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OFFICE OF THE INDEPENDENT PLANNING COMMISSION OF NSW  
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**21 June 2022**

**RE: Glendell Continued Operations Project (SSD 9349 and SSD 5850 Mod 4)**

To the members of the Commission,

Thank you for the opportunity to make a submission to your consideration of this Project.

**Introduction**

The [Australasian Centre for Corporate Responsibility \(ACCR\)](#) is a not-for-profit, philanthropically-funded research organisation, based in Australia. ACCR monitors the environmental, social and governance (ESG) practices and performance of publicly-listed companies, including on climate change, human rights, and labour rights. We undertake research and highlight emerging areas of business risk through private and public engagement.

**Executive Summary**

ACCR is responding to the recent submission by DPE to the NSW IPC in relation to the Aboriginal and European heritage aspects of the Glendell Continued Operations project. ACCR submits that Glencore's proposal to expand the Glendell Coal Mine, and in particular its proposal to relocate significant cultural heritage at Ravensworth Estate, is inconsistent with the company's own published policies, and should not be approved.

Investors and the public should be able to rely upon the veracity of publicly-listed companies' policies, and to have confidence that a company's actions will be consistent with those policies.

Dissonance and inconsistency between a public company's policies on one hand, and actions on the other, is a matter of increasing concern, especially to responsible investors. The controversy following Rio Tinto's destruction of the Juukan Gorge Caves in the Pilbara, WA in 2020 is only one recent example.

Due to Glencore's unusual corporate structure, it is much more difficult for shareholders to hold the company to account than, say, an Australian-domiciled and -listed company. Therefore, the IPC has an especially important role and responsibility in the present circumstances.

### New information: Aboriginal and European heritage significance of the Ravensworth Estate Area

Important information about the “unique” Aboriginal and European heritage significance of the Ravensworth Estate area has been provided to the IPC by Heritage NSW, and is summarised in correspondence from Mr Steven O’Donoghue, Director, Resource Assessments to Mr Stephen Barry, NSW IPC Planning Director dated 10 June 2022.

Among other things, Mr O’Donoghue confirms that,

“[T]he Department acknowledges that the Ravensworth Homestead and the surrounding core estate lands have local and State heritage significance, with elements of high to exceptional significance.”

Mr O’Donoghue adds,

“Heritage NSW’s response reinforces the tangible and intangible archaeological values of the Ravensworth Homestead, including its historical, scientific and social values. Heritage NSW believes that the significance of these values is heightened by the above and below ground archaeological resource, and the connection of the resource to Aboriginal and colonial history.

This advice is consistent with the heritage assessments undertaken for the project and the Department’s assessment of the project.”

For the purposes of this submission we accept Mr. O’Donoghue’s quoted comments as acknowledged facts.

We also note that the recent submission by DPE to the IPC considers these heritage values yet finds, “any option that leaves the [Ravensworth] homestead in-situ would render the entire project unviable”.

### Glencore’s policy

We draw the Commission’s attention to the following passages from Glencore’s own published policies.

[Glencore's Social Performance Policy 2021:](#) "We appreciate and respect the importance of cultural heritage and seek to avoid, or where avoidance is not possible, minimise impacts on identified

places, items or other aspects of historical and cultural significance. Wherever possible, we work with relevant parties, including the people whose heritage may be affected, to identify, protect and preserve heritage of significance.

[Glencore's website: Sustainability, Land Management:](#) “We are committed to managing our land in a productive and sustainable manner ensuring proactive stewardship of our landholdings... We are also committed to identifying, recording and protecting, in alignment with local regulatory requirements and best practice, cultural heritage and archaeologically sensitive locations on our landholdings. We respect the rights, interests, traditional knowledge, cultural heritage, and ecosystem services of our local communities and Indigenous Peoples and seek to consider these in our planning and operational practices.

Glencore’s website also acknowledges the impact of the Juukan Gorge Caves destruction upon the industry and its practices.

### **Further evidence required**

Unfortunately, some publicly-listed companies tend to view their community relations and heritage management policies as largely an advertising or PR exercise, rather than as a charter of behaviour to which they voluntarily commit and which investors and the public accept in good faith. So much is apparent from the Joint Parliamentary Committee on the Juukan Gorge Caves Destruction’s reports of 2020 and 2021.

Rather than operate in accordance with their stated policy objectives, too many companies tend to undertake project planning with the primary objective of maximising return on investment, and then deploy Community Relations and other functions to clear a path for those plans.

In the present case, having regard to the heritage significance of the Ravensworth Estate, we respectfully submit that the Commission could re-interrogate the previous analysis and assumptions that brought the Department to the conclusion that, “any option that leaves the homestead in-situ would render the entire project unviable”.

The rationale for that statement is summarised in the initial DPE Assessment Report Recommendation, at 211: *Based on the Minecraft review and the additional commercial-in-confidence information provided by Glencore, as well as the review by the Department’s independent expert, the Department accepts that the options to retain the Ravensworth Homestead in-situ would essentially render the Project unviable, and would mean that it would not proceed in any form.*

In order to satisfy its own Social Performance and Sustainability policies, Glencore should have made every effort to minimise impacts on the Ravensworth Estate. It is far from clear on the available evidence that this is the case.

Coal prices have changed since these initial reports and investigations were completed. Considering the seriousness of the heritage values in consideration here, it could be reasonable for Glencore to re-assess whether a smaller mine plan leaving the homestead in situ would in fact be economic, particularly current coal price conditions. It may be worth a reassessment of the internal rate of return calculations and more detail being provided to the panel.

ACCR respectfully submits that the Commission is entitled to seek further independent analysis to test the viability assertion of Glencore and DPE. The Commission could require the company to demonstrate to a reasonable standard that the return on investment of all expansion plans made and excluding the Ravensworth Estate would not meet the minimum acceptable industry return on investment.

ACCR submits that it would be reasonable for the Commission to require this of Glencore, due to Glencore's published policies to prioritise heritage and Indigenous rights. These policies should be respected, especially in the face of such important Aboriginal and European heritage significance at Ravensworth Estate. The Commission is urged to ensure that it is reasonably satisfied with the assertions made by Glencore in pursuit of its application. ACCR maintains the view that the proposal to relocate significant cultural heritage at Ravensworth Estate is inconsistent with the company's own published policies, and should not be approved.