

BRIEFING: Bushfire Survivors for Climate Action v Independent Planning Commission and Narrabri Coal (Whitehaven)

February 14, 2023

BACKGROUND

Project approval: On April 1, 2022, the NSW Independent Planning Commission's (IPC) approved an extension of Whitehaven Coal's Narrabri Underground Mine. [See references below]

The IPC's decision allowed Whitehaven Coal to extend operations and approved some of the longest (10km) and widest (400 metres) underground longwalls in Australia.

The project will generate at least 480Mt CO₂-e in emissions, roughly equal to Australia's total greenhouse gas emissions in 2022 (487Mt CO₂-e) at a time when greenhouse gas emissions must be rapidly reduced to limit the devastating impacts of global warming. [See reference below]

Legal proceedings: In July 2022, the Bushfire Survivors for Climate Action (BSCA) launched a legal challenge to the IPC determination. The judicial review sought by the BSCA will be heard by the Land and Environment Court over three days from February 15 to 17, 2023.

ABOUT THE CASE

The BSCA's legal representative is the Environmental Defenders Office. BSCA will argue in court it was legally **unreasonable, irrational** and **illogical** and not in the public interest for the IPC to approve the project because it would contribute to climate change-related extreme weather events, such as the recent catastrophic bushfires and floods in NSW.

When the IPC considered Whitehaven's development application, it accepted the project would contribute to climate change. However, the commission made no findings in relation to the project's climate impacts on the people, the environment and the economy of NSW, which are grave. BSCA will argue that the IPC's failure to do so was legally **unreasonable**.

PRINCIPLES

The IPC has a duty to make legally reasonable, rational planning decisions in the public interest. BSCA will argue the IPC's approval of a major new source of climate pollution is legally unreasonable and irrational.

The *Environmental Planning and Assessment Act 1979* is clear in purpose and objectives on the need for decision makers to facilitate ecologically sustainable development. It's time for decision makers to recognise that approving large coal mines is antithetical to the purpose of the Act.

The climate crisis has already begun, and Australians everywhere are highly vulnerable to its impacts. There is a huge body of scientific evidence that says we must leave coal and gas in the ground to maintain a liveable planet. Approving more coal mines flies in the face of all the evidence.

Approving new coal mines and coal mine expansions is a threat to the people of NSW, undermines the state's net-zero targets, and shifts the burden of climate pollution to future generations.

ABOUT THE PLAINTIFF

[Bushfire Survivors for Climate Action](#) (BSCA) is a non-partisan, community organisation made up of bushfire survivors, local councillors, firefighters and their families working together to call on our leaders to take action on climate change. BSCA formed shortly after the Tathra and District fire in

March 2018, and its founding members were all impacted by bushfires, including the Black Summer bushfires in 2019-20, Blue Mountains in 2013, Black Saturday in 2009 and Canberra in 2003.

WITNESSES

Distinguished climate synthesis scientist, Professor Penny Sackett, former Chief Scientist for Australia, will provide expert evidence regarding the climate change impacts of the project.

REFERENCES

- IPC media release regarding the determination: [Extension to Narrabri mine receives conditional development consent](#), Media Release, NSW Independent Planning Commission, April 1, 2022.
- IPC determination: [Statement of Reasons for Decision](#), NSW IPC, April 1, 2022
- IPC project page: [Narrabri Underground Mine Stage 3 Extension Project](#), NSW Independent Planning Commission website.
- EDO media release at case launch: [Bushfire survivors' legal challenge to massive Narrabri coal mine extension](#), EDO media release, July 5, 2022.
- [Australia's greenhouse gas emissions: March 2022 quarterly update](#), Department of Climate Change, Energy, the Environment and Water. "The report estimates Australia's total greenhouse gas emissions for the year to March 2022 to be 487.1 Mt CO₂-e, up 1.5% or 7.4 Mt CO₂-e) on the previous year."

CONTACTS

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