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Rachael Chick  
Solicitor Environmental Defenders Office

Dear Rachael,

**Glendell Continued Operations Project, State Significant Development Assessment:  
cultural heritage Issues**

***Introduction***

I am responding to your request for a short, independent expert report relating to a matter before the NSW Independent Planning Commission. I have reviewed as requested the content related to Aboriginal heritage significance in the NSW planning assessment report:

*DPIE 2022 Glendell Continued Operations Project, State Significant Development Assessment SSD 9349.* NSW Department of Planning and Environment.

I have been requested to address the following issues in relation to the assessment of the Aboriginal cultural heritage impacts of the Project:

- a. In your opinion, was the assessment of Aboriginal cultural heritage impacts, as far as it relates to your areas of expertise, appropriate and sufficient?
- b. In your opinion, has the assessment adequately considered your previous submissions and the inconsistencies and inadequacies identified in that report?
- c. What, if any, concerns do you have about the cultural heritage impacts of Project, bearing in mind the mitigation measures proposed within the draft conditions recommended?
- d. Provide any further observations or opinions which you consider to be relevant.

As you note in your brief, I have previously provided two reports on the EIS, which have been considered by and attached to the Glendell Continued Operations Project Response To Submissions - Part B, prepared by Umwelt for Glencore in response to agency (and, in particular, Heritage Council) submissions. These Reports are:

- a. N. Draper(2020a), Glencore Glendell Continued Operations Coal Project, Aboriginal Cultural Heritage Assessment Anthropology Report on PCWP Cultural Values, 12 June 2020 which was attached to the PCWP Cultural Values Report; and

b. N. Draper(2020b), Glencore Glendell Continued Operations Coal Project, Hunter Valley NSW, Comments on Revised Aboriginal Cultural Heritage Assessment Report, 18 August 2020.

I refer here to those two previous reports as providing the basis for the opinions expressed in this short report. My June 202 report also provides the documentation of my expert credentials in relation to the subject matter. I have attached an updated CV with this short report.

I have read the Expert Witness Code of Conduct (Schedule 7, Uniform Civil Procedure Rules 2005) and I agree to be bound by it. I have made all the inquiries which the expert believes are desirable and appropriate (save for any matters identified explicitly in the report), and that no matters of significance which I regard as relevant have, to my knowledge, been withheld from the court

I have addressed each question in turn, referring in each case to the relevant sections of my previous reports for this project (Draper 2020a & b).

***Question (a). In your opinion, was the assessment of Aboriginal cultural heritage impacts, as far as it relates to your areas of expertise, appropriate and sufficient?***

In my opinion, the assessment of Aboriginal cultural heritage impacts was neither appropriate nor sufficient, with specific reference to the lack of consideration of significant intangible cultural heritage values for Wonnarua Aboriginal traditional owners, and despite those significant heritage values having been brought to the attention of the assessment process in Draper (2020a & b).

Under the heading of “Heritage”, the assessment report (DPIE 2022: vii) does acknowledge the existence of Wonnarua cultural significance of the Ravensworth Estate in terms of “*recorded reports of interactions and conflicts with colonists in the locality*”. The relevant passage is:

*“The Ravensworth area has a complex history and the potential impacts of relocating the historic Ravensworth Homestead, which is currently located in the centre of the proposed pit extension, is one of the key and most contentious issues associated with the Project. The Ravensworth Estate is part of the traditional lands of the Wonnarua people, and holds cultural significance as a result of recorded reports of interactions and conflicts with colonists in the locality. (DPIE 2022: vii).*

However, in the following paragraph, the assessment report completely misrepresents that recognition by falsely representing that:

- (a) “recorded” applies only to written records by European colonists and does not include local Wonnarua oral history or cultural traditions (intangible cultural heritage), and that
- (b) This cultural significance applies only has validity in relation to either documentary records or archaeological materials for a particular Aboriginal massacre event related to the Ravensworth Estate, which are absent.

The Assessment report alleges that, in the absence of confirmed *tangible* evidence (documents, archaeological objects), *intangible* cultural heritage (cultural traditions and oral history) has no value in relation to the cultural heritage significance of a place. This is a comprehensively false premise.

The relevant passage is:

*“While some stakeholders believe that the Ravensworth Estate may have been the site of a reported ‘massacre’ of Aboriginal people, detailed evidence indicates that the estate was not the location of the reported massacre. The Heritage Council also maintains that the Aboriginal pre- and post-contact history of the Ravensworth Homestead is contested,*

*however 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". (DPIE 2002: vii).*

The preceding passage refers to the NSW Heritage Council assessment that *"the Aboriginal pre- and post-contact history of the Ravensworth Homestead is contested"* but dismisses this critically important reference to contested histories and intangible cultural heritage values on the false premise that such values lack tangible ("material") physical evidence.

My opinion of the meaning of these key passages and their critical deficiency as a heritage assessment is confirmed by the two following passages from the assessment report.

*"However, 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. However, the detailed archaeological investigations demonstrate that the reported massacre did not occur at, nor was it staged from, the Ravensworth Homestead." (DPIE 2022: viii).*

This passage attempts to deflect and dilute the Aboriginal cultural heritage significance to *"the whole region"*, while ignoring the ethnographic evidence that I recorded and referenced that specifically relates to the Ravensworth estate and the immediate landscape of the Glendell expanded operations area. The passage quoted above further reinforces the inappropriate linking of *"these cultural values"* with *"archaeological investigations"* (tangible not intangible cultural heritage) and a single event – *"the reported massacre"*. The archaeological investigations conducted for the Aboriginal Cultural Heritage Assessment incidentally could not reasonably be expected to *"demonstrate"* whether or not a specific historical event (a massacre of Wonnarua people) took place at a particular location in any case.

The second passage is equally misleading.

*"126. The Department sought advice from Heritage NSW regarding the history of conflict at the Ravensworth Homestead. 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". (DPIE 2022: 29).*

Again, this passage deliberately focuses on a lack of documented archaeological ("material") evidence, while ignoring the intangible cultural heritage evidence that is on record (Draper 2020a & b and references).

Although Heritage NSW aspires to comply with the national and international baseline standards for heritage management contained in the Burra Charter (AICOMOS 2013a – see Draper 2020a: Sections 2.3 & 2.4; Draper 2022b) in its guidelines for Aboriginal cultural heritage assessments (Draper 2020a: Section 2.2, Draper 2020b: Section 2.1), the Glendell cultural heritage assessment comprehensively fails to provide the required level of due diligence to both tangible and intangible cultural heritage values as required. In fact, and in direct violation of the Burra Charter guidelines and professional practice directions (Draper 2020a: Sections 2.3 and 2.4; Draper 2020b: Section 2.1), this heritage assessment practically ignores intangible (i.e., Aboriginal culture and oral-history based) cultural

values and recognises only tangible (non-Aboriginal documentary and archaeological) evidence – which is only a partial record of the cultural heritage landscape.

***Question (b). In your opinion, has the assessment adequately considered your previous submissions and the inconsistencies and inadequacies identified in that report?***

The heritage assessment defects described above all were clearly addressed in both of my previous reports (Draper 2020a & b), but have been comprehensively ignored, through the process I have described of the project heritage assessments comprehensively devaluing and then ignoring intangible (Aboriginal) cultural heritage values by reference to a reported lack of tangible heritage confirmation (incomplete documentary and archaeological records). This defect also has been highlighted by the NSW Heritage Council assessment (see above) and the Casey and Lowe (2020) historical and archaeological assessment (see Draper 2020a: Section 3.4) for this project.

First of all, the cultural heritage assessment fails to (indeed, seems to deliberately avoid) consideration of intangible cultural heritage values in their own right, as a separate consideration to tangible cultural heritage values. This distinction is enshrined in the NSW cultural heritage assessment guidelines (Draper 2020a: Section 2.2), in the ICOMOS Burra Charter (Draper 2020a: Section 2.3), and in the Australian ICOMOS cultural heritage assessment practice notes (Draper 2020a: Section 2.4; Draper 2020b). These are the baseline national and international heritage management standards, which were first developed in Australia in the 1990s. There can be no excuse for ignoring them so comprehensively in a State-level cultural heritage assessment. Recognition of these values is not dependent on the current state of knowledge concerning “material evidence” (historic documents made by the colonisers, archaeological surveys and test excavations to date). No reasonable authority could assert that these “material” lines of evidence are completely known, nor that they take complete precedence over local Aboriginal oral history and cultural traditions.

Secondly, the intangible and tangible cultural heritage values held by Wonnarua people that were reported in Draper 2020a: Section 5 and Executive Summary) and highlighted again in Draper (2020b) most certainly are not confined to a single, recorded massacre event as has been repeatedly asserted in the heritage assessment report (DPIE 2022 – see above). Following the requirements of the NSW Cultural Heritage Assessment guidelines (Draper 2020a: Sections 2. and 5), the cultural heritage significance of Ravensworth to the PCWP Wonnarua people was recorded and reported as encompassing a wide range of intangible and tangible cultural heritage values.

## ***“5.2 Statement of Cultural Heritage Significance***

### ***5.2.1 Cultural/ Social Significance***

*Ravensworth estate and homestead has very high cultural and social significance because:*

- It is located adjacent to the important cultural route along Glennies Creek and its tributaries that form part of the traditional male initiation (Bora) cycle of the Wonnarua people, and the establishment of the estate contributed to the demise of the use of this section of the route for those cultural practices and associated traditional resource access by Wonnarua people.*
- It is a central place in the colonial invasion and associated conflict and violence that resulted from the establishment of this and other estates in the 1820s, that lead to the deaths of many Wonnarua people, as well as some colonists. Numerous conflict raids and reprisals, with accompanying fatalities in most cases, took place on the Ravensworth estate, which had two main roads passing through it and was one of the earliest and largest of such enterprises in the Hunter valley in the 1820s and 1830s.*

- *Dr James Bowman, who established the Ravensworth estate, was instrumental in persuading the Government of the 1820s to station military forces in the local area, including at Ravensworth, to subjugate Wonnarua resistance and to kill those who participated and take lethal reprisals on their families and community, resulting in both recorded and unrecorded massacres and executions of Aboriginal men, women and children. Wonnarua oral history suggests that Bowman may have personally killed or at least ordered the execution of some Wonnarua people in the mid 1820s.*
- *Its bloody colonial beginnings have engendered the strong belief that there are unsanctified burials of their ancestors on the Ravensworth estate, Wonnarua people maintain avoidance of contact with the place almost 200 years after those events, apart from a Women's mourning ceremony held there in the early 1970s, considering it to be spiritually dangerous.*
- *This place is regarded as both symbolic of and central to the violent invasion and decimation of the Wonnarua people in this region.*

### **5.2.2 Historical Significance**

*Ravensworth estate and homestead has very high historical significance because:*

- *It has a very strong association with the history of early colonial conflict and invasion of the Wonnarua people by the colonists and the military forces that assisted them.*
- *It was a central place in many of those historical events, as well as considered symbolic of the cause of Aboriginal resistance to colonisation in the Hunter Valley. This includes both written historical records of conflict, as well as oral history records from Wonnarua families related to the conflict.*
- *It is an important landmark in the overall pattern of European invasion and Aboriginal resistance in the Hunter Valley and neighbouring areas, such as the Bathurst region from the early 1820s onwards.*

### **5.2.3 Scientific Significance**

*Ravensworth estate and homestead has very high scientific significance because of its potential to yield additional archaeological information about early colonial conflict events in the form of archaeological sites or conflict burials, as well as the focus for additional ethnographic (oral history) and historical research concerning the colonial conflict period around that location. The important themes surrounding the colonisation and Wonnarua resistance on and adjacent to the Ravensworth estate has only begun to receive overdue research attention in the last five years (e.g., Dunn 2015 to the current report), and has significant, further research potential (e., see Casey and Lowe 2018 significance assessment).*

### **5.2.4 Aesthetic Significance**

*Ravensworth estate and homestead have high aesthetic significance, both visually as a very early and distinctive homestead complex (the oldest in the Hunter Valley?) and associated exotic garden and cleared home paddocks, as well as evoking severe dread and anxiety among Wonnarua people because of its central associations with the deaths of many of their ancestors and their loss of sovereignty, causing them to continue to avoid the place almost two centuries after those events.” (Draper 2020a: Section 5.2).*

The revised Aboriginal Cultural Heritage Assessment (ACHA) for the project failed to provide the required consideration of these reported heritage-significance values, or to those provided by the Casey and Lowe (2020) historical assessment (see Draper 2020a: Section 3.4). Instead, the revised ACHA report simply ignored Casey and Lowe and attacked the anthropological assessment of the Draper (2020a) report in these same, flawed terms – that European historical documents and an archaeological survey and test-pitting program did not provide specific tangible evidence of a

specific massacre event, and that this sufficient justification to dismiss the significance of the Wonnarua cultural heritage values relating to the place. The Draper (2020b) report is concerned entirely with addressing this false assessment. However, the DPIE (2022) heritage assessment ignores all of that and the congruent advice of the Heritage Council as well, and simply follows the inadequate ACHA conclusions.

***Question (c). What, if any, concerns do you have about the cultural heritage impacts of Project, bearing in mind the mitigation measures proposed within the draft conditions recommended?***

If the project proceeds, the local Wonnarua traditional owners will experience the actual deletion from their cultural and physical landscape (replaced by an open-cut mine) of all of the considerable, significant cultural heritage values that are associated with this place. Those values are described in detail in Draper (2020a) and are summarised above. Those intangible and tangible cultural heritage values are associated with the place – not just with the current homestead building, although it is a regionally important symbol and indeed a product of that conflict history, regardless of whether historic massacres or other specific events occurred in relation to that building or not. Essentially, the heritage assessment report asserts that the cultural values of PCWP Wonnarua Traditional Owners are invalid or without value because they are not verified by a partial documentary and archaeological record as it is known currently. In fact, their significance as intangible cultural heritage values is independent of the tangible heritage record.

If this significant place is destroyed, then in the view of the PCWP Wonnarua Traditional Owners the stated cultural heritage values are lost. Those values are associated intimately with the place – the proposal to mitigate those impacts through dismantling and relocating buildings to another place which is divorced from those cultural values essentially is meaningless and does not address the “harm” caused by such cultural heritage loss in any way.

***Question (d). Provide any further observations or opinions which you consider to be relevant.***

I have no additional observations to make.

Yours sincerely,

A black rectangular redaction box covering the signature of Associate Professor Neale Draper.

***Associate Professor Neale Draper  
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