

Submission - new material - Glendell Continued Operations Project

21 June 2022

Thank you for the opportunity to submit a response to the new material provided by the Department of Planning in response to the IPC's request for a further assessment of anticipated impacts of this project on Aboriginal and European heritage.

We do not believe that the response from the Department of Planning and Environment responds adequately or appropriately to the IPC's request or the matters raised by the Heritage Council and Heritage NSW which prompted that request.

In brief:

- The Department failed to seek further advice from the Heritage Council, despite the IPC's request for further assessment of "all matters" raised by both agencies.
- As a result, no further assessment has been provided on key matters raised in the meeting, for example, the loss of heritage values that would be caused by relocation of the Homestead including the risk of damage to the Homestead.
- The Department misrepresented Heritage NSW's position on the residual impacts of this project on heritage in its Assessment Report, thereby giving the IPC the impression that Heritage NSW's position had changed, which it had not.
- Heritage NSW never expressed the view that it was "satisfied that the Project's residual impacts are unlikely to have a significant incremental or cumulative impact on the Aboriginal or European heritage values of the region" contrary to the Department's claim in the Assessment Report.
- The Department has maintained its previous assessment because leaving the Homestead in situ would render the project unviable without justifying why and how it believes this short-lived mining project with wildly divergent and dubious estimates of economic value outweighs the the permanent loss of heritage value, story and landscape that would come if it proceeds.
- The outstanding and complex heritage values of the Ravensworth Estate and Homestead and the story they tell for the people of New South Wales outweighs the economic contribution of this project and the IPC must refuse consent.

We append to this submission several documents that Lock the Gate recently obtained under the GIPA Act and a table setting out how these documents provide the information, clarification and further assessment requested by the IPC which the Department has patently failed to supply.

NSW IPC's request 6 April 2022

On 6 April 2022, the NSW IPC wrote to NSW DPE suggesting that “it appeared that a consensus had developed between Heritage NSW and the Heritage Council that may reflect a development of Heritage NSW’s position as described in the Department’s whole-of-government assessment of the Project.”

Accordingly, the IPC sought “further assessment of the anticipated impacts of the Project on matters relating to both Aboriginal and European heritage. That further assessment should respond to **all** matters raised by Heritage NSW **and the Heritage Council** in the 28 March 2022 meeting as well as address the following specific questions” (see below, together with comments from Lock the Gate).

Heritage NSW has confirmed that its position has been consistent throughout this assessment: they are “committed to protecting and conserving the heritage values of the site.”

On the question of whether or not there has been “a development of Heritage NSW’s position as described in the Department’s whole-of-government assessment of the Project”, Lock the Gate would like to draw the Commission’s attention to an undated letter from Atticus Fleming to David Gainsford (Document 8a) obtained by Lock the Gate via the GIPA Act which appears to be an early draft of the much shorter letter provided to the IPC. In this letter, Mr Fleming states:

I wish to firstly address the IPC’s view that statements made by Heritage NSW on 28 March represent ‘key developments in their position regarding potential impacts associated with the Project’. Heritage NSW wishes to clarify that their position in relation to the project and its impacts has not changed. Their views remain consistent in that they are committed to protecting and conserving the heritage values of the site.

To drive this point home, the letter concludes with the following: “Heritage NSW respectfully denies the assertion that comments made during the 28 March meeting were inconsistent with previous views on the matter.”

Lock the Gate has reviewed the portrayal of Heritage NSW’s position in DPE’s Assessment Report. There are 11 substantive mentions of advice from Heritage NSW in the Assessment Report. Five of these are solely dedicated to the question of the location of the Upper Hunter Valley Massacre - formerly known as the Ravensworth Massacre. The other six mentions appear to have been selected by NSW DPE to support its recommendation that the project be approved.

Crucially, the Department’s Assessment Report ascribes to Heritage NSW a view that agency did not itself express in its advice. The Assessment Report claims that Heritage NSW:

“are satisfied that Glencore has explored and identified reasonable and feasible measures to minimise the Project’s impacts on Aboriginal heritage value, **and that**

the Project’s residual impacts are unlikely to have a significant incremental or cumulative impact on the Aboriginal heritage values of the region.” (our emphasis)

This is not a view that was expressed by Heritage NSW in either of the two pieces of advice it provided to the Department in October 2020 and April 2021. On the contrary, in October 2020, HNSW advised the Department that Registered Aboriginal Parties considered the Ravensworth area to be of high cultural significance and that “the project’s direct and indirect impacts **will further contribute to the cumulative impacts and loss of Aboriginal cultural heritage values and sites in the local area and the region.**”¹ The April 2021 advice dealt solely with Glencore’s refusal to adopt a recommended 200m buffer zone around Bowman’s Creek to protect Aboriginal heritage.

In short, the Department has misunderstood, or, worse, misrepresented the advice of Heritage NSW regarding the significant impacts of this project on Aboriginal heritage.

On the subject of the Ravensworth Homestead, DPE acknowledged in its AR that:

“the Ravensworth Homestead and the surrounding core estate lands and Ravensworth Estate have local and State heritage significance, with elements of high to exceptional significance”.

DPE also states in the AR that, “all relevant parties agree that elements of the complex are of State heritage significance”.

However, we would like to draw the Commission’s attention to the fact that DPE provided a 149-page whole-of-government assessment to the Commission that failed to clearly state Heritage NSW’s position on whether or not this property should be listed on the State Heritage Register. Heritage NSW’s 6 June 2022 letter to the IPC has clarified this matter unequivocally: “**Ravensworth is one of the most unique and intact of the Hunter homesteads and is worthy of listing on the State Heritage Register.**” Furthermore, the Heritage Council made it clear to the IPC in the meeting which is the subject of this further information that the impact of relocation of the homestead would likely render it no longer worthy of such listing.

DPE failed to seek comment from the Heritage Council

The IPC requested a further assessment of “all matters raised by Heritage NSW and the Heritage Council in the 28 March 2022 meeting,” but the Department failed to seek further advice from the Heritage Council. Among the documents recently obtained by Lock the Gate under the GIPA Act (Doc 13) is an email exchange between Elizabeth Owers, Director Customer Service, Heritage NSW and Heritage Council Chair Frank Howarth:

Elizabeth Owers: “Hi Frank, Quick update – we have clarified with the Planning team

¹ Heritage NSW. October 2020.
<https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SSD-9349%2120201210T225315.374%20GMT>

that they only want a response from HNSW on Ravensworth.”

Frank Howarth: “I find it a bit surprising, in that the IPC in their letter to DPE said specific things about the HC's position and clearly is expecting a response to those issues from the HC.”

It was inappropriate for the DPE to act as a gatekeeper and prevent the IPC from hearing from the Heritage Council on this crucial matter, in spite of the IPC's very clear request that all matters be addressed.

Matters raised with the IPC and not considered in the further assessment

The authenticity and place-based story-telling value of the Ravensworth Homestead.

In the words of Tim Smith: “what Ravensworth tells and its story is very much around place, it's around its setting, how it presents in the landscape, why it was built there” and “There's a whole lot of material and evidence of the site and its use and its story below ground and any relocation will have an impact to the ability to retain or tell those stories because you cannot recover a hundred percent of what Ravensworth is now.”

The impact of relocation on the state-heritage-worthy values of the Homestead.

In the words of Frank Howarth: “Our view is that either relocation would diminish its significance so much that it would be highly unlikely to meet the threshold for state listing.”

Damage to the Homestead likely to occur during relocation.

Frank Howarth told the IPC, “the construction methods of that homestead make it highly doubtful in the council's mind about whether, notwithstanding the good intentions of Glencore and moving intact, that could actually happen.”

On this last point, we draw the Commission's attention to a recent statement from the National Trust in regard to the 19th century heritage-listed villa Willow Grove, which was demolished in 2021, with the government pledging to reconstruct it on a new site in Parramatta: “After reviewing the dismantled remains of Parramatta's historic Willow Grove, the National Trust (NSW) has concluded that the building cannot be authentically reconstructed and has withdrawn from the Willow Grove Community Reference Group.”²

We also note that Mr Howarth recommended that advice provided to the IPC “that the proposed relocation would diminish or eliminate the current state significance of the heritage values of the complex to a point where it may not meet the threshold for local listing” should be expanded upon. On 13 April 2022 (Document 20a), Mr Howarth recommended that: “It would be good to expand on how each factor in the statement of significance is reduced by both relocation options.”

² National Trust, 2 May 2022, ‘National Trust (NSW) withdraws from Willow Grove Community Reference Group’, <https://www.nationaltrust.org.au/news/national-trust-nsw-withdraws-from-willow-grove-community-reference-group/>

Further comments from Lock the Gate

The IPC's letter to the Department requested three things:

1. That the Department provide further assessment clarifying how the current position of Heritage NSW affects the recommendations put forward in the Department's Assessment Report and recommended conditions of consent.
2. Whether the Department still thought that the social and economic benefits of the extraction of the coal resource still outweigh the heritage values of the Ravensworth Homestead complex, and
3. That the Department "obtain clarification from the Heritage Council as to whether the currently delayed recommendation to list the complex on the State Heritage Register ... is to be revived and if not, why not."

Lock the Gate notes that Heritage NSW stated in October 2020 "that the project's direct and indirect impacts will further contribute to the cumulative impacts and loss of Aboriginal cultural heritage values and sites in the local area and the region."³ As far as we can tell from reviewing the agency's advice, it never actually advised the Department that it was satisfied "that the Project's residual impacts are unlikely to have a significant incremental or cumulative impact on the Aboriginal or European heritage values of the region". Our submission is that attribution of this position to Heritage NSW in DPE's AR would not have survived in the final Assessment Report had Heritage NSW been afforded an opportunity to review the document prior to completion. We note the following from an internal Heritage NSW draft Briefing Note to Atticus Fleming (Document 2): "In February 2022, DPE submitted its assessment report on the project to the IPC. Heritage was not invited to review or comment on this report prior to submission – nor was DPE required to provide its report or recommendations for Heritage comment."

It is clear to Lock the Gate that Heritage NSW's unvarnished view is that the Ravensworth Estate should be preserved in situ. Lock the Gate obtained a draft of Heritage NSW's response to the Department for this further material which is more fulsome than the final version the Department has provided to the IPC. That said, the final 6 June 2022 response submitted to the IPC indicates that Heritage NSW is of the view that:

- "the current homestead is connected to the story of dispossession and displacement because it played a role in displacement of Aboriginal people in the region and Ravensworth staff were involved in the hostilities that culminated in the massacre event."
- "Ravensworth is one of the most unique and intact of the Hunter homesteads and is worthy of listing on the State Heritage Register."
- "Removal and relocation of the property would threaten this authenticity and pose a significant risk to the integrity of its fabric. Heritage NSW is of the opinion that

³ Heritage NSW Advice on RTS - Oct 2020, <https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SSD-9349%2120201210T225315.374%20GMT>

dismantling the buildings would be likely to damage the structure in such a way as to diminish its heritage values”

- “the site has a place in the Aboriginal cultural history of the region as a site of Aboriginal occupation prior to settlement, and subsequently for its involvement in the frontier conflict in the broader region. It is part of the colonial story of land acquisition and settlement/displacement.”
- “A relocation of the homestead would remove it from this setting and its immediate history, altering the context and compromising the authenticity of the place, and the ability to best tell that story.”

Further, the GIPA documents obtained by Lock the Gate provide insight into the assessment of social and economic benefits against heritage impacts. The Chair of the Heritage Council, which was not asked for further advice, made the following annotated comment to Elizabeth Owers, Environment & Heritage, DPE on 13 April 2022 in the margin of a PDF of the IPC’s 6 April 2022 letter to DPE (Document 20a): “The HC was not party to any view by then DPIE that economic outweighed heritage. Be good to see the Departments methodology and how they valued the loss of heritage, and whether they took into account the lessons of Jukaan Gorge.” We would like to share Mr Howarth’s email (Document 20) to Ms Owers sharing this and other comments as it provides important context that may assist the Commission in weighting the Heritage Council’s comments at the 28 March meeting with the IPC’s Glendell panel:

From: Frank Howarth
Sent: Wednesday, 13 April 2022 11:26 AM
To: Elizabeth Owers
Cc: Olgica Lenger; Sam Kidman; Samantha Woods; Tim Smith; Steven Meredith
Subject: Re: Ravensworth - correspondence referencing IPC meeting
Attachments: 220406.OUT_IPC to DPE re heritage assessment FH notes.pdf

Hi Elizabeth,

I’ve made some notes in the margin of the IPC letter, attached. Re the DPE assertion that the views expressed by us at the hearing were not consistent with earlier advice, I would argue that what we said was not inconsistent, but rather an amplification of that advice, given the nature of the IPC questioning.

Can I please see what we propose to say to DPE before its sent. We need also to ensure that DPE does not “summarise” our views before they go to IPC.

Best wishes,

Frank

And finally, on the question of “whether the currently delayed recommendation to list the complex on the State Heritage Register ... is to be revived,” Doc 20a also clearly provides the clarification the IPC sought but did not obtain from the Department. The Heritage Council

Chair notes that “at the last HC we agreed **that if the IPC finds against the mine we would move immediately to recommend listing.**”

Ravensthorpe Homestead and Estate, Wonnarua people, and learnings from the destruction of Indigenous heritage sites at Juukan Gorge

“In allowing the destruction of the Juukan Gorge rock shelters to occur, we fell far short of our values as a company and breached the trust placed in us by the Traditional Owners of the lands on which we operate. It is our collective responsibility to ensure that the destruction of a site of such exceptional cultural significance never happens again, to earn back the trust that has been lost, and to re-establish our leadership in communities and social performance.”

Rio Tinto statement on their Juukan Gorge web page⁴

The IPC, Heritage NSW and the Heritage Council have all been grappling with the question of ‘national significance’. Lock the Gate contends that where we can all find common ground is that all parties to this process consider that reconciliation with our First Nations people is **nationally significant**. In addition, as NSW DPE found in their Assessment Report - “all relevant parties agree that elements of the complex are of State heritage significance, and the Heritage Council of NSW has recommended it for nomination on the State Heritage Register.” There also appears to be agreement that relocation of the Homestead risks irreparable damage to the fabric of buildings that in the absence of approval of the Glendell COP, Ravensworth Estate would certainly be recommended to the Minister for listing on the State Heritage Register.

It is also critically important to pick up on a point made by Frank Howarth in the 28 March 2022 meeting with the IPC. Mr Howarth made the observation that thermal coal mining is “a dying industry”. Few would dispute that thermal coal is in structural decline. Against this backdrop, there is a growing risk that an approval of this Project would enable destruction of the in situ cultural and heritage values of this site, for what could be a very short-term economic gain, with a strong possibility that the Glendell COP may close well ahead of the date proposed in 2044. We draw the Commission’s attention to BHP’s announcement last week that instead of following through on a plan to extend the life of the state’s largest thermal coal mine - Mt Arthur - out to 2045, they will instead close the mine 15 years earlier than planned in 2030. We note that BHP spent two years trying unsuccessfully to find a buyer for Mt Arthur before making this decision to close and rehabilitate the mine.⁵

In contrast to further open-cut mining of the Glendell site, Mr Howarth has outlined the very positive contribution that preservation of the site could offer. He stated that “cultural tourism in its broadest sense is the fastest and most lucrative area of growth for tourism.” Mr Howarth says that “with a bit of thinking by governments at all three levels ... Ravensworth

⁴ <https://www.riotinto.com/en/news/inquiry-into-juukan-gorge>

⁵ Coal divestment review update - BHP to retain New South Wales Energy Coal, 15 June 2022, <https://www.bhp.com/news/articles/2022/06/coal-divestment-review-update-bhp-to-retain-new-south-wales-energy-coal>

could be built into a very interesting cultural tourism anchor point that tells the rural and contact and complex story with other places in the Hunter and could add to the economic growth of the Hunter effectively forever ...”

A large part of the value of Ravensworth Estate as a ‘cultural tourism anchor point’, would be the opportunity for truth telling that its history and location would afford. It appears to Lock the Gate that most parties to this process are in agreement that relocation could impact or compromise the significance of any future truth telling at this location. As Mr Meredith from Heritage NSW put it, relocation would impact “the opportunity for us to tell the truth about the history of this country by taking it out of context... and it diminishes the opportunity for us to come together as Aboriginal and non-Aboriginal people that live in this country.”

We note that Recommendation 6 of the Juukan Gorge inquiry’s final report - A Way Forward - was that “the Australian Government develops a model for a cultural heritage truth telling process that may be followed by all Australians—individuals, governments and companies—as a part of any process to engage with Aboriginal and Torres Strait Islander peoples and their cultural heritage.” In the context of reconciliation, the ‘A Way Forward’ report defined truth telling thus:

Truth telling is an important component of recognising and accepting historical harms and a method of apology, commemoration and redress of these harms. Truth telling allows for:

- understanding our complete national narrative
- learning from, rather than repeating the wrongs of the past
- restorying, being heard, healing, and change
- Aboriginal and Torres Strait Islander peoples owning their experiences, stories, and futures.⁶

The ‘A Way Forward’ report made findings relevant to the determination of the Glendell COP. The report found that “Many Australians do not know the extent of the harms perpetrated on Aboriginal and Torres Strait Islander peoples nor how the continued destruction of cultural heritage actively harms Aboriginal and Torres Strait Islander peoples”.⁷ Dhawara Ngilan⁸ made an observation quoted in the report that highlights the value of preservation of the Ravensworth Homestead:

“Telling the truth means framing these histories in ways that recognise Indigenous perspectives. **Indigenous Peoples remain traumatised by the difficulty of finding**

⁶ Joint Standing Committee on Northern Australia, PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA, October 2021, ‘A Way Forward, Final report into the destruction of Indigenous heritage sites at Juukan Gorge, https://parlinfo.aph.gov.au/parlInfo/download/committees/reportjnt/024757/toc_pdf/AWayForward.pdf.fileType=application%2Fpdf

⁷ Ibid, pg 205

⁸ On 16 September 2020, the Heritage Chairs of Australia and New Zealand welcomed and supported **Dhawara Ngilan**: A vision for Aboriginal and Torres Strait Islander Heritage in Australia and the Best Practice Standards in Indigenous cultural heritage management and legislation. Developed by and presented to the meeting by the Chairs of Australia’s national, state and territory Indigenous heritage bodies, these two documents provide a roadmap for improving approaches to Aboriginal and Torres Strait Islander heritage management in Australia. Both documents are the product of extensive consultation with Indigenous stakeholders and relevant peak advisory bodies.

evidence for historically documented massacres and other destructive acts.

There are many more events, however, that exist in the memories of Indigenous Peoples that are today without documentation. It is important to consider Indigenous ways to memorialise all the truths of Australia's past through culturally sensitive approaches and creative interpretation."⁹

In the context of Dhawura Ngilan and the 'A Way Forward' findings about the great importance of and the difficulty of finding evidence for historically documented massacres, we note the following statement about the area Glencore want to mine as described in a 22 Feb 2021 briefing from NSW Premier and Cabinet to the Chair of the Heritage Council¹⁰:

"Ravensworth is a rare and exceptionally intact colonial homestead complex and cultural landscape of state heritage significance that tells the story of shared Aboriginal and European heritage in the Hunter Valley, including early conflict, the development of pastoralism and the convict labour system. It meets all seven criteria for assessing state level significance.

"The Ravensworth area has the strongest documentary evidence of any conflict site across the Hunter Valley, including the event known as the Ravensworth massacre. Although the actual site of the massacre may not be in the immediate vicinity of the homestead, the estate and homestead represent that story of settlement and conflict."

In this context, a small window of opportunity exists to enable - in future - the Ravensworth Homestead and Estate to play a role in the important work of reconciliation with First Nations people. As the final report into the Juukan Gorge disaster found, NSW is the only jurisdiction without stand-alone Aboriginal cultural heritage legislation.¹¹ In light of this finding, the NSW IPC's Glendell COP panel has a particularly important opportunity.

In a letter to Scott Franks dated 1 Feb 2022, Former Federal Minister for the Environment, Sussan Ley wrote: "I would like to invite interested parties to work together constructively to ensure that the indigenous cultural heritage of Ravensworth and the surrounds are appropriately recognised and protected." In that spirit, Lock the Gate's submission to the IPC is that our collective job here is to imagine a future for this site that prioritises a role for the Ravensworth Homestead and Estate that makes an enormously important contribution to the nationally-significant work of truth telling and reconciliation in our state.

⁹ Ibid, pg 205

¹⁰ A copy of this Briefing Note was provided to the Commission by Lock the Gate on 8 March 2022

¹¹ Joint Standing Committee on Northern Australia, PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA, October 2021, 'A Way Forward, Final report into the destruction of Indigenous heritage sites at Juukan Gorge, https://parlinfo.aph.gov.au/parlInfo/download/committees/reportjnt/024757/toc_pdf/AWayForward.pdf.fileType=application%2Fpdf

APPENDICES

Appendix 1: Analysis of NSW DPE’s 10 June 2022 reply to the NSW IPC vs material and comments obtained by LtG via the GIPA Act

The additional material we would specifically like to draw the Commission’s attention to is highlighted in **yellow** below.

National Significance

Material submitted to the NSW IPC		GIPA docs
NSW DPE (10 June)	Heritage NSW (6 June)	
Neither Heritage NSW nor the Heritage Council “have expressed a view on whether the homestead is of national significance. “	Neither Heritage NSW, nor the Heritage Council, has expressed a view on whether the Homestead is of National Significance.	<p>5a. Frank Howarth, Chair of Heritage Council</p> <p>“when similar homesteads/landscapes/history are looked at across Australia, Ravensworth would be important.”</p> <p>8a. Letter from Atticus Fleming, Heritage NSW to David Gainsford, NSW DPE</p> <p>“There are few homesteads of this nature nationally that remain as intact as Ravensworth, which is a major contributing factor to the property’s significance and rarity.”</p>

Connection to Upper Hunter Massacre Site

Material submitted to the NSW IPC		GIPA docs
NSW DPE (10 June)	Heritage NSW (6 June)	
<p>“the 1826 massacre occurred on properties outside the Ravensworth Estate”</p> <p>“the homestead was built after the massacre.”</p> <p>“the homestead is connected to the story of dispossession and displacement of Aboriginal people in the region.”</p> <p>NSW DPE recognise that some Aboriginal groups “have identified an attachment to the Ravensworth Homestead”</p>	<p>The actual 1826 massacre occurred on properties outside of the Ravensworth estate. The current homestead was built after the 1826 massacre.</p> <p>However, the current homestead is connected to the story of dispossession and displacement because, for example:</p> <ul style="list-style-type: none"> • Ravensworth was one of the earliest properties settled in the Hunter and as a result played a role in displacement of Aboriginal people in the region • Ravensworth staff were involved in the hostilities that culminated in the massacre event. 	<p>8a. Letter from Atticus Fleming, Heritage NSW to David Gainsford, NSW DPE</p> <p>“linkages to aggressive colonial land acquisition” provide a “causal link to the Upper Hunter Massacre Site.”</p> <p>“Ravensworth was one of the leading early properties in the Hunter that played a role in dispossessing the Aboriginal people of their land.</p> <p>“the involvement of Ravensworth staff in hostilities in the area ... lends itself to the connection between the property and the conflict that took place across the region.”</p> <p>Heritage NSW and the Chair of the Heritage Council both see the</p>

		<p>“Ravensworth property as an ‘actor’ in the seminal events that led to local Aboriginal dispossession.”</p> <p>“both Heritage NSW and the Heritage Council contend that the homestead and its estate cannot be excised from the story of dispossession and displacement ... and that its existence in the landscape played a contributing role that cannot be discounted.”</p> <p>Lock the Gate also notes the following statement about the area Glencore want to mine as described in a 22 Feb 2021 briefing from NSW Premier and Cabinet to the Chair of the Heritage Council:</p> <p>"Ravensworth is a rare and exceptionally intact colonial homestead complex and cultural landscape of state heritage significance that tells the story of shared Aboriginal and European heritage in the Hunter Valley, including early conflict, the development of pastoralism and the convict labour system. It meets all seven criteria for assessing state level significance.</p> <p>"The Ravensworth area has the strongest documentary evidence of any conflict site across the Hunter Valley, including the event known as the Ravensworth massacre. Although the actual site of the massacre may not be in the immediate vicinity of the homestead, the estate and homestead represent that story of settlement and conflict."</p>
--	--	---

Significance of the Ravensworth Homestead

Material submitted to the NSW IPC		GIPA docs
NSW DPE (10 June)	Heritage NSW (6 June)	
<p>“Ravensworth is one of the most unique and intact of the Hunter homesteads, and is worthy of listing on the State Heritage Register.”</p> <p>“Ravensworth Homestead is of high to exceptional heritage significance”</p>	<p>Ravensworth is one of the most unique and intact of the Hunter homesteads and is worthy of listing on the State Heritage Register.</p>	<p>Lock the Gate notes that a 22 Feb 2021 briefing from NSW Premier and Cabinet to the Chair of the Heritage Council obtained by the NSW Upper House in a call for papers states that this place “meets all seven criteria for assessing state level significance” (see above).</p> <p>We also note the intention of the Heritage Council to immediately recommend listing on the State Heritage Register in the event that</p>

		the IPC refuse consent for the Glendell COP..
--	--	---

Relocation of the Ravensworth Homestead

Material submitted to the NSW IPC		GIPA docs
NSW DPE (10 June)	Heritage NSW (6 June)	
<p>“the removal and relocation of the Ravensworth Homestead would threaten its authenticity and pose a significant risk to the integrity of its fabric. However, it is not clear to the Department whether the heritage impacts of any relocation of the Homestead would be sufficiently significant such that it would not be worthy of any future listing on the State Heritage Register.”</p>	<p>Removal and relocation of the property would threaten this authenticity and pose a significant risk to the integrity of its fabric.</p> <p>Heritage NSW is of the opinion that dismantling the buildings would be likely to damage the structure in such a way as to diminish its heritage values, including the impact to its buried archaeological components that tell the story about its operations and use.</p>	<p>2. Draft Briefing Note to Atticus Fleming (Heritage NSW)</p> <p>Due to its assessed state heritage significance, the Heritage Council of NSW supports Ravensworth Homestead being retained in its original, highly significant location with a curtilage around its equally significant cultural landscape.</p> <p>“In February 2022, DPE submitted its assessment report on the project to the IPC. Heritage was not invited to review or comment on this report prior to submission – nor was DPE required to provide its report or recommendations for Heritage comment.”</p> <p>“It is worth reiterating to the IPC that at the time of that submission, Heritage NSW was not part of DPE; it is therefore natural the views of DPE and the views of Heritage NSW differed somewhat.”</p> <p>“If the IPC does not approve the Project, the Heritage Council will proceed with a nomination to recommend the SHR listing of Ravensworth to the Minister.”</p> <p>Doc 20a.</p> <p>On 13 April, Mr Howarth made the following comment in response to this issue as it was raised in the IPC’s letter (see below):</p> <p>“I think this is consistent with what we have said all along. It would be good to expand on how each factor in the statement of significance is reduced by both relocation options.”</p> <p>Mr Howarth’s submission at page 14, lines 23 to 27, that the proposed relocation would diminish or eliminate the current state significance of the heritage values of the complex to a point where it may not meet the threshold for local</p>

		listing
--	--	---------

Intangible Values

Material submitted to the NSW IPC		GIPA docs
NSW DPE (10 June)	Heritage NSW (6 June)	
<p>“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.”</p>	<p>The main house and outbuildings have their own historical, scientific, and social values. These values are even more significant when viewed in the historical operating context of the estate with its minor outbuildings, cisterns, wells, sheep dips, fencing, grand carriage way, and elevation.</p> <p>Some of these elements survive as below-ground archaeological features but comprise equally important in-situ elements to the standing structures. These elements talk to the complexity of these estates and the statement they were making as commercial enterprises. Further, the site has a place in the Aboriginal cultural history of the region as a site of Aboriginal occupation prior to settlement, and subsequently for its involvement in the frontier conflict in the broader region. It is part of the colonial story of land acquisition and settlement/displacement.</p> <p>A relocation of the homestead would remove it from this setting and its immediate history, altering the context and compromising the authenticity of the place, and the ability to best tell that story.</p>	<p>8a. Letter from Atticus Fleming to David Gainsford</p> <p>Heritage NSW’s reference to ‘intangible values’ of the Ravensworth Homestead that would be lost should the homestead be relocated. Heritage NSW in making these comments was in part referencing the Burra Charter principles that look beyond the built (tangible) heritage elements of a place in assessing significance.</p> <p>2. Draft Briefing Note to Atticus Fleming (Heritage NSW)</p> <p>“The Wonnarua landscape, centred on a series of creeks, comprises tangible and intangible Aboriginal cultural heritage values. The site is noted to have the strongest documentary evidence of any conflict site across the Hunter Valley, demonstrating how fiercely the Wonnarua defended and valued the landscape in several violent episodes, including the event known as the Ravensworth massacre.”</p>

Do the social and economic benefits of extraction of the coal outweigh the heritage values of keeping the Ravensworth Homestead complex in situ?

Material submitted to the NSW IPC		GIPA docs
NSW DPE (10 June)	Heritage NSW (6 June)	
<p>the 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.</p> <p>However, the Department’s detailed analysis indicates that any option that leaves the homestead in-situ would render the entire project</p>	<p>The Heritage NSW letter does not comment on this issue.</p>	<p>20a Frank Howarth’s annotated comments in the margin of a PDF of the IPC’s 6 April 2022 letter to DPE</p> <p>“The HC was not party to any view by then DPIE that economic outweighed heritage. Be good to see the Departments methodology and how they valued the loss of heritage, and whether they took into</p>

<p>unviable.</p> <p>the Department accepts that these impacts could be mitigated, particularly through the intact relocation of the homestead to an undisturbed part of the broader Ravensworth Estate.</p> <p>the Department considers that any heritage impacts resulting from relocating the Ravensworth Homestead do not outweigh the social and economic benefits of the project.</p>		<p>account the lessons of Jukaan Gorge.”</p>
--	--	--

Summary

Material submitted to the NSW IPC		GIPA docs
NSW DPE (10 June)	Heritage NSW (6 June)	
<p>NSW DPE has not changed its position.</p> <ol style="list-style-type: none"> 1. DPE accepts that the Homestead and the surrounding core estate lands have local and State heritage significance, with elements of high to exceptional significance” 2. “any option that leaves the homestead in-situ would render the entire project unviable” 3. The Homestead could be relocated although this “would remove the buildings from their historic location setting.” 4. “heritage impacts resulting from relocating the Ravensworth Homestead do not outweigh the social and economic benefits of the project.” 	<p>No position “on whether the Homestead is of National Significance”</p> <p>Whilst the 1826 massacre occurred on properties outside of the Ravensworth estate, the current homestead is connected to the story of dispossession and displacement because it played a role in displacement of Aboriginal people in the region and Ravensworth staff were involved in the hostilities that culminated in the massacre event.</p> <p>“Ravensworth is one of the most unique and intact of the Hunter homesteads and is worthy of listing on the State Heritage Register.”</p> <p>“Removal and relocation of the property would threaten this authenticity and pose a significant risk to the integrity of its fabric. Heritage NSW is of the opinion that dismantling the buildings would be likely to damage the structure in such a way as to diminish its heritage values”</p> <p>“the site has a place in the Aboriginal cultural history of the region as a site of Aboriginal occupation prior to settlement, and subsequently for its involvement in the frontier conflict in the broader region. It is part of the colonial story of land acquisition and settlement/displacement.”</p> <p>“A relocation of the homestead would remove it from this setting and</p>	<p>2. Draft Briefing Note to Atticus Fleming (Heritage NSW)</p> <p>“Due to its assessed state heritage significance, the Heritage Council of NSW supports Ravensworth Homestead being retained in its original, highly significant location with a curtilage around its equally significant cultural landscape.”</p> <p>8a. Letter from Atticus Fleming to David Gainsford</p> <p>“I wish to firstly address the IPC’s view that statements made by Heritage NSW on 28 March represent ‘key developments in their position regarding potential impacts associated with the Project’. Heritage NSW wishes to clarify that their position in relation to the project and its impacts has not changed. Their views remain consistent in that they are committed to protecting and conserving the heritage values of the site.”</p>

	its immediate history, altering the context and compromising the authenticity of the place, and the ability to best tell that story.“	
--	---	--

Appendix 2 - How NSW DPE portrayed concerns from Heritage NSW and the Heritage Council in the Department’s final Assessment Report

How did NSW DPE describe Heritage NSW’s position on the Glendell COP in their final Assessment Report?

Five of the 11 mentions are dedicated to making the point that the Upper Hunter Valley Massacre is located outside the Project area and that there is there is “no material evidence to show that the current Ravensworth Homestead itself, built in 1832 (i.e. after the main period of conflict), is specifically the site of such conflicts.”

1. “Heritage NSW advised that there is no material evidence to show that the current Ravensworth Homestead itself, built in 1832 (i.e. after the main period of conflict), is specifically the site of such conflicts.”
2. “Heritage NSW acknowledges that the Upper Hunter Valley Massacre is located outside the Project area”
3. “Heritage NSW confirmed in its advice on the RTS that, although there is historical evidence of conflict between the Wonnarua and the European settlers on several local properties along the Hunter River, “there is no material evidence to show that the current Ravensworth Homestead itself, which was built in 1832, was specifically the site of such conflict”.”
4. “Heritage NSW accepts that while there is evidence of conflict on several properties along the Hunter River, Bowmans Creek and Fal Brook (Glennies Creek) inside and outside the Project area, there is no material evidence to show that the current Ravensworth Homestead, itself built in 1832 (i.e. after the main period of conflict), is specifically the site of such conflicts.”
5. “Heritage NSW also acknowledges that the Upper Hunter Valley Massacre site is outside the Project area, adding that numerous surveys, salvage and excavations in the area have not identified any burials or human remains on the site.”

One comment states that Heritage NSW’s view is that “the Project’s residual impacts are unlikely to have a significant incremental or cumulative impact on the Aboriginal heritage values of the region”:

6. “The Department and Heritage NSW are satisfied that Glencore has explored and identified reasonable and feasible measures to minimise the Project’s impacts on Aboriginal heritage value, and that the Project’s residual impacts are unlikely to have

a significant incremental or cumulative impact on the Aboriginal heritage values of the region.”

Another suggests that the impacts on heritage can be managed via conditioning (partly informed by advice from Heritage NSW”

7. “To ensure that the residual impacts are minimised as far as practicable, the Department has recommended conditions consistent with the recommendations of Heritage NSW ...”

The remainder of the recommendations are essentially procedural:

8. “Heritage NSW confirmed it was satisfied with the information provided in the RTS regarding Aboriginal heritage and considered the values of the Project Area had been adequately assessed.”
9. “Heritage NSW also provided a number of recommendations to manage impacts to Aboriginal heritage which have been considered by the Department in the development of recommended conditions in **Appendix I.**”
10. “The Department’s detailed assessment of impacts on Aboriginal cultural heritage values is provided in Section 6.3, and a copy of the Heritage NSW advice is provided in **Appendix E.**”
11. “Heritage NSW is satisfied that the assessments have been undertaken in accordance relevant Aboriginal heritage assessment and consultation guidelines.”

How did NSW DPE describe the Heritage Council’s position on the Glendell COP in their final Assessment Report?

In contrast to the very poor representation of Heritage NSW’s position in their AR, NSW DPE’sAR much more accurately described the concerns of the Heritage Council.

1. “The Heritage Council ... maintains that the Aboriginal pre- and post-contact history of the Ravensworth Homestead is contested ...”
2. “the Department recognises and acknowledges that Aboriginal groups identify a connection to the land in the greater Ravensworth Area and consider the whole region to have high cultural significance. The Department also notes the concerns that some Aboriginal groups and the Heritage Council have raised about the Project’s impacts on these cultural values and the request to take a precautionary approach.”
3. “a range of stakeholders, including the Heritage Council, do not support the removal of the homestead.”
4. “all relevant parties agree that elements of the complex are of State heritage significance, and the Heritage Council of NSW has recommended it for nomination on the State Heritage Register. In February 2020, the Heritage Council of NSW decided to delay progressing the nomination of the Ravensworth Homestead for the State Heritage Register until the Glendell Continued Operations Project is determined.”
5. “Some stakeholders, including the Heritage Council and the Plains Clan of the Wonnarua People (PCWP) Aboriginal group, suggest that the Ravensworth Estate is

highly significant for its reported association with frontier conflict between European and Aboriginal people.”

6. “The NSW Heritage Council raised concerns relating to the proposed relocation of the Ravensworth homestead, noting that it has recommended the Ravensworth Homestead for nomination on the State Heritage Register (SHR) and does not support its relocation as this would result in an unacceptable heritage impact.”
7. “The NSW Heritage Council considers that relocating the homestead may remove its State significant values and the relocated buildings would be unlikely to meet the criteria for state heritage significance.”
8. “both Glencore and the Heritage Council agreed that the Estate and homestead complex are of high to exceptional heritage significance.”
9. “the Heritage Council and the Plains Clan of the Wonnarua People (PCWP) Aboriginal group, suggest that Ravensworth is highly significant for its reported association with frontier conflict between European and Aboriginal people, including a reported massacre.”
10. “The Heritage Council submission notes that 6 reported incidents are associated with the Ravensworth property, including one incident popularly referred to as the ‘Ravensworth Massacre’.”
11. “The Heritage Council does not support the relocation of the Ravensworth Homestead in any form, as it considers that relocation would result in irreversible loss of its identified high and exceptional significance in the form of its intact fabric, setting, views and meaning. It believes that either relocation option would result in an unacceptable, even catastrophic, heritage impact.”
12. “ It further believes that a balance of economic and heritage outcomes could be achieved with the Ravensworth Homestead remaining in-situ, although it does not provide any evidence to support this statement.”
13. “The Department accepts the advice from both Glencore’s experts and the Heritage Council that relocation of the Ravensworth Homestead would have a significant heritage impact, both on the built structures and the associated archaeological resource.”
14. “The Department notes the concerns that some Aboriginal groups and the Heritage Council have raised in regard to the impacts of the proposal on these cultural values and the request to take a precautionary approach, however detailed archaeological investigation demonstrates that the reported massacre did not occur at, nor was it staged from, the Ravensworth Homestead.”
15. “Nonetheless, the Ravensworth Estate and Homestead does have significant heritage significance associated with its early colonial links and a range of stakeholders, including the Heritage Council, do not support the removal of the homestead.”



Correspondence – D Gainsford – Ravensworth Homestead complex heritage value

Purpose	To respond to Mr David Gainsford, Deputy Secretary, Development Assessment, who has written to you seeking clarification on the statements made by Heritage NSW during its meeting with the Independent Planning Commission on the heritage value of the Ravensworth Homestead complex.		
Analysis	If approved, the State Significant Development (SSD) Glendell Continued Operations mining project would impact the historic Ravensworth Homestead. Ravensworth has been nominated for listing on the State Heritage Register (SHR). The Heritage Council has deferred progressing the listing until the Independent Planning Commission (IPC) decision is handed down, which is expected to happen in late May 2022. Heritage NSW representatives met with the IPC on 28 March 2022.		
Recommendation	That you:	Yes	No
	• Sign the response at Tab 1.	<input type="checkbox"/>	<input type="checkbox"/>
Action by	As soon as possible to enable a timely response to Mr Gainsford.		
Signature/ comment	<hr/> Atticus Fleming AM A/Coordinator-General Environment and Heritage Group Date:		

Commented [DL1]: Changed it given Mr Gainsford requested a response by 22 April.

Background

The Project proposes to extend an open cut coal mine into the Ravensworth cultural landscape, destroying a significant homestead, and Aboriginal and post-contact cultural heritage values. The proposal involves dismantling and relocating the historic homestead.

Following the 28 March 2022 IPC hearing, the IPC requested follow-up responses from the Department of Planning and Environment (DPE) on heritage concerns over the mine expansion impacts to Ravensworth, its values, associated Aboriginal massacre connections, context, and archaeology.

The Ravensworth estate has been nominated for listing on the SHR. The Heritage Council of NSW confirmed the place is likely to be of state significance.

A section 10 application has also been made to the Federal Minister for the Environment, the Hon Sussan Ley MP, under the *Aboriginal and Torres Strait Islander Heritage Protection Act 1984* in relation to the Ravensworth Estate and surrounding areas.

A Section 10 application enables the Federal Minister to make a declaration for the protection and preservation of significant Aboriginal areas and objects from injury or desecration.

The office of the former Minister responsible for Heritage received correspondence from the Federal Minister for the Environment requesting a review of the Section 10 application. The application is in relation to Ravensworth Estate, Bowmans Creek and Glennies Creek near Camberwell, NSW.

The section 10 assessment is under review by the Department of Agriculture, Water and Environment and once finalised will progress to the Federal Minister for the Environment for a decision. There are no statutory timeframes for a decision under the Aboriginal and Torres Strait Islander Heritage Protection Act 1984.

Key issues

The *Heritage Act 1977* is 'switched off' for State Significant Development

If an item to which SSD or SSI applies is SHR listed, the *Heritage Act 1977* is switched off and the approvals functions of the Heritage Council do not apply.

Assessed significance of the place

Ravensworth is an exceptionally intact cultural landscape that tells the story of shared Aboriginal and European heritage in the Hunter Valley, including early conflict, the development of pastoralism and the convict labour system.

The Wonnarua landscape, centred on a series of creeks, comprises tangible and intangible Aboriginal cultural heritage values. The site is noted to have the strongest documentary evidence of any conflict site across the Hunter Valley, demonstrating how fiercely the Wonnarua defended and valued the landscape in several violent episodes, including the event known as the Ravensworth massacre.

In 1824, the large pastoral estate was granted to Dr James Bowman, principal surgeon in the colony. He lived there with his wife Mary Macarthur. The complex is largely intact and comprises convict-built homestead buildings, together with the surrounding pastures. It forms a distinctive colonial, rural landscape.

Although surrounding agricultural lands have been subdivided and gradually impacted by open cut mining since the late 1990s, the setting and significant views from the Ravensworth homestead have been largely maintained.

Heritage Council position

Due to its assessed state heritage significance, the Heritage Council of NSW supports Ravensworth Homestead being retained in its original, highly significant location with a curtilage around its equally significant cultural landscape.

On 12 August 2018, the Planning Secretary's Environmental Assessment Requirements (SEARs) for the Glendell Continued Operations Project development application were issued in accordance with section 4.12 (8) of the *Environmental Planning and Assessment Act 1979*.

From 11 December 2019 to 14 February 2020, the Environmental Impact Statement (EIS) was placed on public exhibition. A request for advice on the EIS was referred to the Heritage Council for comment.

At its meeting of 5 February 2020, the Heritage Council considered a report on the EIS and received a presentation from the applicant. The Council provided comments on the EIS to the Department of Planning and Environment (DPE) on 11 February 2020. The Council did not support relocating the Homestead, as this would destroy the cultural values of the place.

On 6 October 2021, DPE presented new information to the Heritage Council regarding the financial viability of the SSD project if Ravensworth were to be kept in situ. The Heritage Council noted the new information but stated that it maintains the view that the importance of Ravensworth Homestead includes its role in frontier conflict and affirmed its previous advice to DPE.

Department's Assessment Report

In February 2022, DPE submitted its assessment report on the project to the IPC. Heritage was not invited to review or comment on this report prior to submission – nor was DPE required to provide its report or recommendations for Heritage comment.

It is worth reiterating to the IPC that at the time of that submission, Heritage NSW was not part of DPE; it is therefore natural the views of DPE and the views of Heritage NSW differed somewhat.

Next steps

IPC decision to be handed down

The IPC is expected to hand down its decision in late May 2022.

Should the IPC approve the Glendell Continued Operations project SSD, the Heritage Council would reconsider its support for listing the place, which would depend on a range of factors arising from the approval and any specific conditions attached, including but not limited to whether the relocating the homestead is pursued.

If the IPC does not approve the Project, the Heritage Council will proceed with a nomination to recommend the SHR listing of Ravensworth to the Minister.

The Minister for Environment and Heritage does not have a formal role in the decision on whether the SSD can proceed. In relation to potential SHR listing, the Minister can, on the recommendation of the Heritage Council of NSW, direct the listing on the SHR of items of state heritage significance.

Supporting analysis

Risks and mitigations

There has been continuing media regarding the significance of Ravensworth estate for its Aboriginal and post-contact values and community opposition, referring to the destruction of Juukan Gorge by Rio Tinto and the uncertain future of coal.

Consultation

Heritage NSW consulted the Chair of the Heritage Council of NSW, Mr Frank Howarth.

Contact and approval

Contact officer	Position	Phone
Mary Ann Hamilton	Manager, North Heritage Programs	
Approving officer	Position	Date
Steve Meredith	Director, Heritage Programs	04/05/2022
Sam Kidman	Executive Director, Heritage NSW	04/05/2022

Attachments

Tab	Title
1	Response

Clarification of Heritage Council statements in IPC Meeting 28 March 2022

IPC comment	Location	HC Chair Response
Mr Howarth's suggestion...that the heritage values of the Ravensworth Homestead complex may be of national significance in addition to being of state significance.	Independent Planning Commission (IPC) letter, p.1. Transcript page 8, lines 9 to 16	I can't see anywhere where Tim Smith or I used the words "nationally significant". Rather we argued that when everything is considered it's an extremely rare set of factors. This should not be taken to mean that we think it qualifies for listing on the National Heritage Register, rather that when similar homesteads/landscapes/history are looked at across Australia, Ravensworth would be important. Tim Smith added more to this.
Mr Howarth's suggestion that the Ravensworth Homestead is <i>'probably close to unique'</i> .	IPC letter, page 1 Transcript page 8, lines 22 to 23;	My comment specifically refers to the H pattern of the homestead, which I believe to be close to unique.
Mr Howarth's submission regarding the significance of the European heritage aspects of the Ravensworth Homestead complex.	IPC letter, page 2 Transcript page 10, lines 7 to 15;	My words in the transcript speak for themselves.
Mr Howarth's submission...that the proposed relocation would diminish or eliminate the current state significance of the heritage values of the complex to a point where it may not meet the threshold for local listing.	IPC letter, page 2 Transcript page 14, lines 23 to 27	I think this is consistent with what the Council has said all along. The revised Statement of Significance included within the Expanded Analysis of the Ravensworth Homestead Complex prepared by Lucas Stapleton Johnson and Partners for Mt Owen Glencore indicate in several areas the significance of the immediate landscape setting, complex of buildings and archaeology of the site. For example, they say: " The Ravensworth Homestead Complex is important as an archaeological landscape containing an 1820s colonial house and associated outbuildings which were modified throughout the 19th and 20th centuries, and the archaeology of the estate. The homestead buildings, the remnant 19th-century farm and garden layout built by assigned convicts all provide evidence of this landscape and its history. This can testify to the way in which this early occupation by Surgeon James Bowman with expansion of the wool industry into the Upper Hunter Valley, aided by

		<p>assigned convicts, irrevocably changed the lives of Aboriginal people and modified the landscape of the Hunter Valley. (p71)</p> <p>Moving the house and a small number of associate buildings only would reduce the overall significance, as would the loss of immediate landscape connection. The moving of the buildings may result in a level of re-construction that also reduces significance.</p>
<p>At the 28 March 2022 meeting, Mr Howarth of the Heritage Council stated at page 14, lines 23 to 27 that: <i>'Our view is that either relocation would diminish its significance so much that it would be highly unlikely to meet the threshold for state listing. It may meet the threshold for local listing. In the nearby move within Broke, I doubt that it would even meet that because just too much of its key elements of significance either diminished or eliminated [sic]'.</i></p> <p>Mr Howarth's submission does not appear to relate to the structural engineering aspects of the relocation, rather it suggests that even if any relocation of buildings is entirely successful from a structural engineering perspective, the fact of relocation in and of itself would lead to the potential diminution or elimination of the Ravensworth Homestead complex's heritage values.</p> <p>On the basis of Mr Howarth's submission, it would follow that the appropriate time for considering the listing is while the complex still retains state heritage values and before those values are potentially diminished or eliminated by relocation.</p> <p>Accordingly, the Panel requests that the Department, as part of its whole-of-government assessment of the applications on behalf of the Commission, obtain clarification from the Heritage Council as to whether the currently delayed recommendation to list the complex on the State Heritage Register (per the footnote</p>	<p>IPC letter, page 4</p> <p>Transcript page 14, lines 23 to 27</p>	<p>See my comments above re the likely reduced significance. With respect to potential recommendation to list on the State Heritage Register, the Minutes of the 6 April 2021 meeting of the Heritage Council p4 indicate that if the IPC finds against the mine expansion, the Council will proceed with a nomination to recommend the listing of Ravensworth to the Minister.</p>

to [17] in the Assessment Report) is to be revived and if not, why not.		
---	--	--



Mr David Gainsford
Deputy Secretary, Development Assessment
Department of Planning and Environment
4 Parramatta Square, 12 Darcy Street
PARRAMATTA NSW 2150

Dear Mr Gainsford

Thank you for your letter seeking clarification on the statements made by Heritage NSW and the Heritage Council of NSW during its meeting with the Independent Planning Commission on the heritage value of the Ravensworth Homestead complex.

I wish to firstly address the IPC's view that statements made by Heritage NSW on 28 March represent 'key developments in their position regarding potential impacts associated with the Project'. Heritage NSW wishes to clarify that their position in relation to the project and its impacts has not changed. Their views remain consistent in that they are committed to protecting and conserving the heritage values of the site.

To address the points raised in your letter:

Heritage NSW's suggestion that the Ravensworth Homestead may be of National significance

The transcript of the 28 March meeting does not contain a reference to the Homestead being of national significance. Heritage NSW representatives instead made comments on Ravensworth's place in the national story of colonial properties such as this and the role they played in aggressive policies of land acquisition and use, settler ownership, assignment of convicts and broadly, the precipitation of these policies and practices into conflict.

There are few homesteads of this nature nationally that remain as intact as Ravensworth, which is a major contributing factor to the property's significance and rarity.

Heritage NSW's suggestion that the Ravensworth Homestead provided a causal link to the Upper Hunter Massacre Site

The abovementioned linkages to aggressive colonial land acquisition provide this causal link to the Upper Hunter Massacre Site. Ravensworth was one of the leading early properties in the Hunter that played a role in dispossessing the Aboriginal people of their land. The hostile displacement of local Aboriginal people by Ravensworth and surrounding properties from the late 1820s escalated tensions and led to the aggressions witnessed in the region. Further, the involvement of Ravensworth staff in hostilities in the area similarly lends itself to the connection between the property and the conflict that took place across the region.

Heritage NSW was, with the Chair of the Heritage Council, reinforcing their separate written submissions that saw the Ravensworth property as an 'actor' in the seminal events that led to local Aboriginal dispossession. Both parties note more recent historical assessment (such as that by historian Dr Mark Dunn) that confirm that the actual 1826 massacre occurred on properties outside of the Ravensworth Estate.

However, both Heritage NSW and the Heritage Council contend that the homestead and its estate cannot be excised from the story of dispossession and displacement (Governor Brisbane and Commissioner Bigge assigned convict policies – c1821-1825), and that its existence in the landscape played a contributing role that cannot be discounted.

Heritage NSW's comments about the authenticity of the Ravensworth Homestead, particularly in relation to other homesteads in the Hunter Valley

Heritage NSW has consistently maintained its views on the authenticity of the homestead. This view aligns with a range of other published assessments of the Ravensworth Homestead, including by heritage practitioners engaged by Glendell Mine owners and the Heritage Council's public Minutes.

In *Ravensworth Estate, Ravensworth, NSW Expanded Analysis of the Ravensworth Homestead Complex*, prepared for Mt Owen Pty Ltd, Glencore, 2020, the authors cite: *"the intactness of the Main House of Ravensworth (that) makes the place relatively rare within the context of the Hunter region and of high significance, however the original "H plan" form of the Main House of Ravensworth makes the place extremely rare and of exceptional significance at a State level. The configuration, construction date, intactness (this is the 'authenticity' Heritage NSW refers to) and design attributes of the Ravensworth Homestead Complex makes the place very rare in the context of the Hunter region and is of State level significance"*.

Further, in Lucas Stapleton Johnson and Partners, *Heritage Analysis and Statement of Significance: Ravensworth Estate, Singleton, NSW* (Sydney: Lucas Stapleton Johnson and Partners 2019, p.349): *"Because of the relatively modest history of development throughout the 19th and 20th century, the place has the potential to provide information, by way of further study and archaeological investigation, into colonial building techniques, 19th century lifestyles, agricultural and horticultural practices and the working lives of convicts in a non-institutional setting, which is considered very rare"*.

The question of the property's very early age, unique design, intact main buildings, key outbuildings, and infrastructure is discussed in many other documents including the formal nomination of the place for State Heritage Register listing. Mr Smith in his evidence was paraphrasing these and other studies such as the Heritage Council's own *Hunter Homesteads Study (2012-13) Hunter Estates – A comparative heritage study of pre 1850s homestead complexes in the Hunter Region* project for the Heritage Council. This report is available publicly on the NSW Heritage Website. That report identified Ravensworth as one of the most unique and intact of the Hunter Homesteads (from a comparative assessment of 200) and worthy in a hierarchical selection for State Heritage Register listing at the time of the report.

Overall, the discussion of authenticity refers to the homestead's retention of much of its original fabric. The building remains principally intact, and this lends to its integrity and heritage significance. This is a major factor in whether to consider a site for listing on the State Heritage Register and contributes to the site's rarity in comparison to other homesteads of a similar era which have been altered over time.

Removal and relocation of the property would threaten this authenticity and pose significant risk to the integrity of its fabric. Heritage NSW is of the opinion that dismantling the buildings would be likely to damage the structure in such a way as to diminish its heritage values, including the impact to its buried archaeological components that tell a key story on its operations and use.

Heritage NSW's reference to 'intangible values' of the Ravensworth Homestead that would be lost should the homestead be relocated

Heritage NSW in making these comments was in part referencing the Burra Charter principles that look beyond the built (tangible) heritage elements of a place in assessing significance. In relation to Ravensworth, the main house and its outbuildings have their own historical, scientific, and social values, but are even more significant when viewed within the historical operating context of the estate with its minor outbuildings, cisterns, wells, sheep dips, fencing, grand carriage way, and elevation. Some of these elements survive as below-ground archaeological features but comprise

equally important in-situ elements to the standing structures that talk to the complexity of these estates and the statement they were making in terms of commercial businesses.

Further, the site has a place in the Aboriginal cultural history of the region, as a site of Aboriginal occupation prior to settlement and subsequently for its involvement in the frontier conflict within the broader region. Further to comments made above, it is part of the colonial story of aggressive land acquisition and settlement.

A relocation of the homestead would remove it from this setting and its immediate history, altering the context and compromising the authenticity of the place when considered in its entirety.

General comments on the perception that Heritage NSW has changed its views on the Project

Heritage NSW respectfully denies the assertion that comments made during the 28 March meeting were inconsistent with previous views on the matter.

DPE has advised Heritage NSW that of its several public submissions to the Major Project assessment (SSD) process, there is inherent conflict in the response by the former Aboriginal Cultural Heritage Assessments Team (30 October 2020) and that of the Delegated Heritage Council EIS response (11 February 2020).

Commented [SW1]: Do we know when and how DPE advised us? Can we refer to a specific piece of correspondence?

Heritage NSW is responsible under the *National Parks and Wildlife Act 1974* (NPW Act) for commenting on Departmental referrals relating to Aboriginal cultural heritage. In the 30 October 2020 response, Heritage NSW (as the Delegate) confirmed that appropriate consultation with Aboriginal communities had occurred.

It also acknowledged that this consultation identified different levels of attachment to Ravensworth by Aboriginal people, and that the proposed measures to protect known Aboriginal sites and objects were appropriate within the controls of the NPW Act. The letter made general observations about broader intangible Aboriginal values, but it is not the role of the team under that legislation to comment on values outside their remit – its focus under the legislation is to assess and manage material impacts to ACH sites and objects where identified.

It is, however, appropriate that the independent Heritage Council of NSW, or the environmental heritage assessment teams within Heritage NSW, make such assessments under their remit to provide advice on Aboriginal and Environmental Heritage under the *Heritage Act 1977*. The Heritage Council in its responses to the SSD project (9 December 2020) and letter (8 October 2021), therefore made broader comment on its perceptions of the linkages of the property to historical events, and to levels of significance, beyond tangible heritage elements only. Rather than being contradictory to previous advice, it is advice from a different functional area.

DPE did not (and is not required to) share its Assessment Report and Recommendations to the IPC with Heritage NSW for comment prior to submission. It may be of benefit to provide these to the IPC.

If you have any further questions about this issue, please contact Tim Smith OAM, Director Heritage Assessments, on [REDACTED] or at [REDACTED]

Yours sincerely

Atticus Fleming

Kylie Broughton

From: Frank Howarth
Sent: Tuesday, 26 April 2022 7:33 AM
To: Elizabeth Owers
Cc: Samantha Woods; OEH HD Divisional Coordination Mailbox; Sam Kidman
Subject: Re: Tab 1 - Response - Glendell Continued Operations Project (SSD 9349) - D Gainsford - Development Assessment

Hi Elizabeth,
I hope you are feeling better.
Can the team pls clarify asap how the HC can respond to the IPC? I have to go to Alice Springs for a meeting on thurs morning and want to try and resolve things before I leave.
Best wishes
Frank

On Sat, 23 Apr 2022 at 14:29, Elizabeth Owers <[REDACTED]> wrote:
Hi Frank,

Of course. It's been a little confusing about what needs to be responded to and by when.

Elizabeth

Get [Outlook for iOS](#)

From: Frank Howarth
Sent: Saturday, April 23, 2022 11:08:01 AM
To: Elizabeth Owers <[REDACTED]>
Cc: Samantha Woods <[REDACTED]>; OEH HD Divisional Coordination Mailbox <HeritageDivision.Mailbox@environment.nsw.gov.au>; Sam Kidman <[REDACTED]>
Subject: Re: Tab 1 - Response - Glendell Continued Operations Project (SSD 9349) - D Gainsford - Development Assessment

Hi Elizabeth,
Thanks for the clarification. I find it a bit surprising, in that the IPC in their letter to DPE said specific things about the HC's position and clearly is expecting a response to those issues from the HC. If Atticus is not going to respond to that then who is? If it comes to it then I will send a letter direct to the IPC (cc DPE) responding to the HC issues. Otherwise the IPC could quite reasonably criticise the HC for not responding. Can you pls urgently clarify this on Tuesday.
Best wishes
Frank

On Fri, 22 Apr 2022 at 18:08, Elizabeth Owers <[REDACTED]> wrote:

Hi Frank,

Quick update – we have clarified with the Planning team that they only want a response from HNSW on Ravensworth. We will likely cover the dot points in the letter to Atticus and responses to items in the transcript covered by Steve and Tim only.

I have since learnt that the reason the letter came about is because the Planning team contacted Atticus to discuss what HNSW has said, and he has asked them to write to him so he could provide a comprehensive response.

It is my understanding that they wont be seeking comment from the Heritage Council.

Appreciate you invested time in providing feedback – apologies for this.

Let me know if you have any questions.

Elizabeth

From: Frank Howarth 3(a)(b)
Sent: Wednesday, 20 April 2022 7:36 PM
To: Elizabeth Owers <[REDACTED]>
Cc: Samantha Woods <[REDACTED]>; OEH HD Divisional Coordination Mailbox <HeritageDivision.Mailbox@environment.nsw.gov.au>
Subject: Re: Tab 1 - Response - Glendell Continued Operations Project (SSD 9349) - D Gainsford - Development Assessment

Thanks Elizabeth.

Frank Howarth

On Wed, 20 Apr 2022, 7:16 pm Elizabeth Owers, <[REDACTED]> wrote:

Hi Frank,

Yes all will be covered - we have your feedback.

We will send you an updated version at COB on Friday.

Elizabeth

Get [Outlook for iOS](#)

From: Frank Howarth 3(a)(b)
Sent: Wednesday, April 20, 2022 6:37:09 PM
To: Samantha Woods [REDACTED]
Cc: OEH HD Divisional Coordination Mailbox <HeritageDivision.Mailbox@environment.nsw.gov.au>; Elizabeth Owers <[REDACTED]>
Subject: Re: Tab 1 - Response - Glendell Continued Operations Project (SSD 9349) - D Gainsford - Development Assessment

Hi Sam.

Thanks for this. I note these responses are only to the questions posed to HNSW. Are you preparing the responses to the questions raise about the HC's position? I provided notes on this a while ago.

Best wishes

Frank

Frank Howarth
Howarth Consulting
Adjunct Prof UTS Business School

On Wed, 20 Apr 2022, 6:29 pm Samantha Woods, [REDACTED] wrote:

Good evening Frank

Please find attached a working draft of our response under the Coordinator General's hand relating to the Ravensworth IPC meeting, for your review and feedback.

We'll continue to work on this and the briefing note.

Thank you

Sam.

Samantha Woods

Team Leader Briefings and Coordination

Environment and Heritage

Department of Planning and Environment

M [REDACTED] **E** [REDACTED]

dpie.nsw.gov.au

I acknowledge the traditional custodians of the land and pay respects to Elders past and present. I also acknowledge all the Aboriginal and Torres Strait Islander staff working with NSW Government at this time.

Please consider the environment before printing this email.

This email is intended for the addressee(s) named and may contain confidential and/or privileged information. If you are not the intended recipient, please notify the sender and then delete it immediately. Any views expressed in this email are those of the individual sender except where the sender expressly and with authority states them to be the views of the NSW Office of Environment, Energy and Science.

PLEASE CONSIDER THE ENVIRONMENT BEFORE PRINTING THIS EMAIL

This email is intended for the addressee(s) named and may contain confidential and/or privileged information. If you are not the intended recipient, please notify the sender and then delete it immediately. Any views expressed in this email are those of the individual sender except where the sender expressly and with authority states them to be the views of the NSW Office of Environment, Energy and Science.

PLEASE CONSIDER THE ENVIRONMENT BEFORE PRINTING THIS EMAIL

This email is intended for the addressee(s) named and may contain confidential and/or privileged information. If you are not the intended recipient, please notify the sender and then delete it immediately.

Any views expressed in this email are those of the individual sender except where the sender expressly and with authority states them to be the views of the NSW Office of Environment, Energy and Science.

PLEASE CONSIDER THE ENVIRONMENT BEFORE PRINTING THIS EMAIL

--

Frank Howarth AM PSM
3(a)(b)

Chair, NSW Heritage Council
Board member, Sydney Surrounds South Destination Network Ltd; Australian Design Centre; Jervis Bay Maritime Museum
Immediate past Director and Honorary Fellow of the Australian Museum
Member National Aboriginal Art Gallery Reference Group

I acknowledge all Aboriginal and Torres Strait Islander Peoples as the traditional custodians of this land we all call Australia.

This email is intended for the addressee(s) named and may contain confidential and/or privileged information. If you are not the intended recipient, please notify the sender and then delete it immediately. Any views expressed in this email are those of the individual sender except where the sender expressly and with authority states them to be the views of the NSW Office of Environment, Energy and Science.

PLEASE CONSIDER THE ENVIRONMENT BEFORE PRINTING THIS EMAIL

--

Frank Howarth AM PSM
3(a)(b)

Chair, NSW Heritage Council
Board member, Sydney Surrounds South Destination Network Ltd; Australian Design Centre; Jervis Bay Maritime Museum
Immediate past Director and Honorary Fellow of the Australian Museum
Member National Aboriginal Art Gallery Reference Group

I acknowledge all Aboriginal and Torres Strait Islander Peoples as the traditional custodians of this land we all call Australia.

Kylie Broughton

From: Frank Howarth
Sent: Wednesday, 13 April 2022 11:26 AM
To: Elizabeth Owers
Cc: Olgica Lenger; Sam Kidman; Samantha Woods; Tim Smith; Steven Meredith
Subject: Re: Ravensworth - correspondence referencing IPC meeting
Attachments: 220406.OUT_IPC to DPE re heritage assessment FH notes.pdf

Hi Elizabeth,

I've made some notes in the margin of the IPC letter, attached.

Re the DPE assertion that the views expressed by us at the hearing were not consistent with earlier advice, I would argue that what we said was not inconsistent, but rather an amplification of that advice, given the nature of the IPC questioning.

Can I please see what we propose to say to DPE before its sent. We need also to ensure that DPE does not "summarise" our views before they go to IPC.

Best wishes

Frank

On Tue, 12 Apr 2022 at 11:40, Frank Howarth wrote:
Hmmm. Most interesting. I'll do some points to use in the response, this week.

On Tue, 12 Apr 2022 at 10:58, Elizabeth Owers <[REDACTED]> wrote:

Hi Frank,

As discussed, please find attached the correspondence Atticus Fleming, A/Coordinator General received in respect to the IPC meeting on Ravensworth. It references a number of your comments (as well as Tim & Steve).

We will draft a response for Atticus. Are you happy to provide dot point feedback by email? Or alternatively, let me know how you would like to contribute.

Due date is TBC – but expecting we will need to prepare the response in 1-2 weeks.

Elizabeth

Elizabeth Owers

Director Customer Service, Heritage NSW

Environment & Heritage

Department of Planning and Environment

M [REDACTED] E [REDACTED]

dpie.nsw.gov.au

Level 6, 10 Valentine Ave

Parramatta NSW 2150

[Website](#) [Facebook](#) [Instagram](#) [LinkedIn](#)



I acknowledge and pay my respects to the traditional owners and custodians on whose land I walk, work & live.

This email is intended for the addressee(s) named and may contain confidential and/or privileged information. If you are not the intended recipient, please notify the sender and then delete it immediately. Any views expressed in this email are those of the individual sender except where the sender expressly and with authority states them to be the views of the NSW Office of Environment, Energy and Science.

PLEASE CONSIDER THE ENVIRONMENT BEFORE PRINTING THIS EMAIL

--

Frank Howarth AM PSM

Chair, NSW Heritage Council
Board member, Sydney Surrounds South Destination Network Ltd; Australian Design Centre; Jervis Bay Maritime Museum
Immediate past Director and Honorary Fellow of the Australian Museum
Member National Aboriginal Art Gallery Reference Group

I acknowledge all Aboriginal and Torres Strait Islander Peoples as the traditional custodians of this land we all call Australia.



6 April 2022

Mr Stephen O'Donoghue
Director, Resource Assessments
Energy, Resources and Industry
Department of Planning and Environment

By email: [REDACTED]

Dear Mr O'Donoghue

Glendell Continued Operations Project (SSD 9349) and Mount Owen Continued Operations (SSD 5850) Modification

I refer to the applications currently before the Independent Planning Commission (**Commission**) for determination of the Project referred to above.

On 28 March 2022, you and other officers of the Department of Planning and Environment (**Department**) attended a meeting between the Commission Panel appointed to determine the applications, officers of the Office of the Independent Planning Commission, officers of Heritage NSW and Mr Frank Howarth, the Chair of the Heritage Council.

A copy of the transcript of that meeting is publicly available on the Commission's website [here](#).

At the 28 March 2022 meeting, it appeared that a consensus had developed between Heritage NSW and the Heritage Council that may reflect a development of Heritage NSW's position as described in the Department's whole-of-government assessment of the Project.

Of particular interest to the Panel in the transcript of the 28 March 2022 meeting were matters including:

- Mr Howarth's suggestion at page 8, lines 9 to 16 and Mr Smith's suggestion at page 9, lines 12 to 14 that the heritage values of the Ravensworth Homestead complex may be of national significance in addition to being of state significance;
- Mr Howarth's suggestion that the Ravensworth Homestead is '*probably close to unique*' at page 8, lines 22 to 23;
- Mr Smith's suggestion at page 9 that the Ravensworth Homestead complex is significant because of the broader story it tells about government policy, at the time, of land allocation and the assignment of convicts (lines 6 to 7), its status as the '*manifestation of colonial aggressive land acquisition breaking up the country*' (lines

16 to 17), and its status as one of the *'earliest but also the most authentic of the Hunter homesteads...so it's extremely rare for those values alone'* (lines 22 to 24);

- Mr Howarth's submission regarding the significance of the European heritage aspects of the Ravensworth Homestead complex at page 10, lines 7 to 15;
- Mr Smith's reference to the intangible values of the Ravensworth Homestead complex, beyond the archaeological aspects, on page 12, which Mr Smith submits may be lost if the heritage buildings are relocated;
- Mr Smith's reference to the authenticity and integrity of the heritage values of the Ravensworth Homestead complex on page 13, lines 1 to 13, which the Panel has taken as a submission on the value of the heritage items remaining in-situ;
- Mr Howarth's submission at page 14, lines 23 to 27, that the proposed relocation would diminish or eliminate the current state significance of the heritage values of the complex to a point where it may not meet the threshold for local listing;
- Mr Meredith's submission at page 16, line 39 to page 17, line 8 regarding the heritage impacts of relocation – particularly that relocation *'diminishes the opportunity for us to tell the truth about the history of this country by taking it out of context...'*; and
- Mr Meredith's suggestion at page 24, lines 12 to 30 that relocation of the buildings *'diminishes that opportunity for the truth-telling and it diminishes the opportunity for us to come together as Aboriginal and non-Aboriginal people that live in this country'*.

Given the matters raised at that meeting, the Commission Panel requires further assessment of the anticipated impacts of the Project on matters relating to both Aboriginal and European heritage.

That further assessment should respond to all matters raised by Heritage NSW and the Heritage Council in the 28 March 2022 meeting as well as address the following specific questions:

1. At [274] of the Assessment Report prepared for the applications, the Department stated that:

'The Department and Heritage NSW are satisfied that Glencore has explored and identified reasonable and feasible measures to minimise the Project's impacts on Aboriginal heritage value, and that the Project's residual impacts are unlikely to have a significant incremental or cumulative impact on the Aboriginal heritage values of the region.'

At the 28 March 2022 meeting, officers of Heritage NSW spoke in detail regarding the impact of the Project on both Aboriginal and European heritage values.

For example, at page 16, line 39 to page 17, line 8, Mr Meredith of Heritage NSW stated:

‘What one person considers to be significant might not be significant to someone else but if we take that out of context and move it you don’t have the opportunity to learn and experience country.

As the Chair of the Heritage Council mentioned, Wonnarua countries have significant impacts over a long period of time. There is not a lot of in situ material. I was speaking to Aboriginal people on the weekend and they were talking about they will spend a lot of money to move the building but basically everybody believes that Aboriginal cultural heritage isn’t significant and, you know, can just be destroyed for a short term economic gain. It diminishes the opportunity for us to tell the truth about the history of this country by taking it out of context...’

The evidence given in the 28 March 2022 meeting suggests that Heritage NSW is no longer satisfied that the Project’s residual impacts are unlikely to have a significant incremental or cumulative impact on the Aboriginal or European heritage values of the region.

Accordingly, the Panel requests that the Department provide further assessment clarifying how the current position of Heritage NSW affects the recommendations put forward in the Department’s Assessment Report and recommended conditions of consent.

2. At [257] of its whole-of-government Assessment Report, the Department states that:

‘Given the available mitigation measures, the Department does not believe that the heritage values of the homestead outweigh the social and economic benefits of the coal resource such that it would warrant retention of the heritage item in-situ...’

Given:

- what appears to be a developing position on the part of Heritage NSW and the Heritage Council regarding the heritage values of the Ravensworth Homestead complex – specifically, the value of the heritage items at the complex remaining in-situ; and
- the Department’s view with respect to the cost benefit analyses, as expressed in the transcript of day one of the public hearing at page 10, lines 13 to 14, that there is *‘quite an extreme sort of sensitivity range when you look at the different methodologies’*,

does the Department’s view, reflective of a whole-of-government assessment, remain that the social and economic benefits of the extraction of the coal resource still outweigh the heritage values of the Ravensworth Homestead complex? It would assist the Panel if the Department could provide additional assessment on this point.

3. At the 28 March 2022 meeting, Mr Howarth of the Heritage Council stated at page 14, lines 23 to 27 that:

'Our view is that either relocation would diminish its significance so much that it would be highly unlikely to meet the threshold for state listing. It may meet the threshold for local listing. In the nearby move within Broke, I doubt that it would even meet that because just too much of its key elements of significance either diminished or eliminated [sic]'

Mr Howarth's submission does not appear to relate to the structural engineering aspects of the relocation, rather it suggests that even if any relocation of buildings is entirely successful from a structural engineering perspective, the fact of relocation in and of itself would lead to the potential diminution or elimination of the Ravensworth Homestead complex's heritage values.

On the basis of Mr Howarth's submission, it would follow that the appropriate time for considering the listing is while the complex still retains state heritage values and before those values are potentially diminished or eliminated by relocation.

Accordingly, the Panel requests that the Department, as part of its whole-of-government assessment of the applications on behalf of the Commission, obtain clarification from the Heritage Council as to whether the currently delayed recommendation to list the complex on the State Heritage Register (per the footnote to [17] in the Assessment Report) is to be revived and if not, why not.

The Panel would be assisted by the further assessment by 22 April 2022. If additional time is required, please let the Commission know as soon as possible.

Should you require any further information please contact Ms Casey Joshua by phone [REDACTED] or email [REDACTED]

Yours sincerely

A handwritten signature in black ink, appearing to read 'S. Barry', with a long horizontal line extending to the right and a small loop at the end.

Stephen Barry
Planning Director