

25 July 2022

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

By email: Stephen.ODonoghue@planning.nsw.gov.au

Dear Mr O'Donoghue

**Glendell Continued Operations Project (SSD 9349) – Section 10 Report under the
Aboriginal and Torres Strait Islander Heritage Protection Act 1984 – Ravensworth
Estate, Bowmans Creek and Glennies Creek**

I refer to the applications currently before the Independent Planning Commission (**Commission**) for determination of the Glendell Continued Operations Project (**Glendell Project**).

Enclosed with this letter is a redacted version of volume one of the Leo Report, being a report prepared for the Commonwealth Minister for the Environment under section 10(4) of the *Aboriginal and Torres Strait Islander Heritage Protection Act 1984* (Cth) (**ATSIHPA**).

At the request of the Environmental Defenders Office, acting for the Traditional Owners who made the ATSIHPA application to the Commonwealth Minister, the then Commonwealth Department of Agriculture, Water and Environment (**DAWE**) provided the Leo Report to the Commission for its consideration in determining the Glendell Project application. DAWE provided the Leo Report to the Commission on the basis that it:

'... can be considered by the Commission and other NSW Government entities that carry out functions of the Commission for the purposes of making a determination in relation to the Glendell Continued Operations Project, but not disclosed to the public or the media.'

The Commission has taken legal advice from senior counsel regarding its obligation to consider the Leo Report.

The Commission has determined to now consider the Leo Report.

As the Planning Secretary, through the NSW Department of Planning and Environment (**DPE**), is responsible for undertaking assessments of proposed development on behalf of the Commission, the Commission accordingly requests that DPE undertakes further assessment of the Glendell Project taking into account the information in the Leo Report, as provided to the Commission by DAWE.

The Commission requests that in undertaking that assessment, DPE:

- consults with Heritage NSW and any other NSW Government entity necessary to carry out the assessment function on behalf of the Commission;
- address how the information in the Leo Report relates to the Glendell Project, by reference to the heads of consideration under section 4.15 of the *Environmental Planning and Assessment Act 1979* (and any other relevant permissible consideration under that Act); and
- state whether DPE's recommendation (including DPE's recommended conditions of consent) is affected by the information in the Leo Report.

The Commission would be assisted if DPE could advise the Commission by return letter how much time it estimates this further assessment will require.

Should you wish to discuss this matter further, please contact me on [REDACTED] or stephen.barry@ipcn.nsw.gov.au.

Yours sincerely

A handwritten signature in black ink, appearing to read 'S Barry', with a long horizontal line extending to the right and a vertical line extending downwards from the end of the horizontal line.

Stephen Barry
Planning Director