



New South Wales Government
Independent Planning Commission

TRANSCRIPT OF PROCEEDINGS

RE: GLENDELL CONTINUED OPERATIONS PROJECT (SSD-9349)
AND MOUNT OWEN CONTINUED OPERATIONS MOD 4 PROJECT
(SSD-5850-MOD-4)

PUBLIC HEARING DAY 2

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 ADRIAN PILTON

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THE COMMISSION:

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PUBLIC HEARING DAY 2 SCHEDULE

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MS LEESON: Good morning and welcome to Day 2 of the Independent Planning Commission's electronic public hearing into the State Significant Development Applications for the Glendell Continued Operations SSD-9349 and Mount Owen Continued Operations Mod 4 SSD-5850 Projects. Before we begin today I would like to acknowledge the traditional owners and custodians of the lands on which we variously meet and to the Wonnarua people as the traditional custodians of the land on which the project is located. I would like to pay my respects to their Elders past, present and emerging and to the Elders from other communities who may be participating today. I am Dianne Leeson, I'm the Chair of this Commission panel.

10 Joining me are my fellow Commissioners, Professor Snow Barlow and Adrian Pilton. We also have Richard Beasley, SC, as Senior Counsel Assisting the Commission at this public hearing.

The Glendell Mine forms part of the Mount Owen Complex located in the Hunter Coal Fields in the Singleton Local Government Area. The application seeks approval to extend the life of the existing operations by establishing a new mining area to the north of the current Glendell pit to extract an additional 135 million tonnes of run-of-mine coal over 21 years. The coal would continue to be processed at the existing Mount Owen coal-handling and preparation plant facilities before being transported

20 via rail in accordance with the Mount Owen consent SSD-5850. The project involves an associated modification to the Mount Owen consent to integrate with the proposed extension.

While the project would continue to rely on existing infrastructure, including the Mount Owen coal-handling preparation plant, rail loop and existing Glendell mining fleet, it would require the development of a new mine infrastructure area, along with the construction of new heavy and light vehicle access roads. In addition, the project would involve the realignment of a section of Hebden Road, diversion of Yorks Creek and relocation of the historic Ravensworth Homestead.

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The Commission is the consent authority for this State Significant Development application because more than 50 or more unique public objections were received. I note the Department of Planning and Environment in its assessment report has recommended that the application is approvable subject to conditions.

The Minister for Planning has directed the Commission to hold a public hearing into this application. He has asked that the Commission make its determination within 12 weeks of receiving the final whole-of-government assessment report from the department.

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In line with regulations introduced in response to the ongoing COVID-19 pandemic, we have moved this public hearing online with registered speakers provided the opportunity to present to the panel via videoconference or telephone. In the interests of openness and transparency we are livestreaming proceedings on the Commission's website. A full transcript of the two-day hearing will also be published on the Commission's website in the next few days.

10 It is important that we try to stick to our published schedule to be fair to all those who wish to present. This will be dependent on registered speakers being ready to present at their allocated time and keeping to the allotted time. Senior Counsel Assisting Richard Beasley will introduce each speaker when it's their turn to present to the panel. Everyone has been advised in advance how long they have to speak. A bell will sound when a speaker has one minute remaining. A second bell will sound when a speaker's time has expired. We will enforce timekeeping rules but I reserve the right to allow additional time as required to hear new information. If you have a copy of your speaking notes or any additional material to support your presentation, it would be appreciated if you would provide a copy to the Commission.

20 My fellow Commissioners and I may ask you questions regarding your submission as might Mr Beasley; however, the public hearing is primarily a listening exercise for the panel so we can hear what you have to say. If we ask you a question and you're not in a position to answer it today, you are welcome to respond in writing by 5.00pm Australian Eastern Daylight Time on Monday, the 28th of March, 2022. Please note any information given to us may be made public. The Commission's privacy statement governs our approach to managing your information, which you can view on our website. Thank you. And it's now time to call our first speaker.

<GEORGINA WOODS, LOCK THE GATE ALLIANCE

30 MR BEASLEY: First speaker is Georgina Woods from Lock The Gate Alliance. Are you there, Ms Woods?

MS WOODS: I am, yes.

MR BEASLEY: We can hear you so please go ahead.

40 MS WOODS: Thanks very much for having me. I'm giving evidence today from the country of the Gadigal people and I also want to pay my respects to Wonnarua people and Elders past and present. We object to this project. We think that the Department of Planning has selectively presented evidence in its assessment report which has kept from the Commission information that has been provided to the department which

points the exceptional significance of the Ravensworth Estate and Homestead together to the heritage of the Hunter Valley and New South Wales.

Some of this might be material that the department didn't have like the internal briefings that Heritage NSW prepared last year for their minister and for the Heritage Council, which have only come to light due to the parliamentary call for papers that David Shoebridge spoke of on Friday. Other material we know the department did have, the extensive works submitted by the Plains Clan of the Wonnarua People, the report written for the Plains Clan by Dr Neale Draper, the advices provided to the
10 department by the Heritage Council and, we believe, the confidential report which we have not seen which was written for the Federal Environment Minister for the purposes of the section 10 application.

It's apparent to us on reading the assessment report that it takes a biased position on the question of heritage impacts and we hope that the IPC will correct this bias because there are two distinct but related heritage issues at stake, the Ravensworth Estate and the Ravensworth Homestead. We believe the conflation of these issues and the narrow focus on the specific location of one incident, which is formally known as the Ravensworth Massacre, has deliberately or not had the effect of confusing and
20 downplaying the distinct and outstanding significance of both the estate and the homestead.

There's plenty of examples of that in the assessment report where the department and Heritage NSW making clear that the homestead was built after the massacre took place and so, therefore, was not specifically the site of that conflict even though people are not making that claim. That's just one example of how mashing together the issues has served the purpose of diminishing the importance of both the heritage – the heritage importance of both the estate and the homestead. The conflict that's documented as taking place on the Ravensworth Estate has exceptional significance
30 because that land is still intact. The homestead itself and in its place has additional exceptional significance. The location of the Ravensworth Massacre doesn't diminish the importance of either but it has been used in that way.

So just to talk about the estate at first. Obviously granted to Dr James Bowman in 1824, whether or not the Ravensworth Massacre took place on the estate or somewhere else is disputed, but that dispute has distracted from the very clear evidence that the Ravensworth Estate was the site of colonial violence and is, in the words of Heritage NSW, an exceptionally intact cultural landscape that tells the story of shared Aboriginal and European heritage in the Hunter Valley including an early
40 conflict, the development of pastoralism and the convict labour system.

Heritage NSW also said in internal briefings not included in the assessment report that the site is noted to have the strongest documentary evidence of any conflict site in the Hunter Valley. It was acknowledged by Glencore's own consultants as having a moderate to high potential for retaining physical evidence of the history of the use of the land by Wonnarua people. The Plains Clan have told the IPC that this land is among the last intact landscapes of their country with which they have profound association, sufficiently profound for them to risk the ire of a multinational mining company that has bullied and pressured and denied and confused the issue, including publishing a full-page newspaper advertisement targeting the two individuals who are the applicants on the group's behalf.

Throughout this process Glencore has made the argument that the role of the Ravensworth Estate is not highly significant or different from what was happening elsewhere in the Hunter Valley, but on the contrary, the Heritage Council very clearly told the department that although incidents of violent conflict between European and Aboriginal people are likely to have been more common, only approximately 16 of those incidents in the 1820s are well documented and six of those are associated with the Ravensworth property. So more than a third of the documented violent incidences in the Hunter are associated with the Ravensworth Estate.

This view is reflected in internal ministerial briefings prepared by Heritage NSW that are far stronger in their assessment than the formal submissions made by that agency in the assessment process. It's also reflected in Glencore's own consultation with the broader Aboriginal community. Because Wonnarua Nation Aboriginal Corporation has made clear that it doesn't consider the Ravensworth Estate to be of special significance, Glencore and the department have presented this issue as if it's only of importance to the Plains Clan, but Glencore's revised Aboriginal Cultural Heritage Assessment by Ausark admits that almost all RAPs expressed strong connection to the archaeological sites which occurred throughout the project area and many of the RAPs present commented that they consider the former Ravensworth Estate to be significant to Wonnarua people as it was the location of both coexistence and conflict between Wonnarua people and early settlers in the Hunter Valley.

Indeed, this view is even reflected by one of the heritage consultants retained by Glencore. The report by Lucas Stapleton Johnson said there is moderate to high potential for the archaeological resource within the Ravensworth Estate to provide information that is unavailable from other sources. We don't find any of this reflected in the department's assessment report that was provided to the Commission. The assessment report takes Glencore's side in the matter and downplays the acknowledged rarity, importance and irreplaceability of the Ravensworth Estate land

as crucial connection to the violence of the colonial era and a crucial landscape to allow all of us to understand, make amends for an heal from that violence.

I'm not going to go into detail about the homestead. There's material before you that describes why it is exceptional and rare and should be retained in its place as our connection to the colonial past, but I will say that the department makes the conclusion that the homestead can only retain its heritage significance by remaining in situ and that makes accurate estimation of the project's benefits crucially important. It requires this weighing up of the benefits and the harm accurately and the department has failed
10 to comment on the huge range and the estimate net economic contribution of this project from \$1 billion claimed by the proponent to negative 94 million estimated by the department's independent reviewer CIE.

I know the department was asked about this on Friday but the assessment report describes CIE's central case estimate, \$150 million benefit, as a worst-case scenario economic contribution, hiding from the Commission the fact that that was a central case estimate by CIE. Their worst case was calculated as actually having an economic loss for New South Wales of \$94 million as a result of this project. It seems to us that the orders of magnitude in the wildly varied economic contributions possibly accruing
20 to or depleting from New South Wales as a result of this project make those kinds of economic predictions almost meaningless and certainly call into question whether they can be relied on as the sole justification for losing state significant heritage that we know is at stake with this project.

Before I'm going to complete I want to say something about climate change because building this mine does mean an additional 135 million tonnes of coal being burnt, producing 226 million additional tonnes of greenhouse gas emission. Again the department conflates separate issues with the effect of misrepresenting the law when it says that scope 3 emissions are not New South Wales's responsibility to avoid double
30 counting. It certainly is the IPC's legal responsibility to consider the environmental and social impact of burning that coal and further exacerbating climate change on the people and environment of New South Wales.

The department is well aware that those emissions are a relevant environmental impact of this project and it's frankly disgraceful that it continues to fail to meaningfully assess that impact in the assessment reports that are provided to the Commission. The IPC is being asked to extend the remaining life of the Mount Owen mine and add to the volume of coal that we burnt over the next two decades and to the volume of
40 greenhouse gas emissions in the atmosphere. These actions fundamentally contradict the company's stated commitment to the Paris Agreement and New South Wales commitments and the public interest. The International Energy Agency's Net Zero

Roadmap last year was crystal clear that achieve net zero means there's no more room for new coalmines or extensions of coalmines beyond 2021.

Somebody remarked on the first day of the hearing that reducing greenhouse gas emissions is something that needs to be done in small decisions, one decision at a time and this is one of those decisions. You, the Commission, is the only legal authority that can make this decision since climate change doesn't form part of the Federal Environment Minister's considerations under the EPBC Act. It does form part of your considerations. We have seen this month the misery and the loss that people in the
10 Northern Rivers have suffered as a result of unprecedented flooding that comes two years after bushfires of an unprecedented scale that have caused enormous loss and perhaps irreparable damage to world heritage forests of Northern New South Wales and biodiversity more broadly.

If global average warming exceeds 1.5 degrees, we've had 1.1 so far, there will be extensive and irreparable harm done to the people and environment of New South Wales, and if that happens it will happen because of many apparently small decisions like the one that you are being asked to make here. Every tonne of greenhouse gases approved to enter the atmosphere from this moment onward is causing that damage
20 and the logic of approval must be reversed in the way that it's been dealt with in the past. The default must now be to avoid any further addition of greenhouse gas emissions to the atmosphere wherever and however possible, unless there is some overriding public interest reasons to create them. You have every reason to refuse this coalmine extension and absolutely no excuse for approving it.

MR BEASLEY: Can I just ask you a couple of questions, Ms Woods? First one, the material you said was either missing from or wasn't considered in the department's assessment report regarding heritage matters, and you mentioned ministerial briefings and the views of the Heritage Council, are you referring to the material there that you
30 attached to your Lock The Gate submissions in that series of questions where you attached a range of appendices, is that the material you're referring to?

MS WOODS: Mostly. We didn't attach the Heritage Council's advices because they were already publicly available. We attached two, I think, of the Heritage NSW briefings but I will double-check we did that, but the other thing is, there's other information that we don't have access to but, you know, we also consider quite important.

MR BEASLEY: All right. And you mentioned the differing views of the Ernst &
40 Young for Glencore in terms of economic benefits against the report the department commissioned from the Centre of International Economics. I think this was

reasonably clear from your submission but I'll just double-check. Lock The Gate's position is, is it, that if the economic benefits to New South Wales of this project are likely to be in the range that's assessed by the Centre of International Economics, your submission is that when you then consider the impacts of this project then it's not in the public interest that it be approved?

10 MS WOODS: Yes, that's right. But I also think that it's very difficult for the Commission or us to adjudicate on who has made that accurate estimate and the reliability of those estimates as the sole reason why these impacts should be allowed to proceed is highly questionable given the range.

MR BEASLEY: So that's a submission saying when you've got one side saying 1.1 billion and an independent report saying it might be 150 million or it might actually be negative 94, it throws into doubt the entire assessment process for weighing up what actually are the economic benefits from the project?

MS WOODS: Yes, because the impacts are certain but the benefits are apparently very difficult to articulate accurately.

20 MR BEASLEY: Thank you for that, Ms Woods.

MS WOODS: Thanks very much.

<NEALE DRAPER, ENVIRONMENTAL DEFENDERS OFFICE

MR BEASLEY: Next speaker is Associate Professor Neale Draper who's been engaged by the Environmental Defenders Office. Are you there, sir?

30 MR DRAPER: Yes, I am. Good morning.

MR BEASLEY: Please go ahead. We can see you and hear you.

MR DRAPER: Thank you very much. I've been engaged as an expert witness by the EDA to address three specific issues related to the development assessment of the Aboriginal cultural heritage impacts of the project. I've provided them with a short written report which I'm summarising today. I previously have prepared two reports to the Plains Clans of the Wonnarua People, the PCWP, and to Glencore as part of the Aboriginal cultural heritage assessment process, and those reports have been attached to the Glendell Continued Operations Project Response to Submissions Part B
40 prepared by Umwelt for Glencore, and I refer to those two previous reports, both 2020 A and B, as providing the basis for the opinions that I express here.

10 The first question I was asked, “In your opinion was the assessment of Aboriginal cultural heritage impacts as far as it relates to your areas of expertise appropriate and sufficient?” I’m an anthropologist and archaeologist and heritage management consultant. My response to that question is that in my opinion the assessment of Aboriginal culture heritage impacts was neither appropriate or sufficient with specific reference to the lack of consideration of significant intangible cultural heritage values from Wonnarua Aboriginal traditional owners. This is despite those significant heritage values having been brought to the attention of the assessment process in both of my two previous reports as well as the PCWP’s own report.

Under the heading of Heritage the assessment report from DPI states that 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.

20 The report acknowledges the existence of Wonnarua cultural significance of the Ravensworth Estate to Wonnarua people in terms of recorded reports of interactions and conflicts with colonists in the locality. However, in the very following paragraph and then throughout the document, the assessment report completely misrepresents that recognition it’s made by falsely claiming that (a) “recorded” applies only to written records by European colonists and does not include local Wonnarua oral history or cultural traditions, in other words, intangible cultural heritage, and that this cultural significance only has validity in relation to documentary records or archaeological materials, that is tangible cultural heritage, or a specific Aboriginal massacre event related to the Ravensworth Estate and those connections in terms of documents and archaeological materials that have said to not have been found. That is to say - - -

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MR BEASLEY: Sorry to interrupt you, Associate Professor. The critique you’re giving at the moment is the department’s assessment report?

MR DRAPER: Yes, it is.

MR BEASLEY: Can you give us a paragraph number so we could follow?

MR DRAPER: Yes, I can certainly do that as we go. My screens have just gone off so - - -

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MR BEASLEY: Aboriginal Heritage in the assessment report commences at paragraph 261 so I was just trying to get a guide as to where - - -

MR DRAPER: Well, I think I've also looked at the executive summary as well as 261 because I think you'll find that executive summaries are very important in these – it's where summary points are put over and also where people are persuaded of them. So I am talking here – excuse me, I'm juggling two - - -

10 MR BEASLEY: That's all right. You won't be able to get a paragraph number if it's the executive summary.

MR DRAPER: It is the executive summary.

MR BEASLEY: So it will have a roman numeral page then.

MR DRAPER: Yes, it is a roman numeral page. So we're looking there - - -

MR BEASLEY: Roman 7.

20 MR DRAPER: - - - at 7 and it's – the premise that's being made that confirmed tangible evidence, that is documents, archaeological objects, actually define the validity of intangible cultural heritage, that is cultural traditions and oral history, is a very false premise and you'll see that again further down on page 7 with a paragraph starting, "While some stakeholders believe that Ravensworth Estate may have been the site of a massacre. So that is repeated. And that actually refers to the New South Wales Heritage Council assessment that Aboriginal pre and post-colonial history of the Ravensworth Homestead is contested but that is dismissed and particularly the way that the guidelines that should've been followed so that you need to when making an assessment like this focus on matters that are contested and give them value, not deny
30 them value and that comes to the heart of this whole matter, in fact.

The International Council of Monuments and Sites (ICOMOS) is UNESCO's heritage sub-organisation and Australian ICOMOS in 1999 developed the Burra Charter, the Heritage Conservation and Management. Although Heritage NSW aspires to comply with the ICOMOS Burra Charter in its guidelines for Aboriginal cultural heritage assessments – so we go back here beyond the New South Wales DPIE assessment to the whole Aboriginal culture heritage assessment process run by Glencore – the Glendell Cultural Heritage completely fails to provide the required level of due
40 diligence to both the tangible and intangible cultural heritage values as required; in fact, in direct violation of the Burra Charter guidelines and the associated Australia ICOMOS practice directions which I've referred to in my original report.

MR BEASLEY: Sorry, just to be clear, your criticism now is in relation to the Aboriginal Cultural Heritage Assessment in the EIS now?

MR DRAPER: It's in relation to both because it's carried straight through from one to the other. So I'm saying that New South Wales DPIE appears to have sourced its view completely from that cultural heritage assessment and both in that process have completely ignored the Burra Charter guidelines and the associated professional practice directions that have been put out by Australia ICOMOS between 2013-2017, so they were readily available for the assessment of intangible cultural heritage values. So that's my answer to that first question and it's a serious, serious issue.

The second question was, "In your opinion, has the assessment adequately considered my previous submissions and the inconsistencies and inadequacies that I identified in that report?" The answer to that is obviously no. The heritage assessment, and by this I'm saying DPIE but also the HR assessment because it flows straight through both documents. The heritage assessment defects described above were all clearly addressed in both my previous reports but they have been ignored or rejected. Through this process that I've described of devaluing and then ignoring intangible cultural heritage to the degree that it's not directly confirmed by a document or by an archaeological object or discovery.

That defect is the same that was highlighted by the New South Wales Heritage Council Assessment and also the Casey & Lowe 2020 Historical and Archaeological Assessment for the HR, which seems to also be fairly well ignored. First of all, the cultural heritage assessment, the DPIE one, fails to, and in fact it seems to deliberately avoid considering intangible cultural heritage values in their own right at all as a separate consideration to the tangible cultural heritage values. As I've said, that distinction is enshrined in the New South Wales Cultural Heritage Assessment Guidelines in the ICOMOS Burra Charter and in the practice assessment notes that were developed to guide these kinds of assessments.

Now, these are baseline national and international heritage management standards and there really can't be any excuse for ignoring them so comprehensively in a state level cultural heritage assessment. Recognition of intangible cultural heritage values in this case is not dependent on the current state of knowledge over tangible evidence, material evidence, that is, historic documents made by the colonisers or the archaeological surveys and test excavations that have been done 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 traditions.

Secondly, the tangible and intangible cultural heritage values held by Wonnarua people that were reported in my two previous reports most certainly are not confined to a single recorded massacre event as has been repeatedly asserted in the Heritage Assessment Report. Following the requirements of the New South Wales Assessment Guidelines, the cultural heritage significance of the Ravensworth Estate to the PCWP Wonnarua people was recorded and reported as encompassing a wide range of intangible and tangible cultural heritage values and you'll find that in both the Executive Summary and the Statement of Cultural Heritage Significance section 5.2 in my 2020A report. Under Social and Cultural Significance, Ravensworth Estate and Homestead recorded as having 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 cycle, the Bora, 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 used by Wonnarua people.

Secondly, it's a central place in the process of the colonial invasion and associated conflict and violence that resulted from the establishment of this and a few other estates in the 1820s that led to the death of many Wonnarua people as well as some colonials. Numerous conflict graves 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 the 1830s.

Third, 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 communities, and that resulted in both recorded and unrecorded deaths of Aboriginal men, women and children. Wonnarua oral history suggests that Bowman may have been more personally involved with some of those events.

Number 4. The bloody colonial beginnings have engendered the very strong belief that there are – among Wonnarua people that there are unsanctified burials of their ancestors on the Ravensworth Estate resulting from these events and Wonnarua people maintain avoidance of contact with that place almost 200 years after those events apart from a women's morning ceremony that was held there in the early 1970s which I made record of, and considering the place to be spatially dangerous. Remember a place can be significant, not just for its attraction to people but also if it repels people, and that's enshrined in the Burra Charter Guidelines.

Lastly, this place is regarded as both symbolic of, and central to the violent invasion and decimation of Wonnarua people in this region. So that's cultural and social significance. In terms of the value of historical significance there is high historical significance for the Ravensworth Estate and Homestead 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. Number 2, it was a central place in many of these historical events as well as considered symbolic of the cause of Aboriginal resistance to colonisation in the Hunter Valley. Even in early documentary records of Aboriginal gatherings resistance elsewhere in the Hunter Valley, Ravensworth is one of the catchcry places that's mentioned. This includes both written historical records of conflict as well as oral history records.

Thirdly, it's an important landmark in the overall pattern of European invasion and Aboriginal resistance in the Hunter Valley and neighbouring areas from the early 1820s onwards. On the issue of scientific significance, Ravensworth Estate and Homestead has very high scientific significance because it has potential to yield additional archaeological information about early conflict events – Casey & Lowe 2020 Historical Archaeological Assessment Report also referred to this – and the important theme surrounding colonisation and Wonnarua resistance has only just really begun in the last few years. For instance, Dr Dunn's 2015 historical report, the archaeology that's been done for this process, research in this area and my own first ethnohistorical research with Wonnarua people on oral history, this is all very recent so there's a lot more that can happen.

Lastly, aesthetic significance. Ravensworth Estate and Homestead have high aesthetic significance both visually as a very early and distinctive homestead complex, the oldest surviving in the Hunter Valley, and associated exotic garden cleared home paddocks 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, so they continue to avoid the place. So this is the range of values that's described, not material evidence for a single massacre but a whole very significant range of cultural associations and significance to Wonnarua people.

The last question I was asked was what, if any, concerns do I have about the cultural heritage impacts of the project bearing in mind the mitigation measures proposed within the draft conditions, moving the homestead and developing the mine. 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 I've described. Those values are described in detail, by the way, in those two reports I've written, and they

are associated with the place, not just with the current homestead, although it's a regionally important symbol of that conflict history, regardless of whether historic massacres or other specified events occurred in relation to those buildings or not.

Essentially, the Heritage Assessment Report asserts that the cultural values of PCWB Wonnarua traditional owners are invalid or without value because they are not verified by what is after all a partial documentary and archaeological record available at this moment in time. If the place is destroyed, then in the view of those traditional owners the stated cultural heritage values are lost. Those values are associated intimately with the place. The proposal to mitigate the impacts through dismantling and relocating buildings to another place which is divorced from those cultural values essentially is a meaningless one in terms of addressing the harm caused by such cultural heritage loss. Thank you.

<PROF. PENNY SACKETT, ANU INSTITUTE FOR CLIMATE, ENERGY AND DISASTER SOLUTIONS

MR BEASLEY: Thank you, Associate Professor, for that. Next speaker is Professor Penny Sackett from ANU Institute for Climate, Energy and Disaster Solutions. Are you there, Professor Sackett?

PROF. SACKETT: I am. Can you see me and hear me?

MR BEASLEY: Both.

PROF. SACKETT: Good. Good. Look, I will talk today about the greenhouse gas and climate implications of the Glendell project. This will be followed up by a rather extensive and researched written report which I ultimately refer you to. I only have the opportunity today to discuss a few of the points that I've like to. I'm speaking to you today from Ngunnawal and Ngambri land here in Canberra. So now what I'm going to try to do is share my screen and start, if I can, this little slide show. Can you see that on your screen?

MR BEASLEY: Yes, we can, thank you.

PROF. SACKETT: Okay. Very good. So the first thing I want to say is that climate change has arrived, it's not something that is only in the future and it's also going to get worse and how much worse depends on decisions that we make this decade, especially this year today. Some of those decisions, in fact most of those decisions are small on a global scale but collectively they are what have brought us to the point we're at. This chart which shows data from 1910 on the left to 2020 on the right

shows the fraction of New South Wales that is – in area that has experienced maximum annual temperatures and the top 10 per cent of all records since 1910 and it does that for every year in between.

I this is one of the plaques that shows most graphically how all of New South Wales is experiencing a climate now that is unlike any in the past and if I can say this is one reason why it's important to consider the climate of the future, not the climate of the past when we're assessing projects of this sort. You will have been aware, I'm sure, that the IPCC recently released a report on impacts following on the one in science
10 that it released in late 2021. Again I don't have time to talk about that 4,000-page report in detail but what I want to do is just to leave you with this single message that the more we know, the more we realise how dangerous even a small amount of warming can be. What you see here are three groupings of threat assessments. The one on the left is for ecosystems, the one in the middle is for extreme weather events and the one on the right is for tipping points, that is irreversible changes that can occur in subsystems of the earth. Now, these assessments follow 20 years of scientific work by the IPCC. The bars on the left are from the early work, then we have 2009, 2014 and the most recent report 2022. What I want you to do is to notice the change in colour as time goes on where pale yellow and reds turn to deep reds and purple as time
20 progresses and time and time here meaning our understanding of climate change. Those colour codes are colour codes risk and - - -

MR BEASLEY: What's that, that's a tipping point again, Professor? It's where, what, an ecosystem goes into irreversible decline regardless of whether we start reducing GHG emissions?

PROF. SACKETT: That's right. It could be an ecosystem, it could be a physical system, it could, for example, be the overturning in the ocean that redistributes heat but it is – when we say tipping point we mean it tips into a new state that's unlike its
30 previous state and that's irreversible on human time scales. And so if we just look at that, for example, and we look at the lower arrow that represents where we are now and where two degrees, for example, might take us you can see that whereas that was not considered a high risk in the early 2000s, now that risk is considered to be moderately high if we reach 2000. That means we were at a moderately high risk of tipping earth subsystems into a state that have not been seen for millions of years.

Now, we talk about what seem to be small ranges in temperature but I want to fix in your minds that these apparently small numbers actually mean for impacts because small rises in global temperature has huge consequences. Right now we're
40 somewhere between 1.1 to 1.2 degrees of warming above industrial, pre-industrial times. What does that mean? Well, what it has given us is Black Summer, it's given

us 38 degrees Celsius in Siberia. It's given us the fact that 47 per cent of local extinctions around the world can now be attributed to anthropogenic climate change. It's meant that New South Wales agriculture run-off water has already been reduced by 15 per cent.

Now, one thing we know now which we didn't know before is that we are going to reach 1.5 degrees of warming. This is virtually certain and it will probably happen somewhere in the mid-2030s. What will that mean? It will mean that what you used to be once in 30 year heatwaves now happen every three years. If you remember the
10 summer of 2019 and 2020, which I'm sure none of us can forget, well, that will be an average summer when we hit that temperature, which we will. If we go beyond that, if we go beyond the Paris Agreement to two degrees then Black Summer fire weather will be four times more likely than it was in 1900. There will be 50-degree summer days in Sydney and 99 per cent of all the world's coral reefs will be done.

In fact, it's been estimated that there will be complete ecosystem transformation on 13 per cent of the earth's surface at two degrees of warming and three degrees of warming or more, almost all world ecosystems will be destroyed, heavily damaged, the global economy will be damaged and large areas of the world will be inhabitable.
20 Why would I even talk about such a world? Because that is where world action and particularly Australian action is taking us at the moment. And I also want to stress, because I feel I believes it falls in the remit of this Commission to consider, is that these changes, many of them are irreversible, many of the things that are happening right now are irreversible and these are on time scales – I won't read this out but these are on time scales from decades to centuries to millennia or more. These are the changes that are already occurring because of greenhouse gases that we have emitted into the atmosphere. Already irreversible changes are occurring.

We talked about tipping points. Here is a graphic to show you what some of these
30 tipping elements might be and where they're located around the globe. We don't know as much as we'd like to know about them but these have been colour-coded about the global warming temperatures, where they may tip, where yellow is one to three degrees Celsius and then it goes up orange and red. One thing I want to say here is that those that are marked with blue stars, the Greenland ice sheets, coral reefs, permafrost melt, these are systems that have already been observed to be moving toward their tipping point. Doesn't mean they'll crash them but there is observational evidence that they are moving in that direction. And finally, there's a risk that these may cascade because they influence each other, as you see by the arrows in this
40 plaque, and if they cascade they can create a tipping point essentially of the whole earth system and that could lead us to what has been called a hothouse earth with temperatures and sea levels that haven't been seen since the Stone Age.

We know what the issue is, the issue is fossil carbon. It doesn't matter whether you count emissions by the country of origin, by the sector, by the end user, it's all the same. The majority of the problem is fossil carbon. Yes, land use change contributes and is important but something like 90 per cent of the issue are the greenhouse gas emissions from fossil carbon. What about the Paris Agreement you say? Well, the Paris Agreement has to date not produced anything like what we need to hold warming levels to the warming levels agreed in the Paris Agreement. We know, for example, that a 30 per cent reduction on 2005 levels is needed by 2030 in order to limit warming just to two degrees which is above the Paris Agreement goal of well below that and a 55 per cent reduction by 2030 is needed to limit warming to 1.5 degrees. Based on - - -

MR BEASLEY: Professor, is all that data telling the Commissioners that even if all the countries of the world commit to net zero by 2050 it's still really important as to how quickly we reduce emissions from now - - -

PROF. SACKETT: Absolutely.

MR BEASLEY: - - - heading towards 2050, yes.

PROF. SACKETT: Absolutely. I would say this next decade that is likely to determine whether those Paris goal temperatures are met or not, and that's because what matters is what's called the carbon budget and that carbon budget is basically how much carbon we can put into the atmosphere and still expect to hold global warming to a particular level, and that budget is continually being used up every year because it's a cumulative budget by greenhouse gases that we've already put into the atmosphere and those that we put in every year to add to that. And so, in fact, my next slide says think about the carbon budget rather than net zero. If we look at having a two-thirds chance, just a two-thirds chance of holding warming to about 1.5 degrees and if we keep spending our current budget by putting greenhouse gases into the air at the rate we're doing, then that budget will run out in eight years and that chance to hold it to 67 per cent will essentially evaporate and that's why it's - - -

MR BEASLEY: Can I ask you a question about related to the carbon budget given we're on that? I don't mean this question flippantly, it's very hard not to make it flippant but I don't mean it that way but I'd just like to hear your views on this proposition because it comes up regularly in these kinds of projects. What's often said is that, look, the world, not just Australia but the world including our trading partners and countries that are members – sorry, that are parties to the Paris Agreement are still going to be burning coal for energy production and making steel for the foreseeable

future, and so they may as well be burning Australia's coal than someone else's or this project's coal than someone else's.

PROF. SACKETT: Well, I guess I'd say several things. First of all, that is a hypothetical, it might be a hypothetical that comes to pass but it is a hypothetical. We don't know, in fact, how much coal our trading partners will continue to burn into the future but I'd also say that we're not – I don't think what we're here today to discuss is what our trading partners will do. I think what we're here today to discuss is whether New South Wales coal, new New South Wales coal should be produced and burnt
10 knowing that it will influence New South Wales environment and those scope 3 – what we call scope 3 emissions, emissions that come from our trading partners burning our coal, will have every bit as much effect on the New South Wales environment as emissions emitted in the New South Wales border. No difference at all on a tonne per tonne basis.

So I would say that's what we're here today to discuss is what Australians can do, what this Commission can do to limit the impact of New South Wales coal on the New South Wales environment and that is predominantly a very negative impact. And that brings me to what that change might look like. These plaques are from something
20 called the Fossil Fuel Gap report which I've put the reference up there in very small type, and there will be more of it in my report, from five different international organisations and the question they asked was, what needs to happen to coal, oil and gas production if we are to have, let's say, a 67 per cent chance of holding global warming to two degrees, which is above the Paris Agreement, or even a flip of the coin chance, a 50 per cent chance of holding it to 1.5 and that's shown in lavender. And what they found was that while the actual policies and promises by countries around the world show either a rising or a flatline of production of those fossil fuels, what's needed is actually a drop to give us that chance, to give us the chance of a 1.5 to two degree world which you'll remember from my early slides is not a particularly
30 safe world but it is safer than the world that we will create if we continue to burn fossil fuels at anything like the current rate.

The gap is the gap between the actual policies, the things we're actually doing and what would need to be done in order to keep global temperature in that range and I've shown the gap there at 2030, that's eight years from now, okay. That's how much coal production there on the left worldwide would have to reduce in order to give us a chance, a flip of the coin chance of 1.5 degrees. So what does New South Wales coal production look like? It looks like this, going from 1962 to 2020, and what I would like – in red is shown the coal that's actually burnt in the country and in black the total
40 production of, in this case, black coal. Again I want to stress that greenhouse gases from the combustion of this coal, wherever it might occur, is three times more

damaging to the state's environment than all of the states for one emissions, from all of the activities in New South Wales. That's how important these emissions are to the New South Wales environment.

10 So what would it look like? The question I have is will New South Wales close this fossil fuel gap? Will it turn around this rising profile to one that drops quickly by 2030? It can only do so by not approving new coalmines and new extensions. You often hear that, oh, the Glendell Extension is a small percentage of the greenhouse gases compared to the trajectory that New South Wales needs to take to meet its targets there. You can barely see it at the bottom of the graph. But actually if you compare it to the reduction that has to be made year on year in order to meet those targets – that's what's shown in green, how much New South Wales has to reduce its emissions every year from now to 2030 and then from 2030 to 2050. In orange is shown how much the Glendell Extension, that project alone will be fighting against that trend. And so I end by saying again that the scope 3 emissions from this project are 35 times more damaging to the New South Wales environment than the scope 1 emissions that the departmental assessment and the proponent itself have asked this Commission to focus on. I'll stop there, thank you.

20 <DR ALISTAIR DAVEY, ENVIRONMENTAL DEFENDERS OFFICE

MR BEASLEY: Thank you, Professor. Next speaker is Dr Alistair Davey who's also engaged to give expert submission by the Environmental Defenders Office. Are you there, Dr Davey?

DR DAVEY: Yes, I can. Can you hear me?

MR BEASLEY: We can certainly hear you.

30 DR DAVEY: Good. Thanks. I've also got a brief slideshow as well. Hopefully I can
- - -

MR BEASLEY: Not on the screen yet but people are working on it, I think.

DR DAVEY: Well, in that case I may start anyway.

MR BEASLEY: We can see you now.

40 DR DAVEY: Good. And hopefully my presentation can also come up shortly.

MR BEASLEY: It does. So we've got, I think, your cover page for that presentation.

DR DAVEY: Yes. Look, I've been engaged by the Plains Clans of the Wonnarua People at the request of the Environmental Defenders Office to assess the economic viability of the Glendell Pit Extension, and to that end I've primarily been concerned with reviewing the Economic Impact Assessment prepared by Ernst & Young as well as various other documents. I've previously reviewed two other coalmining projects, the Bylong Valley Coal Project as well as the Vickery Extension Project, and it appears to me that there is a continuing trend in terms of, how should I put it, the deterioration in the level of transparency and thus, the ability to replicate the analysis in defiance of the New South Wales Guidelines for the Economic Assessment of Mining and Coal Seam Gas Proposals, and there appears to be no enforcement nor sanction for wilfully ignoring these guidelines and thus the lack of transparency makes the full replication of the results impossible.

For this reason I've only focused on the mining revenue of the project, the net present value of the revenue and the estimate of mining royalties to the NSW Government and have taken all other figures as given from the Ernst & Young report. However, accepting all of the figures from the Ernst & Young report does require a giant leap of faith. While not material to the actual results of their assessment, the Ernst & Young report does actually contain three clear errors, mistakes or other issues, firstly in terms of what they claim to use as their coal price forecast, Ernst & Young claim to use the KPMG coal price and foreign exchange consensus forecasts from June/July 2019. In fact, they used the March/April 2019 publication results.

Secondly, Ernst & Young claim to use the 2019 CPI budget forecasts to convert nominal coal prices into 2019's real Australian dollars. In fact, it didn't do that because the coal prices they would've come up with would've been slightly higher and finally, I've reproduced slide 3 from the Ernst & Young report whereby their actual total sales revenue for various years is actually inconsistent with what you can actually calculate from their table. Their results are highlighted in yellow and the actual calculations I've highlighted down the bottom. This is very easy to actually replicate from their own table. And the discrepancies here are actually beyond the scope of mere rounding issues.

Despite the lack of transparency in my attempt to replicate the Ernst & Young results I think I've come fairly close to what they came up with. I've come up with total sales revenue of about \$8.8 billion compared to Ernst & Young's \$9 billion and a net present value of about \$3.8 billion as compared to Ernst & Young's \$3.7 and royalties of just over 300 million compared to Ernst & Young's \$296 million. So not perfect but essentially I'm on the ballpark, so to speak.

The critical component for the future economic viability of the Glendell Pit Extension of course depends on the future course of coal prices. That's one point where I'm in complete agreement with the Ernst & Young report as well as the peer review conducted by the Centre for International Economics. And, of course, of recent times, particularly during the current month, coal prices have actually been at record levels. From December 2020 to December 2021 coal prices have actually risen from \$80 US dollars per tonne to \$220 per tonne primarily due to supply disruptions in both Russia and Indonesia due to weather as well as some infrastructure problems in Russia as well.

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Of course, coal prices have actually surged even higher since the Russian invasion of the Ukraine and immediately following the Russian invasion of Ukraine coal prices have doubled since December to even reach levels above \$440 US per tonne as some countries have scaled back on their importation of Russian coal. While coal – Russian – well, Europe hasn't actually banned the importation of Russian coal, trading has been made much more difficult since various Russian banks were kicked out of the international bank to bank transfer system known as the SWIFT. The critical question is whether in future coal prices are likely to remain high or whether they will fall. No one really has a crystal ball and can make predictions as to the exact future course of coal prices. However, the balance of probabilities make it far more likely that coal prices are set to fall in relation to the current geopolitical tensions. An outbreak of peace in Ukraine could see Russian coal suppliers return to world markets, particularly Europe relatively quickly, of course putting immediate downward pressure on global coal supplies.

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Supply disruptions also in Indonesia and Russia are being overcome by significant expansion in export capacity as well as upgrades in transport infrastructure and Russia, in particular, has access to high quality as well as low cost coal deposits. On the demand side of the equation, of course, there are policy changes coming out of the Glasgow Climate Change Conference, the COP26, with a series of policy initiatives around the world designed to phase down or phase out coal for power generation in the years ahead. Japan, for example, is seeking to significantly reduce coal use by 2030 and is actually in the process of reopening their nuclear power plants that were all closed down in the aftermath of the Fukushima power plant accident back in 2011. South Korea has also announced plans to dramatically cut back on its coal powered generation. Taiwan has announced the cancellation of various new coal power plants. Even China has announced plans to reduce the use of coal through its Blue Sky and Decarbonisation Targets and in any event, there are currently informal import restrictions on Australian coal entering China in any event.

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The only major country that is looking to increase its use of coal over the short to medium term is India and even there the Indian Government is seeking to expand its own internal production and reduce its reliance on coal imports. So with the possible exception of India, countries are committed to phasing out coal for power generation, thus putting downward pressure on coal prices over the medium to the longer term. Both the World Bank and the KPMG consensus price forecast for coal suggest that coal prices are going to fall over the medium to longer term. Using KPMG's most recent consensus price forecast reduce the profitability of the Glendell Pit Extension from Ernst & Young's \$659 million to \$551 million, although KPMG doesn't actually put a time scale on how far out its long term price forecasts apply.

In contrast, the World Bank provides annual price forecasts for thermal coal going right out to 2035, and if you use the long term historical link between thermal coal and semi-soft coking coal, which I provide in this chart here, then it is possible to actually produce forecasts for semi-soft coking coal based on thermal coal forecasts as well which is what I've done. Now, applying the World Bank coal price forecasts as well as the extrapolation is using the semi-soft coal forecasts based on the World Bank thermal coal price forecasts actually does dramatically reduce the profitability of the Glendell Pit Extension to a negative \$337 million, suggesting in time that there is a chance and a significant risk that the Glendell Pit Extension could actually become a stranded asset in time. While coal prices during March 2022 have actually never been higher, topping \$440 US per tonne, there is a question over the viability of the Glendell Pit Extension presented by how far coal prices are actually likely to fall into the future. So that's essentially all I have to say and do you have any questions?

MR BEASLEY: No. Yes, Commissioner Barlow does but he might be on mute, which will make it hard for you to answer so we'll just get him to - - -

PROF. BARLOW: Can you hear me now?

MR BEASLEY: Yes, go ahead.

PROF. BARLOW: Thanks, Counsel. Alistair, I just noticed in those review costings for the Glendell Mine that there was a negative in the operating costs, I think it was either 16 or 25 million, of mine closure. I'm just a little quizzical about why it would be a negative; in other words, it would be an income, is that correct?

DR DAVEY: Well, that comes from the Ernst & Young report. I believe that the reason for that negative figure is related to the – how should I say it? There's a reduction in the immediate expense that the project incurs from having to close the site, I think, in 2023 or 2024, although you may want to put these questions to the

proponent, but somehow they would probably assumption in there it may be cheaper to actually close down the project at some stage down the track beyond 2044.

PROF. BARLOW: Thank you.

DR DAVEY: That's one of the figures from Ernst & Young that I've had to accept.

PROF. BARLOW: Thank you.

10 MR BEASLEY: Dr Davey, there's large difference of opinion between the Ernst & Young assessments of economic benefit and the Centre for International Economics in relation to – amongst other things – one, tax, two, worker benefits and supplier benefits and, three, how you properly assess the costs of GHG emissions associated with the project. I take it from your presentation you weren't retained to deal with those issues?

DR DAVEY: I haven't focused on those particular issues. They're probably quite comprehensively addressed by the Centre for International Economics. I was mainly primarily assessing the overall viability of the project.

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<DR STEVEN PELL, ENVIRONMENTAL DEFENDERS OFFICE

MR BEASLEY: All right. Thank you for that. That's all, thank you for that submission. The next speaker we have is Dr Steven Pells who's also retained by the Environmental Defenders Office. Dr Pells, are you there?

DR PELL: I am here, can you hear me?

MR BEASLEY: We can, and you've already started sharing your screen.

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DR PELL: I'm ahead of time, thank you. I'll get straight into then. So, I've been asked to look at some of the impacts to water resources on the mine. I assume by now everybody is familiar with where everything is and this is a close-up plan showing what is the approved part of Glendell and what is the extension. In terms of groundwater, one of the ruling documents is the Aquifer Interference Policy, or AIP, and it's of importance to that policy as to whether a groundwater resource is considered highly productive or less productive – obviously being more stringent requirements to protect the resource if it's highly productive.

40 At this mine, according to map, you know, the statutory mapping is that we obviously have the approved mine here and the extension, and all this shaded in all around the

mine is, has been deemed highly productive groundwater. Now, you know, I'd say it's just a fact of the matter but I think it is a problem that these mines are always, the science is done by the proponents. Now, it's not this mine in particular, it's just, it's just how the process goes. And although science is supposed to be, I guess, a way of removing bias by using testable facts, the problem of course, with science is that it's done by humans. And in this case the humans have an interest in showing that the impacts to the aquifer is as small possible – look, that's just how it is, there's nothing they've done wrong in that but that is how the process is set up.

10 And, you know, as you wade through the report, their findings are that the drawdown, what they've labelled drawdown, which is – I'll come to that, it's not very well defined in the document, but let's just say that the impacts to the, this productive resource is about half a metre's worth of reduction in the groundwater levels in a small area.

So how do they come to these values? And of course there was a numerical groundwater model done – there always is these days in mining – and this picture shows a plan of the numerical groundwater model with our two existing and proposed, and all around there is a boundary showing this numerical grid. Now, I'm sure
20 everyone in this meeting is aware of how much mining there is in this region, so it's quite a task in this instance to try and get a groundwater model to represent everything that's going on not only in nature but also in human interactions. To be fair, the groundwater model that they've done in my view is very high quality, a lot of good work and it calibrates to a lot of observations very well – it's a good job.

There are a few concerns I have when it comes to, sorry I'll just close this window, when it comes to using this model to assess what's going to happen in this highly productive aquifer. So the first one as I've got up here is resolution. So, I've zoomed in on the mine here and this is taken from the EIS and they've showed the size of the
30 cells and they're sort of in the order of 40 metres around where this aquifer is. Now, there's no fault in that, for a model of this scope, that's reasonable practice. It's just when you actually are looking at something of this size it's quite a coarse resolution.

My second point is complication. So when we try and look at what the impacts to sort of an alluvial aquifer system is that's sitting next to a creek, the processes are actually very complicated, and I've done a picture which tries to illustrate some of them, with the creek being the middle and this sort of grey area down the bottom representing the groundwater resource. To actually predict changes in this resource you have to make a balance of a lot of paths where the water goes – and they're all variables. The
40 precipitation or rainfall as we know is variable and then trying to quantify how much of that is taken by the plants and how much is left to run off and infiltrate and then

recharge and how much of it seeps back to the creek is a very difficult process to determine. The groundwater model doesn't do this analysis.

Again, I want to say that there's no fault in the groundwater model in the sense they never are expected to look at this sort of resolution, but if you are going to try and understand what the impacts are you've got to be aware that the groundwater model does not look at this in detail.

10 The next thing – I was a bit frustrated with the report – is that I just wanted somewhere for them to present what's going on. So this is me drawing what I see as a typical cross-section – now, this exaggerated vertically is about exaggerated twice as much as a horizontal scale, but this sort of grainy colour is showing the aquifer and obviously showing the excavation to the right. I was hoping in the presentation model they could do some cross-section showing this sort of geometry. Firstly, if you put in the groundwater model showing the sort of resolution that the model offers, you'll see that it's actually very clunky so you would get an immediate appreciation of how well are we representing this system with the groundwater model.

20 Secondly, also they could represent the geology, and the other things I've got to see is what do they think that the groundwater will look like before mining and it's quite easy using the model to actually represent – to present what the model is representing in terms of how depressurisation is moving through and what it's doing to or how it's connecting with this alluvial aquifer and what it's doing. So this sort of picture was absent from the report and I think it would be very helpful if they could show this, it would give a much clearer picture of – much truer picture of our confidence in predicting what's going on here.

30 My next point I've got concern is conflation. I don't expect everyone to read this paragraph in this presentation but it's taken from the EIS, and when they're talking about the impacts to the alluvium a lot of terminology is conflated to the point it's almost meaningless, I can't understand what they've done. There's term that they are using in groundwater like drawdown, dewatering, depressurisation and desaturation and they'll different things but they get used interchangeably and just conflated in the report which it's – I don't know whether the main report has been written by someone who doesn't have a great technical understanding of groundwater but the problem is it's very unclear to me as to what they're actually measuring.

MR BEASLEY: Are those terms all related?

DR PELLIS: They are and, look, I'll try and explain quickly what I mean but it's quite a technical discussion which I don't know is going to fit within the sort of scope of presentation, but I'll have a quick go.

MR BEASLEY: I mean, for example, does depressurisation cause drawdown?

DR PELLIS: Yes, so, look, give me a minute and - - -

MR BEASLEY: Yep, sorry, you go ahead.

10

DR PELLIS: So this slide is showing the alluvium and you can appreciate the water coming out of there into the mine is not going to just move horizontally it will also move vertically. And if you do like, I've done this as a physical experiment, as a mind experiment if you had a column of sand and you have water coming in the top, which we call either the river or rainfall, and you open the bottom so you let water fall out the bottom, what you can actually do is you can manipulate this system. They use a piezometer tube so the pressure inside these will reflect the pressure inside the water, so inside the sand. So if you close this valve at the bottom, that would all rise to the same amount at the top, and you could call this system completely saturated.

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If you start draining water out of the bottom, you can manipulate the system so you can have various levels, various pressures at various levels, and you can maintain various pressures while also keeping it saturated at the top. So in this sense you could create a system in which there's no drawdown, and since the level of the standing water at the top doesn't change, but there's a great impact to pressure inside the sand, and that is related to how saturated it is, so how much water content is inside this sand as to how much has been drawn out, and the watering is perhaps the quantity of water that's been taken out.

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But drawdown, in my view, it should be a change in pressure, so a change in pressure from the baseline to later. The problem is, in this diagram, where do you measure that? And just looking at the change of the level of the water table, it's not showing you what's actually going on.

I hope that kind of makes sense. I've done some pictures which are quite technical, but they are all a column with different layers of material, and all of them have a situation where they're saturated at the top, so you can see the top manometer the water level is at the top, but through the formation, you can have all sorts of different levels and different pressures, and the terms in which you use to describe this are quite important. You have to distinguish between how saturated it is or how full the pools

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are of water, what pressure is inside there, how much water has been taken out, and how are you quantifying drawdown.

So I was just left confused as to what they had done and whether they were just talking about the changing water level and whether that's a valid representation of what's going on. Does that help a bit?

MR BEASLEY: Thank you.

10 DR PELLIS: Now, my fifth concern is observation. So the yellow dots here what they've presented as monitoring bores in the alluvium. There's quite a lot of them, but from what I can see, a lot of them are going to get eaten out as soon as the mine goes through. So the question that remains, how many are going to be left behind and are they adequate to actually represent what's actually going to happen?

So I guess the question is, you know, how are we going to know what has happened, and is what is left behind sufficient, and the other question is, to what level can the mine be enforced to keep these going? Because I have seen other projects that once it's approved, you know, the bores, they do need to be maintained but often they're not
20 and so the data disappears, and then we don't actually know what happened.

My last point on this is - - -

MR BEASLEY: So your suggestion is that if there were to be approval, these monitoring bores should all stay in place?

DR PELLIS: They should, and also, look, I haven't had the time, but I'd love to know where they're screened and how well they're represented in existing conditions, and whether they're appropriately placed to pick up changes. Look, on face value, they
30 look all right, but maybe you might be wanting more of them and you might want some protections of them, yes.

And last thing is mitigation. I guess the question is, what if we're wrong? What if the predictions are wrong? What are you going to do? You know, say we monitor these things and in fact it's drawing down the water heaps, what are we going to do? Are you going to stop the mining? Are we going to, you know, put the earth back in or, like, what can be done? And often in these situations there's not much that can be done, so it's just a question, I guess, of the panel, what – you know, what's some mitigation? Often in these projects they talk about adaptive management, but in my
40 view it's – what are you going to do?

MR BEASLEY: Yes.

DR PELLIS: Anyway. So subject to those presentations above, I guess my question is, do we need to have more detailed investigation as to what's going ahead? Now, that's my first point.

My second point, and I hope I'm not out of time, is on the issue of cumulative impact. So, again, I'm not expecting everybody to read this whole paragraph from the EIS, but there's an argument that comes up that often, I've seen often in, especially in mines in
10 the Hunter Valley, where there is so much mining, that, you know, we only add a limited effect compared to what's already been approved, and you can see in this context, you know, what's already been approved is quite a lot. So this mine is in the context of a lot of works.

And I was thinking through this, and I think it's a logical – it's problematic logically to reference existing projects like this, and I wrote out an equation to show it, but I thought I would spare everybody an equation in the context of the presentation and try to simplify it with some diagrams.

20 So I'm just saying, let's say some aspect of the environment, whether it's biodiversity or water quantity or water quality or something, in its natural state, let's give it a unit value, let's say it's a pie, it's got one unit, or a hundred per cent of what it is. The first project comes along and says, "Look, I'm only 5 per cent of impacts to this aspects, you know, please approve me," and it gets approved, it's moved the project along one to P1.

The next project comes and says, "Look, I'm small compared with him, I'm only 20 per cent of project 1, please approve me." So that comes in, so projects 1 and 2 approved. Project 3 comes in and says, "Look, I'm only 20 per cent of projects 1 and
30 2, please approve me." So project 3 moves along. Project 4 comes in and says, "I'm 20 per cent of the other three," and by the time you get to 14 projects, which is not a lot in terms of what you've sustained, if the argument is sustained, you know, "I'm only 20 per cent of the other projects, please approve me," it's getting quite a lot, and this environmental aspect that originally existed is getting left well behind. And if you get to 17 projects, to the same sort of logic, there's almost none of that environmental value left.

And so I question this logic and this philosophy that says that impacts can be, you know, that a mine can be approved or disapproved relative to how, you know, the
40 other mines exist around it, and the logic is that as soon as there's an initial mine, then

there's no environmental protection protected at all, because, you know, that's how this mathematical system works.

So in summary, in the regional groundwater model, it produces a report on the detailed processes around the alluvium. I would like to see some more details on them, as I've illustrated, to kind of show how well can this model represent that, and what do they mean in these terminologies, of dewatering, depressurisation. Is it, can we do a more detailed investigation? Like, even in the 2D cross-section, can we show the projects as more detailed? It's not hard to do, and that whole argument of cumulative impacts, you know, at what point are we looking at the whole Hunter Valley and say, "Look, it's enough now, you know, the change from the original conditions is enough."

That's my presentation. Thank you.

MR BEASLEY: Thank you. Dr Pells, Commissioner Barlow has a question.

PROF. BARLOW: Thank you, Dr Pells. I have actually three questions, but they're fairly simple. The first is, are you going to furnish a written report?

DR PELL: Yes, I will. Yes.

PROF. BARLOW: Thank you. Covering some of those issues. The second is, the groundwater bores that you mentioned, and how some of them will disappear into the pit, are they all Glencore bores, or any - - -

DR PELL: Look, I don't think they're public bores, or if they were, they wouldn't be – look, I don't know. From my reading of the report, there's only about one or two publicly owned bores that were impacted, and they weren't impacted by being dug up, if that answers your question.

PROF. BARLOW: Thank you. Yes. And the third one is, you know, we of course understand the point you made about the cumulative mines at the Hunter Valley, but hopefully, we're in a phase now when many of these mines, and indeed this complex that surrounds Glendell, is coming to the end of their lives, and while Glendell probably would be, if approved, it would be the last one, but there are probably five mines that would close down by 2035 or thereabouts from now.

So the question is, how long do you think it would take for that groundwater resource, under the current rehabilitation plans for each of those mines, to rejuvenate to a level where it would allow the use of that land by the community going forward?

DR PELLIS: I don't, I'd have to say I don't know. You know, because I, it's in the order of, you know, a hundred years sort of thing, in my view, you know, but it's, the problem with groundwater is that the way it responds is relative to the hydraulic conductivity of the ground, and when we measure the hydraulic conductivity of the ground, it can range orders, you know, from 1 to, 1 by 10 to minus-10, so there's a huge range in how quickly things can respond.

So it's very difficult to give, I think, a definitive answer to that. But in general, it's more than decades, and less millennia is probably all I can say.

10

PROF. BARLOW: Thank you. I knew it was a curly one.

DR PELLIS: Yes.

PROF. BARLOW: Thank you. I knew it was a curly one.

DR PELLIS: Yes.

MR BEASLEY: Thank you very much, Dr Pells.

20

DR PELLIS: Thank you.

<DR LIAM PHELAN, ENVIRONMENTAL DEFENDERS OFFICE

MR BEASLEY: Next speaker is Dr Liam Phelan, who has also been retained by the Environmental Defenders Office. Are you there, Dr Phelan?

DR PHELAN: Hi there. I am. Thank you so much.

30 MR BEASLEY: Go ahead. We can see and hear you.

DR PHELAN: Excellent. I've been, as you said, I've been engaged by the Environmental Defenders Office to provide independent expert advice in relation to workforce transition associated with the Hunter coal industry and specifically as it relates to the Glendell Continued Operations Project, and so the comments that I make today will be drawing a written report I've drafting currently for submission to the Commission also. I'm a senior lecturer in the School of Environmental and Life Sciences at the University of Newcastle and I research climate change risks and uncertainty and the relationship between climate change and finance. I live in
40 Newcastle and I'm joining the session today from Awabakal Country, and I pay my respects to Elders past, present and emerging.

In policy and in practice, the world is shifting away from fossil fuels and towards renewable energy, and it's important that that process, which is a profound change for economies that, for more than a couple of hundred years now, have been based on assumed exponential increase in the burning of fossil fuels, so that's a profound change, and it's important that that process, shifting away from fossil fuels, happens in a way that doesn't leave workers and communities that are dependent directly on fossil fuels for jobs, it doesn't leave them high and dry.

10 And that's where the concept of just transitions comes in. It's something that's been discussed for a number of decades now, so it's not new. It's also present in the 2015 Paris Agreement, where the agreement notes the imperative of a just transition for affected workforces, with the creation of decent work and quality jobs to replace those that are being lost through the shifting away from fossil fuels, and so a just transition is one where workers and communities that have been strongly dependent on fossil fuel exploitation aren't left behind. There's a whole lot more theory to it and so on, but that's really the guts of it right there.

20 When we're looking at the Hunter, the practical shape, if you like, of just transitions is a live consideration there. Last year, researchers from Hunter Renewable and Hunter Jobs Alliance sought to understand community views on transitions in the Hunter, and more than 300 local residents were involved in that process, with consultation workshops held right across the region.

The Hunter is a diverse community, and as you might imagine there's a diversity of views across the valley too. However, what researchers heard from folks is that they want to see active responses to the change that's coming, and that's something that came through loud and clear. So there's uncertainty about how that change will roll out and when that will be rolling out, but there is wide understanding and acceptance that change is coming.

30 And then when we look at the State Government, the State Government is also recognising that change is happening, and in recent months has announced \$25 million a year for its Royalties for Rejuvenation fund, and the intent of that fund is to ensure that coalmining communities have the support they need to develop other industries in the long term.

40 It's worth noting three priorities that communities across the Hunter identified as being key to a just transition away from coal. The need for a local coordinating authority, funding for flagship job creation projects, and more resources for technical and vocational education, and I share these three priorities with you to illustrate where

community thinking is on where what the Hunter's future looks like. So it contrasts markedly, you'll see, with the intent of the Glendell proposal.

The first priority is to have a local coordinating authority, and local coordination is important to ensure that solutions that are proposed reflect the community's needs, skills and opportunities, and that means that those who are working for that authority know the region and are in touch with stakeholders from industry, from government, education and community organisations too, and the idea there is that they can –
10 specialisation-type approach to identify local strengths and competitive advantages.

The Latrobe Valley Authority, established in 2016, provides an example that was set up by the State Government in response to the unexpected announcement of the closure of the Hazelwood Power Station, and that authority began with \$270 million in funding, and the authorities headboard regionally, so more in the heart of the coalmining industry area there in Latrobe.

The second priority that came through from folks in the community was flagship projects, because they give tangible direction to the transition, and they create hope for
20 the future as well. So a flagship project isn't a silver bullet, but it does provide an anchor point, or a fulcrum point, you might call it, around which other industries and businesses can coalesce. And again, looking elsewhere for an example, the coalmining community of Collie in Western Australia has one of these. Its focus is making Collicrete, which is a more sustainable form of concrete made of fly-ash, which is a waste product from the burning of coal in coal-fired power stations. This is something that could happen in the Hunter as well.

The third priority is to expand vocational training, and that's critical, because retraining is crucial for new industries to flourish and for workers to find new jobs,
30 and so recent research, this time from the Clean Energy Council, has shown that there's shortages of skilled and experienced staff, and that's hampering development in renewable energy industries, and so the recommendation that came through that research was that the vocational education system needs reviewing because existing training systems are not meeting industry needs. And so when we think about the Hunter region, then absolutely that's something that we're going to need here as well.

What we're dealing with here is that socioeconomic transition is already upon us, and when I say transition, I mean away from fossil fuels. My view is that the transition is
40 late but welcome all the same because there is no plausible scenario in which we persist in burning fossil fuels and life as we know it continues, and I saw that

Professor Penny Sackett was on the call earlier, so, you know, setting out the climate science side of things.

When I say life as we know it, I mean a planet whose basic functioning and natural systems continue in ways that are both familiar to us and also relatively stable, and what we've got with climate change is a threat to the stability of planetary systems. One example is increases in the frequency and the magnitude of extreme weather events. Extreme weather is an easy impact to perceive and conceptualise, and sadly we've had, you know, clear reminders of that further up the coast from here in recent weeks.

But the impacts of climate change are much greater in scope than single catastrophic events. And that's the paradox that we're dealing with here, really, that continuity of life as we know it, familiar and relatively stable, is at stake, and that continuity can only be achieved through profound change to the way that we organise ourselves socioeconomically.

So really this is about looking forwards and not backwards, and I would say that we're at a point now where more of the same isn't helpful for employment in the Hunter. So the proposed expansion at Glendell is at odds with the transition away from fossil fuels that communities in the Hunter are already engaging with. In fact, approval of the proposal will serve to undermine the Hunter's transition away from fossil fuels, and it would do this by holding out a false hope that there is a future for coal industry jobs in the Hunter over any duration.

The Hunter's future absolutely will be building on the skills and expertise that have been established here over generations now, but the Hunter's future will necessarily transcend coal, and it's really that forward-looking focus that's needed now.

I want to now, if I may, also raise a broader consideration about the proposal's impact of jobs. So this sort of relates to paragraph 535. In the assessment it's highlighted in the summary too at page 9, and you'll see there that the focus of the proposal's impact on jobs has been unhelpfully limited and one-sided. The assessment on employment impacts focuses only on the limited number of jobs – not a negligible number, but all the same a limited number of jobs that the proposal would create.

And it does this as though those jobs would be created without any costs, you know, to jobs. But the proposal will necessarily accelerate climate change, and climate change impacts are increasingly destructive across employment in multiple sectors. So jobs in reef tourism in Queensland, for example, are threatened by climate change, and that's a really easy example for folks to wrap their heads around.

But the impacts will be felt across all sectors, actually. And again this is because the burning of fossil fuels has been central to the way that we've organised our economies going back to the Industrial Revolution, in fact. So that's why we're talking about such a profound change, and that's why the impacts of climate change are so profound also.

10 Last year in the Federal Court, evidence was provided of the future financial costs of climate change to young people in Australia, and costs in that case were calculated in three areas – loss of earnings, reductions in property wealth, and also health impacts. This evidence was presented in relation to Whitehaven's proposed extension to its Vickery mine near Gunnedah in the north-west of the State.

I want to focus on relation to loss of earnings, because that's – of those three aspects that were explored, that's the one that most strongly connects to jobs and careers. And so in relation to loss of earnings, the bottom line is that partial conservative calculations that were accepted by the Federal Court in that case are that today's children will forgo between 125 and \$245,000 each due to climate impacts noted above. The most likely cost is at around \$170,000 for each child.

20 So that was, those figures were provided in relation to children in Australia. There's more detail to that, to the calculating that was done there, but suffice to say perhaps for this presentation, that some of the factors that were included in consideration were things like what kinds of employment is undertaken outside, what kinds of employment is undertaken inside, where air-conditioning may be available, the idea that employment outside would be limited as average daily temperatures increase and so on.

30 And so in terms of workforce transition, the guts of the question is simply this – will we choose more of the same now, and by so doing continue to hang local communities out to dry, or can we do better than that now for local communities? And if we allow ourselves a wider view, then we might also ask how many other sustainable jobs are we prepared to sacrifice across Australia for the proposed limited number of jobs that would be created if this proposal were to go ahead.

40 MR BEASLEY: Thank you. Can I just ask you a couple of questions, Dr Phelan. You mentioned, in terms of a workforce transition away from fossil fuels in this case to something else and the need or desirability of setting up a local coordinating authority where people have got local knowledge, and you mentioned the Latrobe Authority.

DR PHELAN: Yes.

MR BEASLEY: You said it was started with \$270 million in funding. Was that funding from the Victorian Government?

DR PHELAN: Yes, that's correct.

MR BEASLEY: Right. And is there any proposal for, that you know of, anyway, any proposal for a similar type authority in any region of New South Wales?

10

DR PHELAN: Yes. Look, thanks for the question. This is live currently. The New South Wales State Government's Royalties for Rejuvenation fund has, is in the process of being established now, and it looks like there will be some regional meeting from the Hunter representation on the expert panel that is being established, you know, to guide its activities and so on. So I think there's a very real prospect of that happening, but it's a live question right now.

MR BEASLEY: All right. Sorry, I'll just have one more go, Commissioner Barlow, and then I'll invite your question, but just to finish with me, you also – and tell me if I've misunderstood you, but I just wanted to make sure we all understand the point you were making about an extension project like this offering what, in your words, was "false hope" about I think coalmining going on for any, what you said was any duration.

20

The extension here is for this mine to be extended to 31 December 2044, and there are, I think, other mines in the region that have similar end dates in the 2040s. Is your point that that's not a particularly long duration, or is it that that potentially ties up a workforce for 20-odd years in fossil fuel mining when it should be beginning now to transitioning to something else, including renewables?

30

DR PHELAN: Yes, look, thanks for the question. I understand the proposed duration of the, you know, of the mine extension. I simply make a point that even with that being proposed, it may be that it turns out that way. It may also be, and I think it's increasingly likely, that the mine lives in fact don't extend to that date. And I make that point only because in terms of the policy context, this is an area where things are moving quickly, and in fact I would say things are accelerating. So I understand that is being proposed here – I don't think it's a given that even if the extension was approved that it would carry through to that point. And, you know, it's 2022 so we're talking about, you know, like the careers that have potentially, you know, have ten years in them something like that.

40

The second point would be simply that transition is a bit like planting trees - if you want a tall tree, you're better off having planted one ten years ago or so, so there's really, there's no point at which you - - -

MR BEASLEY: Does that mean if there is, if there were to be a sudden end or drop-off in the viability of coalmines, that makes the transition you're talking about more difficult?

10 DR PHELAN: Yes, it does. It makes it more difficult. I'd say there is real urgency around this matter. The other thing to keep in mind is that for our region, we're not the only region in the world facing this transition process. In fact, there are other regions across Australia and internationally as well, and this is something to be on the front of about rather than playing catch-up. So there is a real urgency there too.

MR BEASLEY: Right. Thank you. Commissioner Barlow has a question.

20 PROF. BARLOW: Thank you, Counsel. Well, my question is really along the same vein, Dr Phelan, as Mr Beasley's questions, and it's really two questions. One is really a theoretical one. We have stated in the economic analysis of this project that if it were denied there are no other jobs for coalminers in Australia, so, you know, basically there's a conclusion that 300 jobs involved in this project would be out of work, but the second one is more the pernicious area that you hinted upon, is that by giving a false hope of, you know, a false dawn of coalmining industry that continues forever, but are we influencing unjustly those young people who have to make career choices in the next 10 years to perhaps not look as much as they might at alternative careers rather than coalmining?

DR PHELAN: Yes, sorry, I slightly got caught up with the two parts to the question.

30 PROF. BARLOW: I'm sorry, Dr Phelan. The first one was - - -

MR BEASLEY: I should have objected, but - - -

40 PROF. BARLOW: - - - a methodological question about just the projection that with a, I believe, and you would probably know it much better than I, with other projects we've done in the Hunter Valley, that the workforce of the current workforce of the coalmining industry is about 10,000, and we wondered whether, with the natural churn of that industry, that if this project did not proceed, that the people who wanted to continue in the coalmining industry may well find a job, just because of the natural churn within a workforce of 10,000.

DR PHELAN: Yes, look, yes. I mean, there will be jobs in coalmining tomorrow and the next day and next week and so on, so it's not that that tap has been tapped off immediately or anything like that. At the same time, it would be prudent to plan for a reduction in those jobs down to zero over a time frame that potentially is shorter than, focus might be planning or imagining initially, and I say that only because there's no plausible scenario in which we continue to dig up and burn coal, and life continues as we know it. So that's something that will be happening, and if it doesn't, then we're in trouble.

10 And then the second point would be simply that this is a fast-moving area, and I think that the pace of change is accelerating as well. So I think it would be sensible for us to be indicating, communicating to young folks coming through school and TAFE and university and elsewhere that the jobs of the immediate future will be less about coalmining and they'll be more about other things.

This is where the challenge is particularly difficult, because we have a strong and proud history of coalmining in this region, and that needs to change, and as we do that, then we're imagining a different future, and that's a process that really needs to involve local people in that.

20

My concern with the, well, one of the concerns I have with the proposed extension that, you know, that's been discussed here is that it undermines that difficult and absolutely important work that we need to be doing as communities here, and as a society, and, you know, with involving not just those communities, but certainly involving those communities.

PROF. BARLOW: Thank you for your thoughtful answers.

MR BEASLEY: Thank you for that, sir. The Commission will now take a break until
30 10.45, which is when we'll resume.

SHORT ADJOURNMENT

[10.24am]

<MARK SEYMOUR, BARRISTER

MR BEASLEY: All right. Recommencing the public hearing into the Glendell Continued Operations Project. The next speaker is Mr Mark Seymour of Counsel,
40 who is representing Mr Franks and Mr Lester, on instructions from the Environmental Defenders Office. Mr Seymour, can you hear me?

MR SEYMOUR: Yes, I can.

MR BEASLEY: We can hear you and see you, so go ahead, sir.

MR SEYMOUR: Thank you, Mr Beasley. Thank you, Chair, and thank you, Commissioners. I'm speaking today from Gadigal land within the Eora Nation and I acknowledge the traditional ownership of that land, and today, as Mr Beasley said, I'm speaking on behalf of Mr Franks and Mr Lester, themselves representing the Plains
10 Claims of the Wonnarua People, and I acknowledge that traditional ownership and show my respect for their Elders past and present, and the submission I make today is in the spirit of showing that respect, because the topics that I want to address the Commission on really relate to this exceptional nature of the heritage values represented by the site the subject of this project, so I wanted to address on that, and those impacts, those heritage impacts and other likely impacts, as suggested in the department's assessment report as imbalance within the decision-making process, and to focus my submissions on those two matters within the framework of the statutory task that the Commission is undertaking.

20 So in terms of the topic of heritage values, the primary focus of my submission is that the assessment report really lacks a proper analytical framework for heritage assessment, and without that proper framework, there has been an undue focus in the assessment report on the values of the structures of the homestead alone, with no apparent consideration given to the requirement to conserve the heritage significance of the place, and there has been an unduly morbid and unnecessary inquiry into the presence or absence of a particular massacre.

In my submission, when the Commission adopts a proper analytical framework, the impacts of the project on Aboriginal and European heritage values of the site are so
30 unreasonable to warrant refusal of itself.

In my submission, the need for the Commission to adopt a proper analytical framework on this issue arises in two respects. The first is from principles of ecologically sustainable development, and in particular the principle of intergenerational equity. Clearly that is a matter that the Commission must take into account as a part of the public interest that's manifest in the statute. And secondly, when the Commission comes to assess likely impacts in section 4.15, in my submission, the Commission would do that – that is, assess a likely impact – by
40 reference to an applicable and relevant standard.

And the relevant and applicable standard that we have is the ICOMOS Burra Charter, an instrument that in itself gives effect to Australia's international law obligations under the World Heritage Convention from 1972.

In my submission, it's relevant to note that neither that convention, the 1972 Convention, nor the particular charter, the Burra Charter from 2013, expressed themselves as contingent on any overriding or imbalance national interest. That makes that convention and the charter slightly different from other international instruments, like certain human rights interests like the ICC or the Universal Declaration of Human Rights, each of which contain clauses asserting that certain rights might need to be abrogated by overriding or compelling national interests.

The World Heritage Convention in 1972 does not do that and the Burra Charter does not do that. So in my submission, giving effect to the Burra Charter gives effect to Australia's international law obligations under the convention, and failing to give effect to the charter would put Australia in breach of its obligation under the convention. The community would have the legitimate and entirely reasonable expectation that the Commission would adopt the charter as the relevant framework for assessment of likely impacts on a place of cultural significance, and that it would make its decision mindful of the requirements to give effect to intergenerational equity and to avoid unreasonable impacts as determined by reference to a standard like the charter.

So in its terms, and I apologise if I'm going over matters that the Commission is no doubt already aware of, but I just need to make the point so that I can reference the lack of this detail in the assessment report, but the structure, purpose and substantive provisions of the Burra Charter are not specifically referenced in the assessment report, which is slightly unhelpful.

But the structure of the charter is important, because it has, in my submission, two relevant parts. There's the conversation principles in articles 2 to 5, and then there's the process provisions for developing a policy about a place of cultural significance, which is in the remainder of the charter. And reference to the policy particles, without understanding the principles, divorces the means and the ends the charter are seeking to adopt.

So the ends that the charter is seeking to adopt are its principles, and the means to bring about those are the process provisions for creating a policy. So the character contains within itself both the means and the ends of what is in essence a planning standard.

So the principles are clear and absolute, and article 2.1 requires that a place of cultural significance be conserved. Article 2.2, that the aim of that conservation is to retain the cultural significance of the place, and article 2.4, that the place of cultural significance should be safeguarded and not be put at risk or left in a vulnerable state.

And the process provisions then provide assistance to decision-makers like the Commission in the development of a policy for the use and management of that place of cultural significance. But that's on the basis that the requirement from article 2.1 is that the place is going to be conserved.

10

So the task for a decision-maker is to then find suitable management – that's in terms of article 6.2. That management involves finding a compatible use for the place, article 7.2, and the retention of the appropriate setting that contributes to the cultural significance of the place – that's article 8.

The policy framework also recognises that the physical location of the place is a part of its cultural significance, so that a work should remain in that historical location, and that's under article 9.1.

20 When article 9.1 refers to relocation as generally unacceptable, unless this is the sole practical means of ensuring survival, that would be read in the context of the charter as a whole, being that the place is still being preserved and conserved. And article 9.3 specifically states that the removal of a work should not be to the detriment of a place of cultural significance. I'll come to the assessment report's use of article 9.1 in a moment.

30 But understanding that the framework properly would mean that the removal of a work or an element of the place like the homestead structures to a different location is to the detriment of the place of cultural significance, and that would be inconsistent with the articles 2.1 to 2.4 of the charter. And as a policy choice, the removal would then be inconsistent with the directions of the charter under article 6.28, 9.1 and 9.3.

The assessment report only really references article 9.1, and it does so out of context. The author appears to assume that the relocation of a work is acceptable as a practical means for its survival, without understanding that the focus of the charter is not on the work but on the place of cultural significance.

40 Removal of homestead structures might preserve some value of those structures – though this is far from certain – but that action would only conserve the limited heritage values manifest in those structures, and that action does nothing in respect of

the cultural heritage values of the place, and I'm going to come to the Abrahams Report in a moment on that topic.

But to much, much greater significance is that allowing the complete destruction of the place is entirely contrary to the conservation principles under the charter, and that doesn't really get mentioned in the assessment report at all.

10 So as a consequence for the IPC, in my submission, the Commission knows that the Heritage Council has a proposal to list the estate on the State Heritage Register, which is in abeyance at the moment. That listing would give effect to articles 2.1, 2.2 and article 2.4, although an approval would clearly prevent that action. But in my submission, cooperation between government departments to facilitate that outcome is a reasonable expectation of the community and my clients.

20 So coming to the way in which the assessment report deals with these matters, first of all, there's no detail on Aboriginal cultural heritage significance. Professor Draper addressed on that this morning. This fails to inform the Commission as to the significant cultural heritage values of the place, and the Commission should be aware that there are Aboriginal traditions arising from and connected to the place, and several of those were detailed by Professor Draper this morning.

MR BEASLEY: Can I just ask you, Mr Seymour, when you're using the term "the place", are you referring to both the location and the structure?

MR SEYMOUR: Yes, the structures in the context of the estate as a whole.

MR BEASLEY: Yes. Thanks. Sorry.

30 MR SEYMOUR: Yes. It is open, of course, to the Commission to inform itself further as to Aboriginal cultural heritage values or traditions that are present in the land and landscape, if it wished. The Commission would also know that my clients had sought to meet with the panel onsite and explain some of the cultural heritage values to the panel on country, and was prevented from doing so by unreasonable conditions being placed on the conduct of that meeting. But the Commission should not be forced to act on incomplete information, and the usual course where there is incomplete information is to refuse an application.

40 But coming back to the content of the assessment report, when it does focus on heritage values, it is unduly narrowing those values to the structures of the homestead, and doing that elides proper consideration of the undeniable traditional cultural values

represented in place and not just in those structures, and indeed which are independent of the existence of the homestead.

But when those values are then able to be taken in combination with those structures, then the place is significant for that interaction between ancient Aboriginal cultural heritage and more modern European cultural heritage, and particularly in the context of frontier establishment and frontier violence.

10 So it is entirely irrelevant that the structures of the homestead are built after the documented period of frontier violence, which is a point made by Mr Donoghue in the report, and again was specifically made by him in his statement to the commission on Friday.

But the latter addition of the structures to the place can't be separated from those earlier events. It is the period of violence and dispossession that creates the conditions for the homestead structures to be built and the connected agricultural activity to then prosper.

20 So the place represents a uniquely important vehicle for future generations to understand reflect upon both the ancient traditional values represented by the place and the heritage values of the place in that clash and violence in the assertion of sovereignty at a frontier.

So the concept of "the place" has to be far wider than just the structures, and indeed the Heritage Council has stressed the heritage significance of the homestead and its surrounding cultural landscape for aesthetic, historic, scientific and social value, so there's support for the Commission in finding that the place is much wider than just the concept of the structures.

30 With respect to the structures, the council has stressed the high and exceptional significance of those in terms of intact fabric, setting, views and meaning, and separately, the council has identified the cultural landscape as having significance for in situ archaeology, Aboriginal intangible cultural values and cultural landscape plantings.

So even if the issue is confined to any values retained by the removal of the structures, that can be seriously doubted.

40 MR BEASLEY: Sorry to interrupt, Mr Seymour. You probably heard the bell there. I'm going to ask the chair to give you an extension of time, but can you just tell us how much longer you might be?

MR SEYMOUR: I was mindful of the bell, so I'm skipping over matters now and trying to come to - - -

MR BEASLEY: Well, I'd rather ask the chair to give you an extension, if – how much longer do you think you'd need?

MR SEYMOUR: I think I could be under five minutes.

10 MR BEASLEY: All right. That's fine. Go ahead.

MR SEYMOUR: Thank you. So in terms of values retained by removal of the structures, which is something that Mr O'Donoghue mentioned on Friday by removal of the structures, which is something that Mr O'Donoghue mentioned on Friday, there should be some serious doubt about that. The proposed relocation of the structures on the farm is in very close proximity to substantial mine infrastructure areas and access roads forming part of the project. The Commission can compare the figures in the assessment report, figure 14 which is at page 45, and figure 30 which is at page 92. As those roads have not been built it doesn't appear that there was any assessment of
20 the potential impact on the structures from those and it's unclear if Mr Abrahams as made aware of the presence of those roads as it's not mentioned in his report.

Mr O'Donoghue said on Friday that the Abrahams report found – I'm sure that his word was “many” – heritage values retained by relocation of the structures. That's wrong or at least would be substantially inaccurate. First, the context of the Abrahams report is important. That firm considered only three options, the program going ahead with no other action and then the two relocation proposals. A project refused option wasn't considered. So the comparison was really between the two relocation options and finding the least worse option but not the best option.

30 Second, neither of the relocation options was found to preserve any Aboriginal cultural or heritage values, something that's not referenced in the report or in the concept of the many values that are retained, and in terms of what the Abrahams report found in terms of values relocated there were two. The historical association of the structures with Dr Bowman, which would exist anyway, and the aesthetic and rarity value of the structure as a colonial bungalow type, but none of the other values of setting, views, archaeology, rarity, any of those, all of those would be lost.

40 So in terms of a historical association of the structure to Dr Bowman and the aesthetic and rarity value of the structure as a bungalow type, they're fairly nominal values. I don't mean to underplay them, but in the context of the wide suite of values that the

existing state represents, those are two very narrow forms of value that would be retained by the option of relocating the structures to somewhere else. The assessment report concludes that such impacts are mitigated by imposing an archaeological salvage operation-type condition. That's at 197 of the assessment report. In my submission, the Commission should not adopt that finding.

10 There's a similarity in the issues to the way the court considered the Calga Sand Quarry, where there was uncertainty in respect of what had been produced in terms of the Aboriginal Cultural Heritage Report and the assertion of, well, what might be there could be conserved and preserved by an archaeological salvage operation, and the court rejected that in the absence of knowing what those values were and how to best protect them. An operational condition that required archaeological salvage is not appropriate. So I'll move very quickly to the concept of balance and I'll address this perhaps in a written submission more fulsomely afterwards. As I've said earlier, it's inconsistent with the use of the Burra Charter to consider that something can be put in opposition to the loss of a place of cultural significance. That's not something that the charter endorses and it's not something that the convention, giving rise to the charter, endorses.

20 In my submission, the impacts on heritage alone make the site unsuitable for the project in terms of section 4.151(b) due to the adverse impacts on heritage under section 4.151(c), and that would make the project against the public interest for the purpose of section 4.51(e). I ask what in section 4.51 of the Act puts a balance against such an unsuitable project proposed on an unsuitable site. In particular, the concept of lost benefits, which is how the assessment report frames the issue at paragraphs 212 to 214 is an incorrect statement as fact and law. It might just be an infelicity of expression but the idea of a lost benefit from a project that is not granted consent is wrong.

30 One point, if I may, Mr Beasley, I'm sorry to take up any further time, but something that arises from the submission of Ms Woods this morning, in particular, on this issue of uncertainty arising from economic benefits, in my submission, the Commission should consider whether there is uncertainty in the science of determining economic benefits given the range of outcomes that's produced by reasonable people doing their best with guidelines. If the Commission was to make that finding then that would call into play the precautionary principle, meaning that the Commission would then be sceptical that there are any economic benefits to put "in the balance".

40 When the impact on heritage values is taken into consideration with the other known impacts being the greenhouse gas emissions, air quality, groundwater and all the matters that the Commission's been addressed upon, in my submission, there's no

question of balance, those impacts are certain and the economic benefits are uncertain. So in my submission, the Commission would not simply say are there economic benefits to putting balance against these known impacts but whether those uncertain, indirect and limited in time economic outcomes could ever be worth the scale of extent of the negative impacts inflicted on the community, particularly viewed with the concept of intergenerational equity that would insist that a rare and exceptional asset like the estate and the country of the Wonnarua be preserved for future generations. Those are the submissions. As I say, I would like to address the Commission in a more detailed written submission if that's possible.

10

MR BEASLEY: Sure. Thanks. Can I just ask you a couple of questions? And this could be me, not you but I'm not 100 per cent sure I understand your – I certainly understand your submission that the Commission's got to look very carefully at the economic benefits here when there is such disparity between two expert reports, you know, like at least a billion dollars, but I didn't quite understand how the precautionary – my understanding about the precautionary principles that's really dealing with threats of environment harm and a lack of full scientific certainty about those threats causes a particular approach. How does that apply to economic benefit analysis though?

20

MR SEYMOUR: Yes. In my submission, it's a tool for decision-makers when they are confronted with material that might throw up very different outcomes based on very different methodologies. So it's adaptable. Beyond the concept of environmental harm that it is adaptable in the context of decision-making to say if I've got a fixed methodology, that is the guidelines, but it's capable of producing such a disparate variety of outcomes, of people doing what they think is best, then that's an example of the scientific uncertainty that the principle attaches itself to which then just means that the decision-maker shifts to a position of being sceptical. With environmental harm you assume the harm is going to occur. Here, in my submission, adapting the principle would mean you assume that there are no project benefits unless there can be brought to bear better scientific certainty around the thing that is being measured.

30

MR BEASLEY: Okay. And just so we're completely clear about your submissions, just dealing with Aboriginal cultural heritage first, and I'm necessarily being, summarising everything here for time purposes, but in summary form your client's position is that in terms of Aboriginal cultural heritage both the homestead and the place, the location, are significant matters for Aboriginal cultural heritage and that severing the building structures from the place, the location, would be damaging to that.

40

MR SEYMOUR: Yes.

MR BEASLEY: And that that issue alone, you say, is a sufficient ground bearing in mind the other impacts and whatever the benefits are, are sufficient ground alone for a refusal of the project?

MR SEYMOUR: Yes. Yes, that's right, although there are levels within levels. So the primary - - -

10 MR BEASLEY: Understood. We'll end up with another 15 minutes if we – and also do I understand that you place impacts on European heritage in relation to the building itself and the irreversible impacts of, for example, moving this homestead somewhere else – to Broke, perhaps, or whatever else – that alone, leaving aside Aboriginal cultural heritage impact, is also a sufficient ground for a project refusal?

MR SEYMOUR: Yes, if you use the charter as the standard.

20 MR BEASLEY: Yes. And can I ask you one more question. I don't want to put you on the spot, so if you haven't been briefed on this, you can say EDO will get back to us or whatever, but as I understand it from earlier today, Associate Professor Draper indicated that he had been commissioned to do another report on Aboriginal cultural heritage. Is that your understanding?

MR SEYMOUR: I think for the purposes of today that is what he was reading out.

MR BEASLEY: All right. Whilst it hasn't been commissioned – sorry, while it hasn't been considered by the Commissioners, there is a report that is called the Leo Report that has been prepared for the Federal Minister - you're probably aware of that.

30 MR SEYMOUR: I am.

MR BEASLEY: Is that something that's no longer necessary for consideration by the Commissioners, given that they're going to get another Aboriginal cultural heritage report from Associate Professor Draper?

MR SEYMOUR: Well, it, of – sorry, that is, any further report from Professor Draper won't have time to be as detailed or considered as the Leo Report, so in my submission no, the Commission should still attempt to have regard to the Leo Report.

40 MR BEASLEY: Again, you might want to take this on notice, but could that be cured by giving Associate Professor Draper – by the Commissioners giving an extension of time for him to take some further time before he supplies his report?

MR SEYMOUR: I'll have to take instructions on how long it will take.

MR BEASLEY: I'm perfectly happy for you to do that, but if you could pass that on for consideration by your instructors and your client. Just one further thing – you mentioned it, and I don't know the details of this, so I just want to try and flesh it out for the purposes of the public hearing, so everything's transparent – you mentioned that your clients wanted the Commissioners to go on a site visit with them?

10 MR SEYMOUR: Yes.

MR BEASLEY: And that there were some, in your words, unreasonable conditions placed on that. Were they – leaving aside whether they're reasonable or unreasonable, because I don't even know what the conditions were, but were they conditions sought by Glencore rather than the - - -

MR SEYMOUR: Yes.

MR BEASLEY: Yes?

20

MR SEYMOUR: Yes.

MR BEASLEY: Okay. All right. And was there something that was particularly aggrieving to your clients about the conditions?

MR SEYMOUR: It was actually the finding of the Commission, as I understand it, that the conditions were unreasonable in the sense that they interfered with the Commission's usual functions.

30 MR BEASLEY: Right, okay. All right. Thanks for that. I'll just see if any – no, no further – sorry, Commissioner Barlow actually has a question for you, Mr Seymour.

PROF. BARLOW: Yes, thank you, Council. Mr Seymour, and you may well have covered this very well, I'm very interested in the question of the – not so much the Bowman House, and I think you've made that point very well, but the Bowman Estate, as a sort of frontier estate in that part of the Hunter Valley, which ultimately led to a confrontation with the clans of the plains, is that a key point to Aboriginal heritage, so that even if you move the house, if it's not associated with the estate, that that Aboriginal heritage is lost?

40

MR SEYMOUR: Yes, that's right.

PROF. BARLOW: Thank you.

MR SEYMOUR: Yes. It's those structures in that place, and that place as a location of the establishment of the frontier, given that it was one of the first land grants and one of the most northern land grants, so the establishment of the frontier, and then the conditions of that which give rise to the frontier violence that we know occurred, and that Dr Dunn specifically notes, creates multiple incidents on this site, and then that violence creating the conditions that enabled the erection of the structures, so that it's
10 all connected.

PROF. BARLOW: Thank you.

MR BEASLEY: Sorry, I just had one more question for you, and it's a two-part question, but I'll allow myself that indulgence, because no-one is going to object, but – and again, I'm summarising, but obviously in the materials before the panel, there's an issue about a massacre and precisely where it occurred, whether it was near the homestead, right near the homestead, or in the region. How do you suggest the panel approaches the decision-making process about that, and does it, regardless of where
20 they land, if they land in a particular decision, does that alter your main submission that, in any event, that even if the massacre was in the region rather than the homestead, but there are still issues of such significance relating to impacts on Aboriginal cultural heritage, you still say the project should be refused?

MR SEYMOUR: Yes, I think I can answer that. When the records are examined or – it's unclear what the purpose of the inquiry into the location of particular massacre serves as one incident amongst several months of activity. In any event, my understanding was that the submissions that were made, amongst other things, by my clients is that the place represented a staging post for that activity, and that seems to
30 have been lost in the analysis of whether the action actually occurred on the estate.

And it's undeniable, when the governor's despatches are reviewed, that amongst other things, when that party – when the mounted police returned from that action, there were troops – there were police stationed at the four estates, including the Ravensworth Estate, so it clearly was a staging post.

MR BEASLEY: Yes.

MR SEYMOUR: And the circle and the 20 miles and all that activity, it's entirely
40 unclear what that serves when it's undeniable that this was the location of several discrete events. And that Dr Dunn makes the specific point that this wasn't a series of

random actions occurring along a wide concept of a frontier. These were specific and they were targeted, and there was specific return to the Ravensworth Estate.

MR BEASLEY: Thank you for that. I think that's all, so we're – the Commissioners will look forward to receiving your written submissions as well.

MR SEYMOUR: May it please.

<SCOTT FRANKS, PLAINS CLANS OF THE WONNARUA PEOPLE

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MR BEASLEY: Thank you, Mr Seymour. Now, next speaker is Mr Franks, Mr Scott Franks, representing the Plains Clans of the Wonnarua Peoples. Mr Franks, are you there?

MR FRANKS: I am, Commissioner. Thank you for everyone this morning, and I'd like to say "Inagoonya coorang," which is Wonnarua for "Welcome to our home in the bush." I'm actually on Gadigal country in Sydney today.

20 Look, I'd like to open – I've thought about what I was going to say today, and every time I hear people speak, it changes my way of thinking of what I need to say. So what I'm going to do, I am sixth generation Wonnarua. My grandfather was Billy, photographed at a – you know, he's one of the Elders known up there, was born on the estate that we're talking about today or just over from it.

What a lot of people don't know is, I am also an ex-Royal Australian Armoured Corp Member. My service number was 2306614. I spent a considerable amount of time wearing an Australian camouflaged uniform for this country to preserve what this country stands for.

30 And one thing I've noticed today is all these comments and speculations about the theatre of war and how it's conducted, but I've never heard once from an expert who has been brought here to talk about the theatre of war and what it means to people.

One of the other things is the Royal Australian Armoured Corp, which is tanks, armoured command vehicles, is the mechanised development and evolution of the Australian Light Horse. My squadron was actually B-Squadron, and its patriot commandant was Chauvel, who ordered the attack on Beersheba using Australia Light Horse for the first time in the theatre of war.

40 Those attacks were borne from constant – sorry.

MR BEASLEY: That's all right.

MR FRANKS: My whole family was Light Horse, even the ones that are still buried today in the battlefields of France. Those attacks were designed, back in the day by the Australian Light Horse, and we all know Breaker Morant and what he done, how he disobeyed an order and took the lives, you know, of prisoners. Australian Light Horse was developed to charge based on what they'd learnt from inland warfare in the early days of colonisation across the world, not just here in Australia. We have British cavalry, we have Australian Light Horse. Australian Light Horse charged Beersheba and without a doubt put the fear of their God into the Turkish Army by showing a force that would run and run at you hard to drive you into ground.

Now, one of the things that really surprises me was – sorry, a comment that was said on Friday that's really bothered me all weekend and it was about how this battlefield happened nine miles from the homestead. Alcorn was a prisoner, to my knowledge, who would never have been allowed to leave the homestead or the thousand-acre block that was granted to Lethbridge or Bowman, he had to reside on there as a condition of his upcoming pardon and I think there's a lot of confusion based on old maps. There was an Alcorn family approximately nine kilometres or nine miles from the homestead that was descendants of that family that is now under Lake St Clair, it was the next property three up from our family property. But what I want people to focus on today is this, and especially Glencore when they're talking about the theatre of war, the US never got involved in the Second War World until Pearl Harbour was bombed. As soon as Pearl Harbour was bombed, the theatre of war with the Pacific Fleet reached the globe.

To sit here and say that British cavalry, British soldiers, British marines and British police stayed within the thousand-acre block from a staging point is ridiculous. As we even look today and pay homage to the fallen Anzacs at Gallipoli, we all forget that the Royal Navy shelled the beachline from the coast. It was a beachhead to allow the fighting force to move in. It's a staging point, even today – and I went through this, all weekend I was looking at the Battle of Beersheba with Chauvel, right through to the attack on Pearl Harbour, you know, to our figures in Vietnam where they were trapped in the rubber plantations and the heli support from the Iroquois couldn't come in to land extra troops. So a battalion that's been named now at Singleton Army Camp with its pride sits there and those troops survive today because my regiment was called in with its armoured vehicles to run the VC into the ground because our SLR or 5.56 and 7.62 ammunition couldn't cut through the rubber plantations. To have somebody who manages a mine to sit in front of a service personnel is appalling and talk about how war is fought.

Glencore have staged an attack on my people, not only in closed doors but to suppress information like an enemy invading Ukraine today. They've tried to take my voice and move it, a voice that's been granted to me by my people, the Wonnarua. They've even tried to humiliate me in the media. On the 5th of November they paid for an article challenging my authority as a Wonnarua person and an elected person of my people to speak. They've dragged myself and Robert Lester, the other authorised native title claimant, into court to challenge the section 10 saying we're not Wonnarua because we haven't got a native title determination; yet, this same mining company signed an agreement under an ancillary agreement and a D31 for native title to accept
10 both Robert Lester and I are the actual rightful traditional owners of the area.

All the stories I've heard since Friday from everyone presenting in the opposition to what we're trying to preserve here is based on financial gain and self-profits. Singleton Council have a motion moved by a councillor whose brother works with Stewart Ewen to promote and move the homestead to Ravensworth – sorry, to Broke, McNamara Park. So we have family moving the homestead, trying to move it through council. Council haven't disclosed that council elections have been forfeited by a High Court ruling on Friday and they've got to go back to the elections. Glencore Coal haven't disclosed the very essence of the critiquing by Dr Keldof Kroof from
20 University of Adelaide tearing apart the Casey & Lowe and Glendell assessment, in quite detail how they failed to assess the importance of the area and there's been this God Almighty push to stop the section 10 from being revealed. How devastating.

An independent person engaged by the Federal Government of Australia, the Crown, how dare they engage an independent to question paid consultants. I'm going to read you something. I would like to invite the interested parties to work together constructively to ensure that the Indigenous cultural heritage of Ravensworth and the surrounds are appropriately recognised and protected. Full stop. If there has been no advancement by stakeholders by the 28th of February, 2022 I will consider nominating
30 mediation under section 13 of the APTAS Act for a resolution. That is statement from the Federal Minister for Environment calling on both PCWP and Glencore Coal to go to mediation and resolve this. Glencore refused.

Glencore haven't disclosed to you that over the last 20 years of all the surveys that have been conducted by all the registered Aboriginal parties collectively reviewed in a very systematic approach which is required here, demonstrates that every RAP, every Registered Aboriginal Party that's been registered on this project at some stage have declared the Ravensworth Estate as culturally significant and should be protected to the point when the Ravensworth Mine was approved Wonnarua Nation Aboriginal
40 Corporation along with Elder Tommy Miller, blood descendant of Wonnarua Nation, formulated a petition that was lodged with the Minister for Aboriginal Affairs and

Gary Davies from OEH declaring that all work must stop and the protection of Ravensworth East should happen because it will have a catastrophic impact on the Wonnarua and Wonnarua People into the future if it's destroyed.

10 All this has been hidden by a foreign-owned company prepared to challenge a black person's Aboriginality because his skin is not black. I am sixth generation Wonnarua, I've been elected by my people and the truth of the matter is the movement of this homestead to McNamara Park will further embed and distil the hostilities towards my people by allowing a family who are the descendants of the destruction of my people's
10 culture have the final say to remove our footprints from the lands we all walk today and it is Wonnarua – Wonnarua which means people from the hills and plains. I implore on the Commissioners to put to bed this attack by a foreign-owned entity, Glencore Coal, where you're dealing with an organisation that has no regard – even its own advertisement for the flood victims when it made a donation the other week made a statement that it respects and accepts the importance of the First Nations people of this country; yet, here we are today fighting to protect an area where heavy cavalry ran my people's women into the ground.

20 Whether Glencore continue – and I'm just shocked, to be honest, I've known Glencore for about 10, 20 years since they evolved and this is the first time that my mob have said no to a mine. The first time we supported them, we've been promised remediation being done, our land, you know, looked after and that. I call it creep, final creep and it's when the mines convince everyone that they're going to look after the land in perpetuity but over time they actually do a modification to destroy it. You know, this particular area is incredibly important, it's the only landscape left intact, as I've said before, but more importantly, I really think Glencore have tried to confuse the Commission and everyone else about what the theatre of war is, and maybe the Commissioners need to reach out to Colonel Cosgrove, even though he's retired, he was my commandant at one time, that's how long ago I was I carried an SLR and
30 walked around and drove a tank. The truth of the matter is the theatre of war is never where it starts, it's where it ends, and that's what's happening here today. If we don't defend Ravensworth, our war is over for the Wonnarua People. It can't go to, or the homestead can't be moved to Broke. The reason it's being promoted to be moved to Broke is for financial gain and greed. The essence of our people are of the land, for the land for future generations. We don't sell our heritage and that's what Glencore proposed to do here, a very unique symbiotic location that attaches our cultural laws and customs into the next generations that should be an area of reconciliation. If there was ever a place that needs to be preserved, it's the Ravensworth Estate. It's a place that attaches to the First Fleet with a surgeon who's very well known and an officer.
40 It's the beginning and the end of what life to us as Wonnarua people means in that area and it still today holds deep dark secrets that are trying to be forgotten.

I do impress on the committee to review the section 10 and its recommendations. I've been asked not to comment on what those findings are today and I will do that, I won't comment, but I strongly recommend that the IPC review the report that was denied by Planning, which was so instrumental to giving a clear unbiased independent assessment of that area and its findings. That's what key to here, the Leo Report was independent and the reason it's not been here today is because one side did not like the outcome and the recommendations. I think I've probably said enough as I can without getting a bit more emotional because it has been, it's been a long time fighting this battle, it's been a long time having my Wonnarua voice taken away from my by a mining company. It's been a long time allowing our people to heal, and if there's ever a call for intergenerational equity and reconciliation for the Wonnarua people, it's Ravensworth Estate. It's not here in Sydney, it's not out at Bulga where the mine have built a temporary tin shed to put all our artefacts on. It's to leave them in the paddock at Ravensworth for our people to conduct a proper ceremony to allow our fallen to move on with Kwhale so our people are no longer tormented and harassed. So that's what's been happening whilst this is not settled.

So I'm going to finish there, sorry for getting a little bit emotional but it's been a hard weekend trying to, you know, I had a lot of information in and I thought I'm not going to waste anyone's time with that because it's meaningless. What needs to be considered today here is one thing and one thing alone – are the people of the Wonnarua that were slain in those paddocks call for protection not going to be answered by the Independent Planning Commission. An independent commission that's supposed to make a decision for what's best for the future. The future we have looks pretty bleak if the Glendell Continued Operation gets approved – we will have nothing left for our people to go to. I did hear, you know, Mr Bonds. He hasn't seen any blackfellas turn up on his mining site. Well, I tell you, Mr Bonds, you're a One Nation member, you live off grid actually, so the electricity doesn't affect you that comes out of Liddell and Bayswater, but you lived in a shed on that property while my mob were walking up and down that creek fishing and netting late at night, sneaking around your property. I did that as a kid and I'll do it again today because those creeks are my bloodline. Thank you for listening to me.

<MARIA COTTER, PLAINS CLANS OF THE WONNARUA PEOPLE

MR BEASLEY: Thank you, sir. Thank you for that. The next speaker is Maria Cotter, who's also from the Plains Clan of the Wonnarua Peoples. Are you there Miss Cotter?

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MS COTTER: Yes, I am, Commissioner.

MR BEASLEY: We can hear you and see you so go ahead.

MS COTTER: Right. Thanks very much for giving me the opportunity to talk to you today. I'm a little bit nervous and challenged by this opportunity in that that I'm not as eloquent as Mark Seymour or perhaps as impassioned as Mr Franks. I come to you firstly from the lands of the Anaiwan people and I want to pay my respect to the people past, present and future, and obviously I'm talking about the Wonnarua. I'm doing so, I guess, as I said, I'm speaking for the Plains Clan of the Wonnarua People
10 on the basis of past research I have and, and continued connection I have with the Wonnarua, but, but I must stress that I am not being paid for this by anybody and that I do so because I recognise from the start of the sort of research that I've done with the Wonnarua that this place and its values are of national significance and we should be looking to preserve them.

I do have a power point and I'm not going to do it all and I'm hoping that I am able, in fact to provide a written submission where some of the immense data that I have can be better articulated to you than I'm likely to do in 15 minutes. I apologise – I won't be looking directly to the screen because I have two screens here and the one on the
20 side has the PowerPoint. So if I can just share the screen. Sorry. And - - -

MR BEASLEY: It's starting to work, yes, we've got the cover page there.

MS COTTER: Right and I'll just go from the beginning. Again, you've just heard Scott talk about the Light Horse and I just make mention of this. This is the photo of Alistair Lester, one of the two Lester boys who Robert Lester, who is the other Native Title claimant spokesperson, is a descendant. Alistair and Augustus Lester died in First World War both in 1917-18. And they are basically from the Land of the Wonnarua, but before I get onto speaking more of them particularly I think there are
30 really, when it comes down to it what I want to address in this submission, public hearing space, are three things.

One is, what is best practice cultural heritage assessment and do we focus on sites, whether they are historic buildings or whether they are Aboriginal artefacts et cetera or do we consider cultural landscapes and those things that are not limited by tenure or development proposals? And I'd suggest to you that best practice, as is followed by OEHL in all of its national parks, is to look at cultural landscapes and not to look at mere sites or indeed the fabric of a building without its context.

40 And it's not just its physical context but it's its social context, and in fact when we talk about cultural landscapes we talk about, if you like, a layered view of the world in the

sense that at Ravensworth there is still evidence of, obviously in and around it, the rivers, the environment that has many geological time scale to it, over which you have the Aboriginal cultural heritage at the time of whitefella invasion, for want of a better word. And then you have what is now, still I suggest since the white man's invasion, a landscape which is contested terrain and in fact, also I think whilst some of us look at the aesthetics of a dirty great hole in the ground, which is the mine and its associated change of the landscape, what we're not actually look at is the representation of that as an intersection of what is happening between Aboriginal cultural heritage now and what has happened in the past and what has happened in the future. What are we to tell our children and grandchildren into the future about what the heritage of the Hunter Valley is if we don't show in its total the landscape in total including, if you like, the juxtaposition between the heritage buildings of Dr Bowman's, the mine infrastructure on the site and the Aboriginal cultural heritage. But I also then want to talk about what is a massacre, because I, I am a, I have looked at this place in detail, and it is very true that Ravensworth Estate and the surrounding is the epicentre of both the Aboriginal cultural heritage values for the Wonnarua people, but also the epicentre for that contested colonial terrain. And when we look at it, there are a number of explanations as to what the massacre is, and we certainly are all aware of the posse of people that chased after a group of people and reported to kill them somewhere within 20 k's.

One of the challenges I've found, and I again probably need to put it in a submission, that as an Aboriginal cultural heritage specialist, there has been an untruth told in all of the heritage assessments to date because what they do in all of them is to say that "Well, there was a massacre here, there is this evidence, we don't know where it is, but somewhere and everywhere or nowhere this massacre has occurred." And then from them we have, usually it's made reference to Major Mitchell walking through and saying that he's seen very few Aboriginal people in the landscape. Aboriginal archaeologists then say, refer back to the massacre and say, "There are very few, very few people there now. They were all killed off in that massacre." What that does, and particularly to the Plains Clan of the Wonnarua People, make it seem that it can only be a generic Aboriginality that has any relationship to the stones, the bones, the landscapes that's there because everybody was gone. My experience of working with the Plains Clan of the Wonnarua People for three years, 2011 to 2004, and my prior experience working for the Office of Environment and Heritage as a regional archaeologist, has me firmly of the belief that the Plains Clan of the Wonnarua People have clear and absolute evidence of connection to the place we are talking about, the Ravensworth Estate. It also has me believing and convinced that we have got to be telling the truth when it comes to the heritage and the story that is there, and that story cannot be told by removing a building and placing it somewhere else and making my

interpretation of that. It has to be told in the place that it, that it has occurred, and with all the associations that are around it.

And I guess I will try and run through a few of the slides. So I also wanted to emphasise, these, the Plains Clan of the Wonnarua People are, many are people that have died, but what they have if you like, and I want to frame it in this way, if we talk about – and we do talk about the frontier violence that occurred, we also talk about the views that we know of these people that were memorialised as heroes because of their loss of life in Anzacs, those Aboriginal men from the Ravensworth area. And I'll just, sorry, trip through a few slides here. But basically I just – sorry, this is going to go too slow. I didn't know it was all – back here. These are some of the sites that I again, in 2013-2014, highlighted as places in which there is deep association in and around Ravensworth without looking at, in any more detail at the Ravensworth Homestead again. But some of them, like, Camberwell, have an 1856 document that highlights the marriage of Hughes, Matilda Hughes, to, who's an Aboriginal woman. And that's there in that place. That's the document. She is a 24-year-old person getting married in 1856, and on the document it says her mother is "Mary, Aboriginal". These were people that were there at the time of these massacres or there and about, and they are the descendants, antecedents, sorry, of Robert and Mary, Robert Lester, Maria Stocks, et cetera, and Scott.

And the things is, let's, let's look at how we might look at Ravensworth if we look at it from an Aboriginal cultural heritage perspective and the focus on Bowman. One of the things that's interesting in that is, yes, we know he was a First Fleet surgeon, but on the same – or a surgeon in those early colonial times. He came out on the same boat that, from which Mr Franks gets his surname, the white convict that came up. And again, even telling that story is a much more truthful story to say that it's all black and white. There are colonial stories. There's an intersection of Aboriginal and colonial stories. There is the story with which Bowman and his colleagues are writing to the government requesting martial law. They are at the focus of that fight to have their lands cleared of the Indigenous community.

There are several different spots on the landscape where people interacted and were killed on and around the Bowman Estate. And equally, when I get back, as I said, to that word of "massacre". A massacre at the moment is defined by some university academics in Newcastle as being something that occurs if you have up to six or more people died. That is actually only used as convenience for the researchers. The Oxford English Dictionary, and I commend you to have a look at it in terms of "massacre", highlights the fact that a massacre can be the brutal murder of just one individual. It doesn't require it to be six or more.

And so, and I'll try and get quickly down here to the point that I'm trying to make, which is a – well, here it is. “Several petty robberies on single individuals whilst travelling along the long and lowly road from Dr Bowman’s. Dr Bowman’s stockman was attacked and stripped. Two of Dr Bowman’s fences were attacked while at work in the bush by a body of blacks. The party of mounted police reinforced, succeed in taking one of the natives who murdered Dr Bowman’s watchman.” This is the place where the Aboriginal community, the Wonnarua, were fighting for their country on Dr Bowman’s. It was the epicentre of that spot.

- 10 Equally, we have this description from a Mr John Larnach, reporting back on part of the thing of the events on and around the investigation into the massacre. And it says, “This black was a very singular formed man and the soldiers had taken him from the description that was given by the fences before he was brought to Dr Bowman’s to be identified. The body of this black was hung up by the men on the farm as a terror to the other blacks.” So irrespective of the massacre, which we cannot place or choose not to place on the Bowman Estate, that is a massacre of an individual. And not only is it an individual, it is an individual who is the antecedent of Scott Franks and his family. And we mustn’t forget, as I know when, for grief, that it is a personal loss to them. It’s not as, as the researchers who give this number of six quantify it, as
- 20 something distant and distinct from them that we can research and highlight a broad horror. It’s personal. It’s individual. And one final thing, and I have heard the bell, but one final thing is when you investigate some of what happened at James Bowman’s property, there is a record of a Jackey Jackey being removed from Bowman’s Estate, taken to Wallis Plains, which is now Maitland, and a record of him having been taken behind the police station there and shot. Surprisingly, then, that man, the person who shot him, Lieutenant Howe, was actually taken to court and tried for that murder. He was found not guilty, but in that process it is the first such case. Now, I don’t want to get too hyperbolic, but with the, Kumanjayi Walker being the 500th death in Aboriginal custody, and also recently with the policeman that got off,
- 30 one can only try and understand the significance of Bowman’s Estate to the wider Aboriginal history, as a place where we tell the truth about what has been happening in terms of their intersection with the military, police, white Australia since those early colonial times. And thanks very much.

<IAN NAPIER, HUNTER VALLEY WINE & TOURISM ASSOCIATION

MR BEASLEY: Thank you for that. Next speaker is Ian Napier from the Hunter Valley Wine & Tourism Association. Mr Napier. Are you there, Mr Napier?

- 40 MR NAPIER: I am. Can you hear me?

MR BEASLEY: Yes, go ahead, sir. We can see you as well.

MR NAPIER: Good morning, everyone. My role is to provide information from the Board of the Hunter Valley Wine & Tourist Association to external committees, government, et cetera, in relation to a number of things, and this clearly is one because there is a proposal that we support to move the Ravensworth House from its current location to the park at Broke. So I have four points and I'll go through them fairly quickly. Firstly, if the mine is to be approved, then the current site of Ravensworth House will become unviable due to the dust, access considerations, explosions, et
10 cetera. And so no one in the community would have access to it. Second point is really a subset of that. If the government approves moving Ravensworth House to somewhere else on the mine site, then that will also hinder access for the community and also suffer from a long-term issue of becoming unviable as the mine declines.

Clearly there is an argument over the heritage value of the site, and I can see that there are two Aboriginal groups involved in this, the Wonnarua National Aboriginal Nation, Aboriginal Corps, and the Plains Clan of the Wonnarua Nation. I frankly can't make any comment on this and leave it to the Commission to form their own view. My
20 comments go more to what happens if the Commission decides to pull out of the expansion of the lease and if they agree that the Ravensworth House could be relocated.

Again, I mention that we support the proposal to move Ravensworth House to the Broke Village and allow it to become a centrepiece of both tourism and community activity in Broke Village. We, we recognise the value of coal in the Hunter Valley, and we see that it can be expanded when it is constrained to existing mine areas. The economics of coalmining and the environment will determine how big that expansion might be, but we see it's important to constrain it to areas that are currently underdeveloped or next to areas that are under development. To show balance, we
30 will not ever support the creation of new mines, such as the one proposed by Yancoal near the Broke and Hermitage Road area.

We see great economic, community, long-term preservation benefits from disassembling the homestead and moving it to a new location and forming it as a community and town asset that can be used for a combination of purposes. Thank you.

<DEIDRE OLOFSSON

40 MR BEASLEY: Thank you for that, sir. The next speaker we have is Deidre Olofsson. Are you there, Ms Olofsson?

MS OLOFSSON: Do you want me to start or - - -

MR BEASLEY: Are you there, Ms Olofsson?

MS OLOFSSON: Yes.

MR BEASLEY: Okay. Please go ahead.

10 MS OLOFSSON: Okay. No worries. I'll start. The Glendell Continuation
Operation. Dear IPC, thank you for the opportunity to raise concerns related to the
Glendell Continuation Project and Modification 4. To make it clear, I object to the
recommended approval by the Department of Planning on these grounds.

One, biodiversity offsets. The EIS document related to the biodiversity offset. Please
take attention to the figure 1.2 and 1.3 related to the term "existing Mount Owen
Complex biodiversity offset area". The public was not provided information related to
these figures, which prevented them from making an accurate assessment of the status
of the existing biodiversity asset. The figures have also possibly influenced the
20 perception of the public that the proponents had met all the goals related to obtaining
biodiversity offsets. Clearly, this could influence the Commission or mindset of the
public relating to this biodiversity offset.

Fact, just under the state forest is the travelling stock reserve, which is Crown land
which has been displayed as an existing biodiversity offset. An email I received from
Crown Land in May 2021. This is the quote from the inside of the email. "Crown
land parcels 7001-93635 and 7302-1132839 remain reserved R89694 for camping and
travelling stock unaffected by any biodiversity offset. There is no request from the
mining industry to use this land for a biodiversity offset. The process for consent to
30 biodiversity offsets on Crown land is outlined below. Any application for biodiversity
conservation (not transcribable) which would generate offsets on Crown land would
need to be considered on its merits in line with the Department of Biodiversity
Conservation Agreement on Crown land policy."

Next part. This is not in the email. Biodiversity credits. On last looking at the
website on outstanding credits requirements raise extreme concern can this be met in a
realistic time frame. Could the possibility that species of lizards could become extinct
prior to do the request to that extension to acquire. With impacts from (not
transcribable) managed conditions and destructions of ecosystems, this would be a
40 major concern. Also, the impact from fires and floods in the last years, how much of
our fauna and flora has been impacted or lost completely? The other concern, how

much area was biodiversity asset under this agreement? Before we destroy another area, we need to take stock of the fact of what biodiversity offsets we have.

Next part is water. Now, with the notification of the closure of Integra Underground in 2022, which contributes water under the Greater Ravensworth Water Entailing Strategy. I've quoted a part from the 29th of April, 2021 meeting minutes relates to the underground on the water to the system, which also is part of the Glendell Project.

10 I note that this is a quote that "IUD's water licence is for 950 megalitres of ground water allocated and the mine had only used 116 megalitres. Included in the groundwater intake is from the pit or from the extraction bore. Please be advised this was groundwater intercepted by mining so it's not from the bore, rather, coming into the mine working. Deidre Olofsson asks if the closure of the underground will affect the water requirement across the DRAWTS. CP indicated this is the case and will be part of the closure plan process." End quote. The closure of the underground important impact the available water supply for the needs of the complex. This is not part of the quote.

20 As drought and in the services over years and this state has seen many droughts and water taken from regular surface streams will have major effect on other industries to survive. By not approving this project will provide more water to the system for the transition of the Upper Hunter and Hunter to a changing economy and creation of new industries.

Next part is employment and transition and environment. Department of Planning has stated the reason for the approval is the continuing employment of workers. Please take you to the comments from Glencore in the Newcastle Herald report on the 3rd of November, 2021. This is part of the report. "Mr Gerard said that with the approval of the Glendell Extension once confirmed Glencore has decided to manage its own
30 workforce at Mount Owen once this Thiess contract expires in December 2022 and shift Glendell workforce to Mount Owen. Glendell Mine is scheduled to wind down in 2023. This decision can provide ongoing employment opportunities and provide sufficient time for current Thiess workforce to consider their future options." That's the part of the Newcastle Herald report.

So the employment has already been sought and organised. So the issue of continual employment has been looked at and the transition process has been triggered. As any other contractor understands, the hard reality is that contractors not only suffers, contractors need to look for other employment. This is not just isolated to mining but
40 all industries and businesses across the country. Understandably, transition is now part of the Hunter economy. Closure of coal-fired power stations is inevitable. This is

difficult times coming for many of my colleagues in the new employment market. There is no choice, we must transition, educate ourselves for a green energy market.

Looking at the independent economic report, the concerns of the feasibility of this mine in the future for employment are undetermined is a concern. So, therefore, employers will have, will have work, Mount Owen Complex, but ultimately, they're responsible to ensure that they have a plan to transition and organise (not transcribable) to meet their obligations. Is there something there?

10 MR BEASLEY: It's all right. One minute.

MS OLOFSSON: Oh, okay. Now, environment. Now, looking at a report down in 1981 by National Geographics, a special report and public interest energy facing had the problem of getting down to solutions. It's safe, coal is an abundant resource, abundant problems and environmental concerns recognition of mine sites, potential change in global climate caused by (not transcribable) and carbon dioxide by burning coal. Another quote. "As soon as big business figures out ways to put a meter between the sun and the consumer, it will probably solve the energy problems." This is now the transition process we are facing now in 2022 and beyond. These are hard
20 facts and the change is inevitable. No matter personal views or matter, we, we know the facts, we are accountable for the impacts of the environment and future to maintain new economy for the future, and probably for the Hunter Valley digging bigger holes is not change we need. We need other industry to continue (not transcribable) of the valley.

And Ravensworth House. I was totally floored by the Department of Planning (not transcribable) homestead to provide two options which only suit the proponent, destroy heritage value of the Ravensworth Homestead and degrade the heritage significance of this state in Aboriginal history. Heritage will provide economic value
30 to the economy for future generations incorporated under the industries at a destination at Ravensworth, not anywhere else. It is Ravensworth Homestead, not Broke. Now, if losing (not transcribable), disturbing land with economic value of zero is this the future generation in value, but an economic strain on government budgets. These will require continual monitoring, repairs for (not transcribable) ensure health and safety of the public, retention of pollution to water ways and aquifers. This has been raised so many times, yet we still stick our heads in the sand on these matters, rather than look at a problem other nations are experiencing. Thank you so much.

40 <TIMOTHY DUDDY, HISTORIC HOUSES ASSOCIATION

MR BEASLEY: Thank you, Ms Olofsson, for that. Next speaker is Mr Tim Duddy. Mr Duddy, are you there? We can see you, we can't yet hear you.

MR DUDDY: Here we go, yes.

MR BEASLEY: We can hear you now as well.

MR DUDDY: Very good. And I've got a presentation that I will put up in a moment. Good morning, Commissioners, or as it is afternoon, thank you for allowing the
10 opportunity to address you regarding the raft of heritage issues surrounding the Ravensworth Homestead complex with the proposed extension of the Glendell Mine. I'll just screen share here, I'm sorry, and we will go to animations and then we will go here and we will go share screen. Here we go.

MR BEASLEY: Yes, we've got that now.

MR DUDDY: Excellent. My name's Timothy Duddy and I've been working in heritage historic houses legislative framework for about 15 years. I've also led a significant community campaign against mining on the Liverpool Plains and have
20 spent much time in the Hunter region and witnessed the development of mining over the last 35 years and as a strange aside, Robert Boyle, my great, great, great grandfather was the neighbour at Falbrook and worked with the Ravensworth Estates. I have seen firsthand some disastrous outcomes for heritage in the mining industry. The blame cannot be entirely laid at the feet of the mining industry, it is also the regulators and decision-makers who have not given sufficient framework, understanding or the will to provide for the heritage.

In the case of Ravensworth Homestead complex we're talking about a salvage project, we're talking about salvage of this project, not a heritage outcome. When I first was
30 made aware of the extension proposal and the potential relocation of the homestead complex, discussions took place with and I pressed the need to assemble a heritage team to work with the salvage of Ravensworth Complex, ensuring much better outcomes than would have otherwise been possible or contemplated, having seen firsthand the Wambo Homestead now deemed a managed ruin, which was compromised because the lack of foresight of the heritage regulators to allow any changes. Sumiseki Mining wanted to install air-conditioning in the historic homestead, and the authorities deemed it was not a suitable modification. What happened was it ultimately led to its demise and the property now became a managed
40 ruin.

But that was then and this is now, and in this case the proponent, Glencore, engaged me to assist them in capacity of a heritage consultant, and I've been working with this project since February 2018. As part of the preliminary work, we consulted extensively amongst the colonial architectural specialists to discuss the possible methodology that would ensure that important aspects of these buildings could be salvaged and preserved for future generations, allowing relocation. Make no mistake, the current Ravensworth Complex, as you can see here, is a rare and unusual convict-built colonial relic that is a significant place in the early development of the Hunter Valley. Much of the property's recorded history survives in our national private
10 archives. James Bowman's connection with the Macarthur family of Camden Park, which his brothers-in-law, William and James, taking over his debts of properties in an attempt to salvage his fortune after the financial collapse of the 1840s have meant that the archives that survive are extensive. In brief histories that have been penned as part of the earlier mining developments by respected local historian Cynthia Hunter, we engaged a PhD student of the University of Newcastle to research and expand Cynthia's work. Citing the original documents from the earlier piece, many hours were spent in the archives and collections reviewing this material. We even assessed the 1825 to 1845 banking records in the ANZ archive in Melbourne to provide clues of construction dates of this historic complex.

20 Along with this, other respected historians were engaged and heritage architects Lucas Stapleton Johnson to record and draw and measure these buildings in every detail. They visited many of the other historic sites in the Hunter, searching for signatures of design to assist with the architectural attributions. Heritage engineers were engaged to assess the stability of the buildings because of Ravensworth's extraordinary style, intact fabric, a rare example of conflict buildings of earlier methods. Similar examples are shown here in the US. In order to preserve as much of the fabric as possible, it was decided to investigate the possibility of an intact move. Mammoth Movers were engaged and a world authority of this technology from the United States was consulted
30 and a site visit was arranged. Moving buildings is made more complex because of the construction method, a double-stone wall using local mud as the only mortar, with an interfiled cavity of stone rubble. All walls of the rooms are right to the top of the roof, and this creates considerable challenges with the weight when lifting these buildings. With mortar between the blocks being both sparse and soft, there are significant challenges. Here you can see examples of the US, where they've done buildings also built in this period of time, in this instance with slave labour. And we can see these buildings having been lifted out of the ground. In the intact move that is contemplated here, you can see the dolly and transportation as they lift the building out in one go, roll it up the road.

40

Dr James Broadbent, the nation's leading authority on Australian colonial buildings, spent a day at the site to review an architectural analysis and assess the significance of these buildings. He makes it clear in his reports that these buildings are both rare and unique and worthy of an intact salvage. What remains of the gardens were recorded by Colleen Morris and Geoffrey Britton. These images are an example of some of the photographic evidence that has been located of the buildings. Archaeological digs were undertaken by Casey & Lowe and a recording took place of details of the other buildings in the colonial complex that have no longer survived. Historian Terry Kass undertook extensive historical search on the land title to identify the core estate lands.

10 This was settled, that the original lands were 10,439-acre holding.

Expressions of interest were called for potential recipient sites and the proposal for the future located homestead. 11 proposals were received and the Homestead Advisory Committee assessed the proposed location sites, visited these sites and conducted, sorry, visitations of these sites were conducted by the committee and the Heritage Team. When the sites were reviewed, a number of criteria, site suitability, verisimilitude, accessibility, financial prospects, and finally the ability to physically move the buildings in one or several large pieces so as much of the heritage could be retained into the future. The root assessment involved gauging the gradient of the

20 road, the bends the turns, angles, load limits of bridges, heights, height limits of powerlines infrastructure that may impede the safe passage of a building on a platform. It was contemplated constructing roads especially for the purpose. It was only at this point that the Ravensworth Farm was considered. It would be impossible to move the buildings of the proposed site any further afield without a complete design of the New England Highway. This would create enormous financial impost.

Focus then turned to the Ravensworth Farm option and further work was carried out. It became a favoured site by the Heritage Team, and the issues that resolved with the farm option were intact move was possible, preserving all of original fabric; landform

30 of original buildings is possible to recreate; approach to the homestead and siting to be reproduced; original garden remnants and plantings and structures laid out could be involved in the relocation. The proposed site could be done in one consent without the need for rezoning or other local government/state approvals. A significant issue of the Homestead Advisory Committee was the long-term viability, and it is the opportunity to relocate the homestead within the site of the original Ravensworth land allows the entire complex to be utilised as a training and office facility for the mining company during the life of the mine. It could then be the centrepiece of an agriculture and possibility a renewable energy project into the future.

40 As it stands, colonial buildings have overseen colonisation, convict labour, land schemes, agriculture and giant industry. It provides a window into the 1820s life of

the past. To suggest that these unique and rare colonial building complex should be seen as a pile of stone and timber to rebuild an imagined colonial building on any site that will have no cultural and very little historical significance would be yet another terrible heritage outcome, a disaster that would be laid at the feet of the mining industry and ultimately at the hands of this Commission. Thank you very much.

MR BEASLEY: Thank you, Mr Duddy. The Commission's now going to take a break before the next speaker and we'll resume at 12.40.

10

SHORT ADJOURNMENT

[12.19pm]

<XAVIER WAGNER & SHANE SCOTT, GLENCORE

MR BEASLEY: Continuing the public hearing into the Glendell Continued Operations Project. I think we have back from Friday Mr Xavier Wagner, who's the General Manager of Glencore, and Mr Shane Scott, who's the relevant Project Manager. Are you there, Gentlemen?

20

MR SCOTT: Yes, we are, Mr Beasley.

MR BEASLEY: I can see you and hear you. Are you on your own or both of you?

MR SCOTT: No, we're in separate locations today, I'm sorry.

MR BEASLEY: That's all right.

MR SCOTT: Yes.

30

MR BEASLEY: There was a couple of matters that you took on notice from Friday. The first one, I think, related to the MineCraft report of 28 October, 2020 which was the review into the mine plan options and the redactions that have been made to that. Have you got any news for the Commissioners in relation to that?

MR SCOTT: Yes, Commissioners. We're still currently just reviewing the level of redaction in that report and over – you know, with the intention of providing you with a modified version of that document as soon as possible.

40 MR BEASLEY: As soon as possible has what sort of time frame on it?

MR SCOTT: Look, I'd like to think in the next couple of days, Mr Beasley. We're due to provide the Commission with a response to some other queries by Wednesday. We're looking to provide it at that point.

MR BEASLEY: Thank you. One of the Commissioners asked a question regarding greenhouse gas emissions per unit of energy, do you recall that one?

MR SCOTT: Yes, we do and look, that's another matter that we're currently working through at the moment. As you can appreciate it is quite a technical issue and that's something that we're just currently working up a response in relation to at the moment.

MR BEASLEY: One of the other Commissioners also asked a question about offsetting additional emissions against baseline, do you recall that question on notice?

MR SCOTT: Yes. So again we'll be providing a more fulsome response on that but it will certainly be addressed in the Greenhouse Gas Management Plan that's prepared for the project but it needs to be recognised that we do manage our operations overall as a portfolio, so not even in isolation and the emissions for the project include the exceeds or any predicted emissions have been considered as part of the draft conditions that have been put forward by the Department of Planning but as I said, we will be providing a written response in relation to calculation of baselines under the safeguard mechanism.

MS LEESON: As an extension to that, can I just ask, we discussed last week what the level of Scope 1 and 2 emissions might be and that by increasing the production of the mine those emissions would increase. I see in the department's recommended conditions, it talks about the Mine Management Plan and efficiency of fleet and equipment. There's also a reference in there to voluntary offsets. Is Glencore considering any offsets beyond the levels of emission that are estimated at the moment to occur?

MR SCOTT: Commissioner Leeson, this isn't my area of expertise so I would need to take that particular question on notice, I'm sorry.

MS LEESON: Please do.

MR SCOTT: Yes.

MS LEESON: Thank you.

MR BEASLEY: One of the Commissioners asked a question about whether estimated fugitive emissions include post-mining emissions leaking from the coal seams. Do you recall that one?

MR SCOTT: Yes, yes. And, Mr Beasley, look, that will be included in our response that we're providing to the panel which is due this Wednesday.

10 MR BEASLEY: Before I invite the Commissioners then to ask whether they have any further questions, I was just wondering, and this is for both of you, feel free, but you've no doubt heard some further submissions since you first spoke on Friday morning including from some experts retained by the EDO today. It may well be that you need some time to respond to anything you feel you need to respond to but given you're here, is there anything you'd like to respond to immediately from the further submissions that you've heard during the course of the rest of the public hearing?

MR SCOTT: Mr Beasley, look, there has been, I guess, a number of matters that have been raised. We'd certainly prefer to see, I guess, those formal submissions made by those parties who have made, I guess, a representation over the last couple of days before we formally respond.

20 MR BEASLEY: Sure. So you don't want to do it on the run, that's perfectly understandable.

MR SCOTT: No, no, we'd like – I mean, yes, if there's time available at the end we'd like to make a closing statement but in terms of responding to, I guess, what we've heard over the last couple of days we'd much prefer to wait for yeah those submissions.

MR BEASLEY: Give it some consideration, yes, sure.

30

MR SCOTT: Yes.

MR BEASLEY: Is there anything further from - - -

MR PILTON: I'd like to ask a question. On Friday we heard from a resident of Middle Falbrook that they suffer a lot from dust that's blown across because of the landform, I don't know if you recall that particular person. Do you have any comment to make on problems of dust going into houses and making cars dirty and so on?

40 MR SCOTT: Yes, Commissioner Pilton, certainly did take note of Mr Cheetham's comment that he made in relation to dust and the potential impact of the proposed

dump height. So look, that is something that we also do plan on responding to. Certainly the air quality modelling is quite a complex package of work but, yes, look, it's best responded to formally in writing.

MR PILTON: Thank you.

MR BEASLEY: I don't think there's any further questions, gentlemen, so you mentioned you wanted to make a form of closing statement so please go ahead.

10 MR SCOTT: Xavier, you're on mute. Apologies, Commissioners, Mr Beasley, we're just having some technical issues.

MR BEASLEY: That's all right. Still on mute unfortunately, sir. It's the furthest away mute button I've ever come across.

MR SCOTT: I think he's got it now. We should be right.

PROF. BARLOW: We've got him on screen now, though. That's helpful.

20 MR WAGNER: Can you hear me now?

MR BEASLEY: Yes we can sir, yes, you're all good to go now.

MR WAGNER: Apologies, apologies for that. The mute button's on the other side under the screen where the camera is, so - - -

MR BEASLEY: Look, unfortunately your time is up now. No, please go ahead, please go ahead.

30 MR WAGNER: Thank you so much. Just as a concluding remark we believe the project provides a positive net benefit to the state particularly in the Hunter Region. We recognise that the project will have impacts. However, Glencore's put forward a comprehensive suite of mitigation measures to address those impacts.

Glencore's coal business is a responsible operator with a strong track record of operational excellence and environment and community management. We have a robust climate change plan. Glencore stands behind this project and we have done a thorough job developing and assessing the various aspects of the project. The project is a brownfield extension of an existing coalmine in a long-established coalmining
40 area. The project will deliver up to 690 jobs, ongoing spend into hundreds of local businesses and approximately 20 years of additional royalties.

In conclusion, as we said, we believe this project provides positive benefit to the state, in particular to the Hunter Region. Thank you.

MR BEASLEY: Thank you for that, both of you, and I think that's it. So thank you again and the panel no doubt looks forward to receiving the extra material and submissions from you.

10 <CLAY PRESHAW & STEVE O'DONOGHUE, DEPARTMENT OF PLANNING AND ENVIRONMENT

MR BEASLEY: Next speakers are again from Department of Planning and Environment. We have back Clay Preshaw and Steve O'Donoghue. Are you there, gentlemen?

MR O'DONOGHUE: Yes, yes, Mr Beasley.

MR PRESHAW: Yes, Mr Beasley.

20 MR BEASLEY: We can hear you both so, that's a good start. I'll just invite the Commissioners as to whether they have any further questions?

MS LEESON: I think what we'd like to do, given that we ran short of time at the last meeting we had on Friday, we covered a lot of heritage items and we probably still have a few questions around heritage impacts and assessment. Given that we were short on time on Friday, it would be appreciated if the department could quickly take us through their assessment findings on what were identified as the other two key issues, I think which were air quality and greenhouse gas emissions. So, if we could ask the department to quickly talk to those and then we can take up any further
30 questions.

MR O'DONOGHUE: Thank you, Chair, I'll go through those. I think I had started on some air aspects but I might just, for completeness, just go through that quickly and then, as you say, the greenhouse gas aspects.

So just, just on, just on air quality, I'll just give a summary of our assessment of air quality impacts including cumulative impacts, given that it's in a mining precinct surrounded by a large number of other mines and it's, it is a key issue for the project.

40 The predicted air emissions associated with the project remain similar to those of the existing mine for most receivers. However, the dust levels would reduce over time as

residents, as mining moves further to the north, away from Camberwell and Middle Falbrook in particular, which are located to the south and south-east of the mine.

With the implementation of the proposed mitigation measures, the worst case dust emissions from the project are predicted to meet the applicable criteria for total suspended particulates and dust deposition which are, which are the larger dust emissions from, from the site at all privately owned receivers. However, cumulative annual average finer particulates, which are the PM10 and PM2.5, are predicted to exceed ambient air criteria set by the EPA, which is also based on the
10 Commonwealth's National Environment Protection Measure, or NEPM, at 13
privately owned receivers across 10 properties during some of the operational
scenarios that have been modelled.

Probably it's important to note though, that, that all of these receivers currently have acquisition rites under existing development consents for, for a number of mines in the vicinity, and, and the assessment determined that the project would contribute between 5 and around 30 per cent of the applicable cumulative criteria at these receivers. Mainly, mainly during the early years of the project before the, before the mining progresses further away from Camberwell and Middle Falbrook. So in accordance
20 with the - - -

MS LEESON: Can I just ask one quick question there. You talk about the acquisition rights under existing development consents.

MR O'DONOGHUE: Yep.

MS LEESON: Are you able to briefly explain what the process of that is? Because there are a lot of properties in the vicinities that are subject of acquisition rights and then there are some not too far from that that are not. Is there a clear parameter around
30 how properties are identified or not?

MR O'DONOGHUE: There is a sort of, it's, it is defined in the department policy, Voluntary Land Acquisition Mitigation Policy, which has had some revisions over the years since it was, one revision since it was first introduced, but it was, the policy, the VLAMP policy was broadly applied in the Hunter Valley prior to the introduction of that policy, so it sets particular acquisition rights for cumulative impacts across, contributed by a number of mines across the site, but also incremental impacts from, from the mine itself if it exceeds certain, certain levels.

40 MS LEESON: So it's an exceedance issue that would trigger that voluntary access?

MR O'DONOGHUE: That's correct. Essentially from the modelling that's done, undertaken during the assessment if it's predicting even if applying all reasonable and feasible mitigation measures before reasonable and feasible measures have been applied and it's still exceeding and it's in the public interest, then the policy allows either acquisition and/or mitigation to be given to receivers.

MS LEESON: That's helpful, thank you.

10 MR O'DONOGHUE: It's probably a bit more complex here in that if you look at the framing of our conditions, in particular, there is a hierarchy of which mine has the first, I guess, requirement to provide acquisition rights. If they are predicted to exceed the criteria and are approved first, there's an obligation on them to trigger, if someone triggers acquisition that they be obliged to offer acquisition in the first instance, and then if that mine ceases operations, then it would go to the next mine where, where exceedance had been predicted. So there's sort of like a rolling in conditions, there's a sort of a rolling approach in terms of how that would be treated.

MS LEESON: Thank you, thank you, that's been helpful, thanks.

20 MR O'DONOGHUE: Probably earlier I just touched on the incremental. Apart from the average annual fine particulates, the modelling also indicated that the project would comply with the project below PM10 and PM2.5 dust concentrations except that one industrial facility operated by Daracon. However, the cumulative exceedances of PM10 and PM2.5 over a 24-hour period would likely exceed the, the criteria. Similarly, for the average annual criteria, the receivers have already got acquisition rights under the, under the average annual trigger already. So there will be no new receivers picked up on that.

30 So just on, just touching on, I guess, monitoring and management. And there was discussion there earlier about the increased dump height - - -

PROF. BARLOW: Snow Barlow here.

MR O'DONOGHUE: Yes, Commissioner.

40 PROF. BARLOW: Sorry to break in there but I sensed you were moving to another topic. As a matter of methodology, for each new mine, in this case Glendell, did they, when they model the particulates that increase in distribution as a result of the Glendell Mine, will they model that on top of all the existing mines in the area so they mine, ultimately what they get in their modelling is a cumulative estimation of what the receivers would receive if this mine were to proceed?

MR O'DONOGHUE: That's correct Commissioner there's two, there are a couple of ways, the model works with two aspects. The project alone, so that's just the project by itself to see whether it would trigger what's called the incremental criteria. So in its own right it triggered incremental criteria that would require mitigation acquisition rights. If the, but they also modelled all the scenarios with the surrounding mines in the, in the modelling domain over, over representative years across the, the mine life. So in each year they look at what this mine would be up to in terms of their operations, and that's included in the, in the modelling as well. So it's the cumulative sort of
10 impact analysis that's done, you know, along with, along with, you know, background concentrations as well.

PROF. BARLOW: So, Steve, just to clarify that a little further, if the accumulated, you know, dust PM2.5/PM10 accumulation in any receiver actually exceeds the limits, even though the contribution from this proposed development doesn't, would Glendell have responsibilities to offer acquisition rights to that receiver?

MR O'DONOGHUE: Look, there is one, like, in the cumulative modelling that was, that was completed, there is, there is one receptor from the existing Glendell Mine,
20 which has four residences on it, that, that – so they're the primary, so the Glendell Mine currently is the primary mine for acquisition, you know, looking at it from a cumulative basis. And that, that would be, they would, you know, would recommend that be retained in the, in the, you know, in any sort of recommended conditions in there. But certainly in the hierarchy, in most cases, like, a lot of the other projects like Rix's Creek North/South, Mount Owen, Ashton, et cetera are also, have a requirement, you know, for acquisition rights in their consents.

PROF. BARLOW: Thank you. And I'm sorry to interrupt.

30 MR O'DONOGHUE: So, look, I'll just, I'll just touch on – we're just going to briefly touch on just the monitoring and management, which is really, it was touched on earlier by the company that, that there are, there is a requirement already for, for an air quality and greenhouse gas management plan, and that's been recommended with some further, you know, additions to be retained to demonstrate that the company's applying best practice in its operations to minimise dust emissions, along with some operating conditions, and clearly there'll be a need to, there would be a need, you know, if, if it is approved that the Air Quality Monitoring Network work would need to be expanded and revised to, to cover more broadly the area as well.

40 So I guess overall we've recommended conditions requiring Glencore to acquire the properties presumably affected, as, as discussed earlier. Comply with contemporary

air quality criteria for all, for all other receivers, you know, based on the monitoring program. Implement reasonable and feasible measures to minimise their emissions. Develop the air quality management plan, but including, you know, real-time dust monitoring so, so it's captured, you know, 24/7 in terms of the dust levels. Also have independent audits and, and review mechanisms, you know, on complaints to, to ensure that complaints are properly looked at, and there can be an independent review of, of any complaints, you know, by, by an expert.

10 So I'll probably move on to greenhouse gas emissions unless you've got, Commission and Chair, any more questions on air quality. I'll, I'll just talk about greenhouse gas emissions, which is, I guess, the final key issue that we flag. So I guess the first thing it's important to note that over 97 per cent of the greenhouse gas emissions are scope 3 emissions, which is, which is due to the downstream emissions from the burning of coal by other entities, which, which are, while they are considered by the department and also the consent authority has to consider them in terms of the requirements under the, the mining SEPP, but based on the global warming potential for methane of 28, the total scope 1 greenhouse gas emissions are in the order of about 6.47 million tonnes of carbon dioxide equivalent, averaging around 269,000 tonnes per year, per year. And a large bulk of these, 59 per cent, is associated with fugitive emissions.

20 The remainder are largely from, you know, use of diesel fuel during, during operations, during the extraction of coal and overburden in particular.

One thing we did, we did ask the company through the assessment process is, is, you know, options to further ratchet down the predicted greenhouse gas emissions. Particularly, you know, is there potential to, to, to get some of the methane associated with the coal seams as part of the fugitive emissions prior to, to mining. So in response to our request, Glencore did look at the feasibility of pre-draining the coal seam to reduce the emissions. However, based on the evidence and information provided, it's not considered to be practical or reasonable or feasible based on the

30 information to date, largely because of the structural complexity of the area that's being mined, where there's significant faults, as the Camberwell anticline part of the geology is thinner coal seams and, and multi-seam operation and relatively low gas content of the, over the proposed mining area, which makes pre-drainage of methane gas or for energy generation, you know, fairly non-viable. So just on pre-drainage for gas, it's often undertaken for underground mining operations where gas content is much higher, and pre-drainage is also required for mine safety reasons. For example, in the case with the southern coalfields, where in situ gas contents are much higher, largely because of the depth of the coal seam being targeted as well.

40 In relation to gas content, Glencore did provide information which confirmed that the project area was a relatively low-gas environment, with almost one-third of the in situ

coal reserves classified as low, low-gas zone, which is around less than one metre cubed per tonne in the coal seam, with over 90 per cent having a gas content less than four metres cubed per tonne, which is, which is generally the level that underground mines are typically trying to achieve through gas drainage ahead of mining. So they're starting that off as a low-gas content base.

10 So overall at this point in terms of recommendations, we've recommended to minimise emissions and encourage continual improvement. Recommended conditions require Glencore to limit the greenhouse gas emissions to no greater than predicted in the EIS as, as flagged earlier. Through strict scope 1 and scope 2 performance measures, including maximum limits on annual emissions, a five-year rolling average and a cap on project life emissions of carbon dioxide equivalent.

MR BEASLEY: Can I just interrupt you there, Mr O'Donoghue, given you're on scope 1 and scope 2 emissions. As I think you said at the start of this topic, 97 per cent of the emissions associated with this project are scope 3. I'm not for a moment suggesting it's not important to minimise scope 1 and scope 2, but you probably heard Professor Sackett speaking earlier where, in effect, what she was saying was calling emissions scope 1, scope 2, scope 3, these weren't quite her words, it's my interpretation, is really just a legal construct. It makes no difference to the NSW environment and the impacts on it whether you call emissions scope 1, scope 2, scope 3. There's a lot of scope 3 emissions, and I think the thrust of her point was that if we continue to approve coalmines in New South Wales, there's no prospect of keeping within a carbon budget, there's no prospect of reducing greenhouse gas emissions such that we either keep global daily temp rises to either 1.5 degrees C or even substantially less than 2 degrees C. What's the department's response to that?

MR O'DONOGHUE: We're looking at, I guess we're looking at it from the Commonwealth and policy settings that, that we're required to consider the project, you know, which is the, the Paris Agreement, the Commonwealth, Commonwealth commitments under the, for Australia's nationally determined contribution under the Paris Agreement, but also the policy context in terms of who's responsible for the scope 3 emissions and what other countries are doing to, to reduce their scope 3 emissions in the global context. So, so we have considered all that in our assessment report in terms of the contribution of, of this mine to emissions globally, and, and have made, made recommendations on the basis of that, of that policy setting that we are required to consider the project.

MR BEASLEY: All right. Sorry, I interrupted you.

40 MR O'DONOGHUE: That's my response on that one.

MR BEASLEY: Yes. I think I interrupted you whilst you were still proceeding on with what you wanted to say about greenhouse gas emissions.

MR O'DONOGHUE: I was fairly close to the end there, Mr Beasley, anyway. I think I was just touching on some of the recommendations which was really about the performance measures. We're also requiring Glencore to investigate and implement, where feasible, new technologies and options to further mitigate greenhouse gas emissions and that would be both for diesel emissions and fugitive emissions, in particular, to the two biggest scope 1 components, in particular. Require regular review and ratcheting down emission performance measures based on these investigations, which would be incorporated in the Air Quality Greenhouse Gas Management Plan, which would require a three-yearly review in consultation with the key government agency – New South Wales agencies including the Climate and Atmospheric Science Branch, who's, who's, has a key role in sort of looking at climate change projections and technologies more broadly for the NSW Government.

Incorporating offsetting requirements where performance measures are exceeded. Mindful of the Commonwealth safeguard mechanism as well and where that baseline levels that are set there and any requirements that may come out of the Commonwealth mechanisms as well. So, so overall we consider that the greenhouse emissions relatively modest for a coalmine of this scale and they represent a small proportion of Australia's nationally determined contribution under the Paris Agreement. We've also considered – carefully considered relevant international Commonwealth and New South Wales climate change policy, as I mentioned earlier in the assessment, including more recent policy developments associated with resetting of Commonwealth and New South Wales commitments and targets which has really occurred over the last four months. That's probably it on – just one other comment.

I guess apart from the three issues that we sort of identified and discussed, our assessment report does include a comprehensive assessment of impacts on other issues that have been raised in submissions and also through the public hearing process including water resources, biodiversity, noise and blasting, traffic, social and economic impacts and, and mine rehabilitation and closure. So I'll probably leave it there, Mr Beasley. Just give some time for questions. Unless you just want to sort of like a final overall wrap-up evaluation but it's probably not necessary.

MS LEESON: I have one quick question but I know Professor Barlow has some questions as well. They might be related, I'm not sure. You talked about the fugitive emissions and the difficulty in mitigating those in this particular area and you talked about emissions from the diesel plant and equipment and the use of technology and

conditioning them in terms of rolling plans and management and how they might do things. Given how many of these projects the department assesses over time, you must see all sorts of things around various technologies and emerging technologies. Does the department have any advice or information they can provide us around what some of these emerging technologies might be and whether, in your view, Glencore is actively looking at those for this mine?

10 MR O'DONOGHUE: I guess – I mean, we asked Glencore the question about the feasibility of it. I think the realities at the moment there's limited options given the gas density or concentration makes it difficult. Also being an open-cut mine there are less opportunities. Given this is a long-term mine, technology – certainly for underground mines there's technology out there and it's been explored to some degree in the Narrabri underground mine where there's more information being an underground mine or potential options but there's certainly different technologies out there that may come into opportunity to use in the future but it will still come down to like the financials and economics of that as well in the context of the mine and, I guess, what the benefits are in doing that as part of the assessment which we've supplied in the Commissioner's consent or recommended conditions.

20 I guess with use of – other than diesel technology there's – I guess, there's efficiencies there over time with improvement to burning diesel itself but also over time what options there may be to replace fossil fuel fleet with, you know, battery-operated fleet, for example, which there's been some looking into that technology, I think, particularly in the mineral mining industry as well overseas so there may be opportunity for some progression in that.

MS LEESON: Thank you.

MR BEASLEY: I think Commissioner Barlow's got some questions.

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PROF. BARLOW: Thank you, Counsel. Mr O'Donoghue, in the same area as our Chair said, with regard to the diesel usage and, you know, clearly as far as we can make out, and you may wish to correct us, that Glencore will be effectively mining the same coal seams and effectively using the same plant with perhaps some one replacement to additions from the Mount Owen Mine as it ramps down. Did you consider enforcing some rigour about the process of being as efficient as possible in using best practice and perhaps adopting new technologies to limit their scope 1 emissions to actually setting that, you know, in the draft conditions as a, if you like, an emissions intensity for the mine in terms of scope 1 emissions that's on a coalmine to
40 be maintained to the end of the mine rather than just accepting whatever it took to mine that coal?

MR O'DONOGHUE: Commissioner, we do have a – I guess, the conditions are looking at – there is an onus on the company to look at reasonable and feasible technologies throughout the life of the mine. I think there is – if you look at – we'll be providing more information on this as well in terms of one of the requests, there is upgrades to the fleet through the life of the project, you know, so they will be starting off with existing equipment to start with but there is, there is capital investment in new fleet through the life of the project. I guess, the key, the key times in terms of options for, for alternatives to reduce scope 1 would be at the time prior to making those
10 investments in capital – capex because once that's done it is locked into a certain technology for a, for a period of time. So I think there's opportunity to look at that with the conditions we've got to, you know, what's reasonable and feasible that could be applied, you know, through the life of the project as mobile fleet gets upgraded or, or replaced or to achieve the higher production rates, in particular.

PROF. BARLOW: Yes. But the draft conditions you have suggested to us have quantitative conditions, they're not quantitative conditions that may require the company to move and I know, I'm not at all sure of whether the – you know, as those diesel coal trucks get to an older age they perhaps get less efficient and emit more,
20 whereas new ones presumably have some new technologies but also more efficient just because they're new. But you haven't suggested any quantitative limits that might be applied to ensure that that happens to achieve the qualitative suggestions you have made.

MR O'DONOGHUE: We don't have the, I guess we're, we're relying on the information that we've got for the assessment which is, in terms of the fleet they're using. We haven't put in, like, targets through the life of the project, so we are relying on a continuous improvement process and, and a look at what is reasonable and feasible with the input from, from experts that we have within the department, but also
30 we can seek additional independent expert advice as well through audit processes, which are required every three years.

PROF. BARLOW: Thank you.

MR PILTON: Mr O'Donoghue, you would have heard this morning Mr Franks saying that in his 10 years' involvement around the area they've never said no – I'm sorry my mic was off. They've never said no to a mine before but now if this project proceeds there will be nothing left for the Wonnarua people. Does the department have a view on that, that there is no land left for them?
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MR O'DONOGHUE: Look, I prefer to – I think in terms of cumulative impacts, we have looked at the cumulative impacts across the landscape. This is an extension to a brownfield mine and we have acknowledged in the report that there are additional landscape impacts as a result of the continuation of mining in the area. I guess from a site suitability point of view, we've looked at the, I guess the surrounding mines, the landscape, the power station generators to the west and overall considered it is a suitable, you know, from a suitability point of view, it's a suitable site in that context. But we do acknowledge that this incrementally impacts the landscape scale across a whole lot of range of issues including Aboriginal heritage for the Wonnarua people.

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MR PILTON: Thank you.

MR BEASLEY: All right. Thank you very much for that Mr O'Donoghue. I don't think there's any further questions from the panel, so thank you again. Sorry, I should have said, he's probably gone, but he did mention that he did have a wrap-up but it wasn't particularly important. Sorry, Mr O'Donoghue, did you want to make just a final wrap-up statement?

MR O'DONOGHUE: No, that's fine, Mr Beasley, I'd just like to thank yourself and the Chair and the Commissioners for the further opportunity.

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MS LEESON: Thank you.

MR PILTON: Thank you.

MS LEESON: Thank you. That brings us to the end of this public hearing into the Glendell Continued Operations and Mount Owen Continued Operations Project. Thank you everyone who's participated in this important process. Professor Snow Barlow, Adrian Pilton and I have appreciated your input. Just a reminder that it's not too late to have your say on this application. Simply click on the Have Your Say portal on our website or send us a submission via email or post. The deadline for written comments is 5.00pm Australian Eastern Daylight time on Monday 28 March, 2022.

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In the interest of openness and transparency, we will be making a full transcript of this public hearing available on our website in the next few days. At the time of determination, the Commission will publish its statement of reasons for decision, which will outline how the panel took the community's views into consideration as part of its decision-making process.

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Finally, a quick thank you to my fellow Commissioners, Snow Barlow and Adrian Pilton, and also to our Senior Counsel Assisting Richard Beasley SC. Thank you all for watching and from all of us here at the Commission enjoy the rest of your day and good afternoon. Thank you.

PUBLIC HEARING CONCLUDED

[1.24pm]