not clear why all mining in the Upper Hunter Valley, including proposals for coal seam gas mining, is not included in the development of this Biodiversity Plan. All mining developments have a potential to impact on biodiversity values and should be included in the development of this strategic assessment.

### **5. A Biodiversity Offsets Database should be included in this Plan – it is a critical element of the Biodiversity Plan and is long overdue**

The preparation of a biodiversity offsets data base of lands currently held in conservation as a result of development consents was due to be developed by December 2012 (as recorded in the Strategic Regional Land Use Plan Upper Hunter, p 66).

Agricultural and environmental Reference Group members requested the completion of this database early in the Upper Hunter Strategic Regional Land Use Plan process. We are very disappointed to note that some two years after the offsets database was requested, and over six months after its planned completion, the offsets database remains incomplete.

Biodiversity offsets are an important part of the Upper Hunter Biodiversity Plan. We do not comprehend how a strategic biodiversity plan for the Upper Hunter can be developed without the inclusion of information on biodiversity offsets that are already committed as part of existing development consents.

We also do not comprehend why critical industry cluster industries have been forced to input into a rushed "verification process" over the past few months (a process more akin to conducting a mini census) when it is taking years to extract readily available information from mining companies that have been clearly committed to as part of development consents.

There is a perception that powerful mining companies are driving these agendas; that the process is unduly influenced by and weighted towards mining companies; and that key landholders, community and sensible environmental stakeholders are not afforded equal, fair and balanced input and treatment.



**6. An Upper Hunter Offsets Fund should not substitute for the preservation of parcels of land and enforceable commitments biodiversity offsets**

The establishment of a Hunter Offsets Fund needs very careful consideration. The purpose of the Fund needs to have clear objectives, priorities and the preservation of biodiversity values in the Hunter Valley for future generations as its driving premise. It should not be designed, or be seen to be designed, to enable mining companies to “cash out” on or avoid their commitments to preserve land for biodiversity outcomes. Governments should monitor, enforce and appropriately penalise companies that have not delivered on their offset commitments associated with their mining development consent conditions.

This is a matter of significant importance to regional communities. A proactive biodiversity Plan will underpin the health and preservation of key components of our environment for both current and future generations. The Hunter Valley is home to threatened animals, plants and eco systems, which demand protection and preservation. A close to home example of the benefits of preserving biodiversity values has recently been highlighted at the Barrington Tops, which has played a pivotal role in preventing the extinction of an iconic Australian threatened species (Tasmanian Devil).

The HTBA strongly opposes the establishment of an Upper Hunter Offsets Fund if this fund enables mining companies to “cash out” or avoid the allocation of land for their biodiversity obligations. Furthermore the concept of biodiversity offsets should ensure that land for biodiversity is preserved in perpetuity.

As a key industry impacted by mining development in the Upper Hunter we request that we be directly involved in considerations to establish a Hunter Offsets Fund.

**7. Upper Hunter Rehabilitation and Compensation Funds should be established**

The NSW Government should give consideration to the establishment of separate Upper Hunter Rehabilitation and Compensation Funds to accelerate the rehabilitation of areas impacted by mining and to protect landholders and the State in cases where mining companies breach their consent conditions pollute the waterways or cannot “make good”.

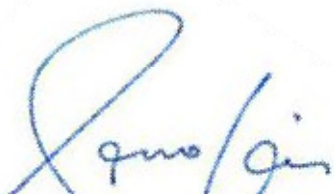
**8. New EPBC Water Trigger**

The preservation of our stressed and strategic water resources should be an integral part of the development of the strategic biodiversity Plan for the Upper Hunter. All strategic or stressed water systems should be identified and protected. All processes, including the new federal EPBC trigger for water, should be recognised in this process.

Thank you again for the opportunity to comment on these terms of reference. Please do not hesitate to contact our Director Policy & Public Affairs, Ms Hellen Georgopoulos, should you have any comments or questions on this submission.

The HTBA looks forward to working with the NSW Government to develop a best practice Strategic Biodiversity Plan for the Upper Hunter.

Yours sincerely



Andrew Wiles  
Vice President  
Hunter Thoroughbred Breeders Association

