

UNITED WAMBO

JOINT VENTURE

GLENCORE 

24 July 2019

BY EMAIL

Professor Mary O’Kane AC
Chair
Independent Planning Commission

Dear Professor O’Kane

United Wambo Open Cut Coal Mine Project

The United Wambo Open Cut Coal Mine Project (the Project) is seeking development consent under the State Significant Development (**SSD**) provisions of the Environmental Planning and Assessment Act 1979 (**EP&A Act**). The Project is a joint venture (**JV**) between United Collieries Pty Ltd (the Applicant), a subsidiary of Glencore, and Wambo Coal Pty Ltd, a subsidiary of Peabody. The Project involves the expansion of open cut mining operations at the existing Wambo Coal Mine and United Collieries mine, to allow for the extraction of an additional 150 million tonnes of run-of-mine coal over a period of 23 years.

A panel of three members, comprising Tony Pearson (Panel Chair), Dr Peter Williams and Robyn Kruk AO, has been appointed to determine the development application made for the Project.

The Project was referred to the Independent Planning Commission (**IPC**) on 12 November 2018 and is yet to be determined.

On 7 June 2019 the IPC released a statement in respect of the Project that “... a decision is imminent...”. Some seven (7) weeks later no decision has been made.

It has been, for at least the last 20 years, the usual practice for the consent authority for SSD projects (or their previous equivalents) in the mining sector in NSW to share draft conditions of development consent with the proponent of a project prior to the grant of development consent for that project.

For example, when the Minister for Planning acted as the consent authority, his officers in the predecessor department to the Department of Planning, Industry and Environment (**DPIE**) would, as a matter of convention, share draft conditions of development consent with a proponent in order for the proponent to:

- (a) consider the commercial, practical and legal implications of the draft conditions for its proposed development;
- (b) identify any errors or misdescriptions in the draft conditions of development consent; and
- (c) provide informed comments to the consent authority on any draft conditions that are considered to be problematic as a result of (a) and (b) above.

This process not only assists the proponent of a proposed development but also the consent authority by enabling the consent authority to make informed decisions based on the implications of the proposed conditions of consent and limit circumstances where conditions are impracticable and/or unenforceable.

In particular, our past experience with Planning Assessment Commission (**PAC**) panels was that if the panel proposed to add to or vary draft conditions already furnished to it by the Department, the proponent of the development would be given the opportunity to consider and comment on the new or varied draft conditions.

The process we have described above is, in our view, both sensible and uncontroversial and provides for practical procedural fairness and sound decision-making policy.

Accordingly, we request that:

- (a) we be provided with a copy of any proposed conditions for the Project differing from the draft conditions previously provided to us by the DPIE; and
- (b) we be given the opportunity to meet with the IPC panel to discuss its proposed conditions for the Project.

Yours faithfully



Gary Wills
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United Wambo Joint Venture

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