



New South Wales Government
Independent Planning Commission

TRANSCRIPT OF MEETING

**RE: HVO NORTH AND SOUTH OPEN CUT COAL CONTINUATION
PROJECTS (SSD-11826681 & SSD-11826621)**

DEPARTMENT MEETING

PANEL:	SIMON SMITH (Chair) JANETT MILLIGAN MICHAEL CHILCOTT
OFFICE OF THE IPC:	STEVE BARRY BRAD JAMES KENDALL CLYDSDALE CALLUM FIRTH TAHLIA HUTCHINSON
DEPARTMENT OF PLANNING, HOUSING & INFRASTRUCTURE:	STEVE O'DONOGHUE JACK TURNER
LOCATION:	ZOOM VIDEOCONFERENCE
DATE & TIME:	9:00AM – 10:20AM WEDNESDAY, 8 th JULY 2026

<THE MEETING COMMENCED

MR JACK TURNER: Morning.

5 **MR STEVE O'DONOGHUE:** Morning.

MR SIMON SMITH: Hello, Steve, good morning. Morning, Jack. I'm Simon Smith and I have an opening statement to read before we commence our conversation.

10 First, I'd like to acknowledge that I'm speaking to you from Gadigal land and I acknowledge the traditional owners on all the lands from which we virtually meet today, and I pay my respects to Elders past and present.

15 So, welcome to the meeting today to discuss the HVO North and HVO South Open Cut Coal Continuation Projects SSD currently before the Commission for determination. The Applicant, HVO Operations Pty Ltd, is seeking consent for the HVO Continuation Project.

20 The project involves continuation of mining at the Hunter Valley Operations Mining Complex until the end of 2045 for HVO North and the end of 2042 for HVO South, including an extension of approved mining areas and mining of deeper coal seams. The Hunter Valley Operations Mining Complex is an established multi-pit open cut coal mining operation located approximately 24 kilometres northwest of Singleton in the Singleton and Muswellbrook Shire local government areas.

25 My name's Simon Smith and I'm the Chair of this Commission Panel. I'm joined by my fellow commissioners, Janett Milligan and Michael Chilcott. We're also joined by Steve Barry, Brad James, Kendall Clydsdale, Callum Firth and Tahlia Hutchinson from the office of the Independent Planning Commission.

30 In the interests of openness and transparency and to ensure the full capture of information, today's meeting is being recorded, and a complete transcript will be produced and made available on the website. The meeting is one part of the Commission's consideration of this matter and will form one of several sources of
35 information upon which the Commission will base its determination.

40 It is important for the commissioners to ask questions of attendees and to clarify issues whenever it is considered appropriate. If you are asked a question and you are not in a position to answer, you may take the question on notice. Following the meeting, the Commission will advise you in writing of any questions taken on notice that the Panel considers requires a formal response. Any subsequent response or information provided to the Commission will then be published on our website.

45 I request that all participants here today introduce themselves before speaking for the first time, and for all members to ensure that they do not speak over the top of each other, to ensure the accuracy of the transcript. In fact, what might be good for the transcription purposes and for being friendly, would be if we just each introduced ourselves by name and our role, and that will help with the process.

So, as I said, I'm Simon Smith. My colleagues?

MR MICHAEL CHILCOTT: I'm Michael Chilcott, a Commissioner with the IPC.

5 **MS JANETT MILLIGAN:** And Janett Milligan, Commissioner.

MR SMITH: Cool. Steve, would you like to introduce yourself?

10 **MR STEVE BARRY:** Yes. Steve Barry. I'm the Planning Director at the Office of the Commission. Tahlia?

MS TAHLIA HUTCHINSON: Thanks. Tahlia, Senior Planning Officer at the Commission. Brad maybe?

15 **MR BRAD JAMES:** Brad James. I'm just off camera here. I'm a Case Manager at the IPC.

MR KENDALL CLYDSDALE: Good morning. Kendall Clydsdale, Principal Case
20 Manager at the IPC.

MR CALLUM FIRTH: Good morning. I'm Callum Firth, Senior Planning Officer at the IPC.

25 **MR SMITH:** Great. Jack and Steve, would you mind introducing yourselves as well?

MR TURNER: Yes. Jack Turner, Team Leader of Resource Assessments at the Department of Planning.

30 **MR SMITH:** And Steve?

MR O'DONOGHUE: Yes. Steve O'Donoghue, Director of Resources at Department of Planning.

35 **MR SMITH:** Steve, we're having trouble hearing you. Is your microphone activated?

MR O'DONOGHUE: Can you hear me now?

MR SMITH: That's very clear, thank you.

40 **MR O'DONOGHUE:** Yes, my headphones don't seem to be working on the system, yes. So, Steve O'Donoghue, Director of Resource Assessment at the Department of Planning, Housing and Infrastructure.

45 **MR SMITH:** Great. Thanks very much. Okay, good morning, everyone, let's begin. So, we wanted to first of all just to settle ourselves about the project scope and approval framework. So, could you just quickly – I think we understand, having talked with the Applicant and read all your Assessment Report and the materials that have been provided, that one version of the application was presented. Since then, it's been changed and there's an amended version of the application that we're looking that.

That there are two applications, side by side, that we heard from the company that essentially in practice they operate as one mine, and that was explained to us that the operation there is in fact an agglomeration of a number of formerly separate mines that are now all run as a combined operation.

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MR O'DONOGHUE: Yes.

MR SMITH: Is there any more detail we should understand about the machinery of looking at two projects in parallel, both needing the approval of the other to effectively operate from a commercial perspective?

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MR O'DONOGHUE: Yes, look, I'll ... I'll – I might give us a bit of a background – I've got some slides, if that helps, based on the agenda, if I can share the screen.

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MR SMITH: Thank you very much, yes. What we'll do, Steve, just in the interest of time, I'll just sort of keeping us moving so we get through all the agenda items, so you won't be personally rude if I just ask you to move on.

MR O'DONOGHUE: Can you see the screen there?

20

MR SMITH: Thank you.

MR O'DONOGHUE: Yes. Look, I just want to step through, just touching on your issue there, Chair. It's an existing complex that has two development consents across it. The project involves an extension of the mining areas, the mining of deeper coal seams as well. I'll just ... Bear with me.

25

In brief, the mine is an existing multi open cut pit complex that's been operating in some form since 1949. Like I said, it's covered in two development consents split between the north and south of the river, of the Hunter River. The two state significant development applications were lodged for the Continuation Project to reflect the existing approvals framework. The Continuation Project is an application for the extension in both time and extent of the existing complex, including an extension to improve mining areas and mining of deeper coal seams within previously approved areas until the mid-2040s.

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The figure on the slide provides an overview of the project. Additional disturbance areas are shown in yellow, and the mining areas are shown in the black dotted layer on the figure. There are also a range of infrastructure upgrades proposed as part of the project, as well as the re-alignment of a section of Lemington Road which currently runs through the planned pits of HVO North and would be re-aligned to the south of HVO South.

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The application of HVO North was amended to change the alignment of the re-aligned Lemington Road in November 2023 to avoid all direct impacts to the Warkworth Sands Woodland EEC, and two Scarred Trees of high Aboriginal cultural heritage significance.

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Both applications were also amended to reduce greenhouse gas emissions in August 2025 through changes to the project mine plan, by avoiding coal extraction within gas Domain 1 at HVO North and reducing total ROM coal to be extracted by approximately 220 million tonnes, which I'll – which is an agenda further down.

You've probably been through the key changes to the project. I might just come down to the question about how it operates as a combined operation.

MR SMITH: I think our question is more particularly about just the formal aspects of an assessment and approval, just so that we can understand anything we might have missed about – our understanding we've got to look at the two projects, but they've been essentially assessed in parallel. The company says that they really want, you know, they're both integrated and at least South could not run on its own if it was approved without the approval of the North, and effectively they think of them as one operation, so they said people working on site would just report to their work location, they wouldn't be thinking of themselves as operating for the South or the North operation.

MR O'DONOGHUE: Yes, look, just – this slide comes into some degree, they certainly are – the coal from both complexes is processed and transported at the coal preparation plants and stockpiles and loadout facilities at HVO North. So, HVO South is reliant on HVO North for processing and loadout, there's no infrastructure constructed in HVO South where the processing can occur. So, in that way they're integrated.

They're also integrated in relation to overburden and rejects emplacement, water management. The workforce really cuts across both sites, so it's an integrated operation across both sides. The Environmental Management Plans and systems are also integrated, so there's management plans that look at the whole complex, covering water, air, noise and biodiversity. So, it is in effect operated as an integrated operation. Probably also to flag, the complex operates under one environment protection licence, so the complex is, through an environmental impact point of view, is regulated by the EPA under the Protection and Environment Operation Act as one complex, so it's looking at air and noise, emissions, water, discharges under the one EPL.

It's probably not uncommon for coal mining complexes to operate under multiple approvals while operating essentially as one integrated operation. Other examples include Moolarben in the western coal fields, Mount Thorley, Warkworth, Mount Owen Complex and Rix's Creek mines are examples in the Hunter as well. So, there are examples there of these integrated operations which might have multiple development consents across them.

MR SMITH: Okay, that's fine. So, can I just ask my colleagues, is there any other questions or not on this agenda item about the two approvals that were sought?

MR CHILCOTT: No.

MR SMITH: No. Okay, that's fine. So, let's move onto item 4 which is about greenhouse gas emissions. And maybe we could – could you have it so we can see, just the screen, so we can see the bit we talk to?

5 **MR O'DONOGHUE:** Sure, yes, sorry.

MR CHILCOTT: You'll need to stop sharing, I think.

10 **MR O'DONOGHUE:** No, I think it's me, sorry.

MR SMITH: We just need to see people's faces. That's great, thank you. So, we've read through the Assessment Report and the EIS and so forth. We just wanted to explore some more about the assessment activities that you've undertaken in connection with the Scope 1 and Scope 2 emissions projections.

15 So, in the – you've made clear and we've seen ourselves that those emissions will comprise the emissions from fugitive emissions, so the release of gas that's currently contained within the coal seams. And secondly, from the combustion of diesel in heavy plant and other equipment. So, perhaps if we could just talk first about the emissions
20 from the heavy plant and equipment.

So, proposed conditions – or the assessment says that at present it's not feasible to use electric haul trucks, for example, but this is something that the company is committing to review periodically every three years to see whether it might be practical or feasible.
25 Can you just give us any more detailed insight into how what evidence has been put forward to show that it's not yet currently feasible to use electric plant and equipment in an open cut mine setting?

30 **MR O'DONOGHUE:** Yes, look, I'll just move down to – look, certainly from a couple of sources there, Chair. There was an in-depth sort of analysis done under the EPA Large Emitters Guide that the Proponent went through both in the original EIS but also as the – with the Large Emitters Guide coming out in terms of demonstrating what genuine efforts there are to abate or mitigate prior to offsets.

35 There was certainly information put forward by the company on that, which was also reviewed by the Independent Expert Advisory Panel for Mining, which included greenhouse gas experts on it, to look at the information. Also, in addition to that, there was the EPA's recently published Greenhouse Gas Mitigation Guide for New South
40 Wales Coal Mines that also explored this issue, and really laid out that there was no, in terms of mandating electrification of mining fleets, and they noted that technology for battery-electric vehicles of the size used at New South Wales coal mines is not at the same level of maturity or trial stage as other types of mining. And it can also be constrained by grid capacity in regional areas.

45 So, there's some multiple lines of evidence that demonstrate that for the large coal mining units they were looking at here for haulage, electrification is a problem, and also in terms of renewable diesel and biofuel technologies to use in the fleets as well is still maturing.

One of the things we did look at and certainly the company's made commitments to continually review technology and incorporate it when they can, that the figure on the slide at the moment shows, I guess, the fleet upgrades they're looking at over the course of the project and where there may be opportunities to look at options as the fleets get upgraded. There is a – if you look at 11–15 years, there is an increase in new fleet coming in, so there may be opportunity through five-yearly periods to do that. Currently, for the first five years, there's limited opportunity to do that, particularly for the larger haul trucks and excavators and dozers used on the site.

MR SMITH: Thank you. And did you come across – I mean, the Panel noted reports from the Western Australian iron ore mining industry that the two largest firms were currently trialling electric trucks developed by Caterpillar, which is one of the leading suppliers of heavy haul plant. And also, that Fortescue has placed orders for electric haul trucks. Considering that it's already feasible for them to do so, was any information available to you to provide insight into why that's happening over there but nothing happening over here?

MR O'DONOGHUE: Not specifically there, Chair, but certainly, look, we relied on the information through the EPA's analysis, the mining panel and also the company, but we didn't explicitly look at the, you know, what's happening with Fortescue, I think that the haul trucks over there that they're looking at, I think there are constraints, I understand, in upgrading and getting the technology in the fleets in for this project.

MR TURNER: I'll just add – sorry, could I just add to that, if that's all right. The Greenhouse Gas Mitigation Guide for New South Wales Coal Mines, it does acknowledge that point, that it is more mature in the iron ore sector, especially in Western Australia. And yes, the guide notes that that's not the case – I think there's other constraints around haulage systems compared to some of the mineral mines compared to open cut coal mining as well.

MS MILLIGAN: You made the point earlier that it was more advanced in the iron ore sector. Can you just tell us briefly why that is, and can you also comment on I suppose the relative role being played by regional infrastructure for electrification.

MR O'DONOGHUE: Look, I might have to take that on notice in terms of the regional infrastructure. That's taken more from, I guess, the EPA Mitigation Guide and the review that they undertook in terms of constraints on that. I can take that on notice.

MS MILLIGAN: Yes. So, I'm not asking a technical question; it was just asking for a bit more information – your previous comment that one of the constraints was the lack of infrastructure to support electrification. You don't have any more information about how that impacted on your assessment or what you thought about that?

MR O'DONOGHUE: Look, I can't really, I can't comment on that, that was really, you know, it came from commentary from the Mitigation Guide in terms of the analysis they did.

MS MILLIGAN: Okay, thank you.

MR SMITH: So, you've developed some draft conditions that would require the company to conduct a review every three years, I think it was, and that it would implement what's practical and feasible, I think is the phrase in terms of that. How confident are you about that as a mechanism to ensure that there's a serious consideration of emerging technologies and applying them when it comes time to replacement equipment?

MR O'DONOGHUE: Look, I'm confident with the, I guess, the EPA taking like a lead role in regulation of greenhouse gas emissions in particular and the rollout, the guidance they have on developing climate change and mitigation adaptation plans, particularly focusing on the coal mining sector in the first instance, that with those reviews. So, there's probably two prongs, I guess. There's the consent conditions themselves but also the work being done by the EPA to really drive mitigation and abatement within the industries, and like I say, with the initial focus with the preparation and mitigation guide is with the coal mining sector.

MR SMITH: So, my understanding of that guide is that it signals that the greatest opportunities for emission reduction are at the underground coal mines and it, from memory, has no detailed prescriptions about duties for operators of open cut mines in terms of Scope 1 or Scope 2 mitigation. Is that your understanding?

MR O'DONOGHUE: Yes. In terms of the initial, well, because of the ... The focus certainly is on underground abatement of fugitive emissions because that's a large contribution and looking at technologies to reduce those fugitive emissions. I mean, in saying that, there is the guidance on CCMAPs and how that's going to get rolled out through the POEO and complemented by the consent conditions through the requirement for a Greenhouse Gas Mitigation Guide and those three-yearly reviews to look at technology.

MR SMITH: Any other questions on that particular point?

MR CHILCOTT: Just in terms of the conditions. The conditions seek the reviews be undertaken regularly. Did the Department give consideration to framing conditions that required some active engagement with the Department to justify a decision as to move forward or not in relation to the outcome of those reviews?

MR O'DONOGHUE: Certainly, that would be expected there, Commissioner, in terms of reviewing the information, along with the EPA through the EPL process and the CCMAPs, looking at the information. There's commitments made by the Proponent as well, which is there that they need to incorporate into the mitigation plan and look at those opportunities. So, there would certainly be ongoing dialogue both with the Department and the EPA on any proposed mitigation and review framework.

MR CHILCOTT: And how do you envisage the, having undertaken the review, that there would be some mechanism to uptake opportunities as they arise?

MR O'DONOGHUE: I think that would be through both the consent conditions and powers both under the consent, and also the EPL process to look at what they're proposing and schedules they put in to implement as well.

5 **MR CHILCOTT:** With the conditions, they require a review, they don't require an uptake or don't compel a response. So, how does one move from simply undertaking a review to some compulsion to do something when those opportunities arise?

10 **MR O'DONOGHUE:** There's certainly provisions in the consent about operating generally in accordance with the consent, and that includes the commitments that the company's made to undertake those reviews and implement actions to reduce emissions over time where practical and where reasonable and feasible by applying those technologies.

15 **MR CHILCOTT:** All right, thanks.

MR O'DONOGHUE: There would also be – as I said earlier, there's also opportunity through the environment protection licence with the EPA as the lead regulator on greenhouse gas emissions and also looking at – you know, they were looking at sector-based approaches as well for reductions.

20 **MR CHILCOTT:** Right. So, you see the EPA as the mechanism via which the uptake of outcomes from reviews would be given some force?

25 **MR O'DONOGHUE:** What was that, sorry, I missed that ...

MR CHILCOTT: I'm sorry. What I'm saying is you're, what I take from your answer is that you're suggesting that the EPA will be the mechanism by which any outcome of the reviews is given some force in terms of implementation.

30 **MR O'DONOGHUE:** Certainly, the EPA is the lead regulator on greenhouse gas emissions, similarly to being the lead regulator for a premise, for example, on noise and air emissions as well in terms of what's set in the environment protection licence.

35 **MR CHILCOTT:** All right, thank you.

MR SMITH: So, we wanted to just now explore the work you've done on the assessment within the framework of the government's Coal Industry Statement. So, the statement says that the government expects that overall emissions from the coal mining sector will decline consistent with New South Wales targets. So, am I right in saying
40 the way that you've interpreted that is to say that the sector as a whole should be following the trajectory of the state targets? In other words, if it's X per cent of the total today, it should be X per cent of the target total in the future. Is that the way you've interpreted that part of the statement?

45 **MR O'DONOGHUE:** It is, in terms of looking at the sector-wide and certainly the – if you look at the analysis done in the Net Zero Modelling Team and the method statement, it's certainly looking at future mining projects that are in the system, and looking at it from a sector basis, coal mining, you know, what the whole sector is

doing in terms of net emissions, because we're talking – there's both the gross emissions from the mines themselves, but also you would have seen some figures in the report about the influence of the Safeguard Mechanism and what that does in terms of either abatement or offsetting to drive down the emissions over time.

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MR SMITH: And then the statement then goes on, it says: the assessment of each coal project will be informed by sector-wide emissions data and trajectory to ensure that the industry contributes to achieving New South Wales interim and legislation emission reduction targets.

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So, I so far haven't been able to review the numbers of the trajectory. So, you mentioned the work that's been done by the team, I think, in DCCEEW, is looking to see how many current coal mines might be applying for an extension in coming decades and making assumptions about what the emissions might be from those operations, and also looking at the emissions from underground mines and making assumptions about which mitigation efforts or other future drivers of their emissions might be. Have you been able to review all of that in detail?

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MR O'DONOGHUE: To some degree, like certainly the previous, the public methods document has a lot of the information around that. One thing to note, we understand that the emissions modelling for the previous years in the 2025 methods document will be finalised soon, and potentially before determination. So, there could be some more contemporary information around that, from our understanding, as well.

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MR SMITH: And is there a shared understanding between the departments about which mines might seek an extension and which ones would not?

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MR O'DONOGHUE: Certainly, the Net Zero Modelling Team, we work closely with them and give them information about what modifications or what new developments are in the planning system, either at an early stage or under assessment where there may be implications for greenhouse gas emissions. And the Net Zero Modelling Team certainly takes that information and updates their modelling on an annual basis, based on that information.

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MR SMITH: All right. So, am I right to say essentially that for the purposes of your assessment you mainly rely on the information provided by that modelling team and within that are assumptions about what the EPA might or might not do in terms of underground mining emissions, like what the timing of abatement might be.

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MR O'DONOGHUE: Certainly, you probably need to ask the Net Zero Modelling Team, but certainly they have a business-as-usual scenario but also a scenario which incorporates what they consider might be best practice that can be adopted. So, that would be, you know, for the modelling, it wouldn't be in the published figures at the moment, but for the modelling and any updated modelling they do, they would incorporate in the mitigation guide, for example, and the proposed measures to reduce fugitive emissions from underground mining.

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MR SMITH: So, I guess the reason I'm asking these questions is because we are mindful of the government's – in its Coal Statement – published one objective about

job protection and regional economies, and it's also published in there a requirement for the industry as a whole to make its contribution to the targets and for each mine to be individually assessed in that context.

5 Because clearly if there's a lot more export, a lot more activity either through existing mines or more renewals that expected, less mitigation in underground than expected, this project being approved might come with the expense of other future extensions that might be coming through the planning system. And that would then force a choice
10 decision in this case so that the government's twin objectives can be achieved. But I guess the conclusion is that we might need to talk to the people doing the modelling to properly understand it.

15 **MR O'DONOGHUE:** Certainly, like the information from the methods document from last year, and I think we flagged that in the report, you know, the data is based on the EIS project greenhouse gas emissions, so that data doesn't include the project as amended, you know, presented in that net zero emissions modelling as well.

20 **MR SMITH:** So, colleagues, do you have any questions about greenhouse gas emissions?

25 **MS MILLIGAN:** Just to clarify, there's an assumption of 13 extensions or continuations in the paper. I suppose what's the opportunity to update that or to confirm or update that information, given the Chair's comment?

30 **MR O'DONOGHUE:** Look, there is opportunity, certainly the, our understanding is that modelling is completed, it's just a question of making that information publicly available in terms of what the updates from the 2024 methods document to the 2025 methods document and modelling. But certainly, it's very close to being available, so we can – it's certainly something that we can speak to the Net Zero Team about.

35 **MR SMITH:** It was interesting when we spoke with the Applicant last week, we were told that although the projections had indicated that coal export volumes would be decreasing, he said that in fact the last few years they've been increasing from New South Wales, which would reflect international demand. But I wondered how that had been taken into account in the modelling.

40 **MR CHILCOTT:** Just to be clear, did you say you were going to seek to engage with the modellers and get that information in terms of when things might be available, or was that something ...

45 **MR O'DONOGHUE:** We can ask the question, like, we can speak to them about timing and availability of that information. It's not something that, you know, we have access to ourselves, we'd need to get that from the Net Zero Modelling Team. But there would certainly be something we could discuss with them.

MS MILLIGAN: Given the Applicant's comment about increased export volumes over the last few years and given that the methods paper is now two years old, I suppose we're feeling some disconnect which is the basis for the questions.

MR O'DONOGHUE: Yes, I understand, yes. We'll speak to the team.

MR SMITH: Yes, we might send you a written request for that information.

MR CHILCOTT: Yes, I think it'd just be helpful for us to have the most recent information available to us to make the best decision we can.

MR TURNER: Yes, I think the point on that is it'll be available once it's released by the NSW Government. I don't think we'll be able to request it on a project-specific basis, but we anticipate that that's imminent. And I think if you have a look at the modelling, it does reflect that increase in ROM coal production in the short term, to 2030. So, if you look at the gross emissions there even for 2024, that's reflected, but then that's when the Safeguard Mechanism is applied, that curve comes down.

MR SMITH: Through the purchase of offsets, essentially.

MR TURNER: Yes. Or other reductions of on-site abatement or avoidance.

MR SMITH: Yes, okay. All right. Well, I think we'll move on from that agenda item. That's very helpful. So, let's talk about biodiversity. So, is there anything in addition to your Assessment Report you wanted to provide about that?

MR O'DONOGHUE: Yes, look, I've got some slides here, so I'll just step through ... Probably just something to say. For the biodiversity, while the project's primarily located within existing disturbance area, it would require additional clearing for some of the mining areas where they're extending into, and also new infrastructure associated particularly with the re-aligned Lemington Road.

The project would remove about 185 hectares of native vegetation, that means the offsetting threshold under the Biodiversity Offset Scheme, and of this, about 90 hectares conform to threatened ecological communities. A large majority of the native vegetation removal, around 488 hectares, does not meet the offsetting threshold and is largely within mine rehabilitation areas that are now proposed to be re-disturbed.

The Department considers that HVO has designed the project to avoid and minimise impacts on biodiversity values as far as practical, given the scale and nature of the project. This included an amendment to the project to avoid all direct impacts to Warkworth Sands Woodland EEC by avoiding a 10-hectare area of the community marked for disturbance in the original design.

But overall, the biodiversity, DCCEEW Biodiversity did not raise any residual concerns regarding avoidance following the finalisation of the BDAR as part of the Second Amendment Report. This is probably a place to start. I'll just bring up – just talk a little bit about the Hunter Floodplain Red Gum Woodland EEC.

Certainly, this was interrogated fairly carefully in terms of opportunities to avoid impacts on the Hunter Floodplain Red Gum Woodland EEC, and it was a key focus of

our assessment in terms of this is one of the species where there's potentially a serious and irreversible impact. Just looking at the slide, HVO Operations identified opportunities to avoid impacts on the EEC through the assessment process. As you'd see from our report, the residual impacts would be a disturbance of an area of 1.06 hectares (to the right on the table there) through avoidance measures. This represents about 0.28% of the current estimated geographic extent of this EEC in New South Wales, being around 436 hectares.

Just on the figure there on the screen, it may be a bit hard to see, but this is the sort of residual impact on the community as a result of changes to transmission line infrastructure and supporting infrastructure for the project. Just the light blue is, in the figure here, is just the residual impact on that area.

Probably the other thing to say about this, the impact would comprise of two main areas, one in HVO North that would be mined, and there's little opportunity for further avoidance. And the other is for the transmission line which is on the figure here.

In its final advice, DCCEEW, CPHR noted the efforts to avoid and did not request consideration of further avoidance. It's also worth noting that the impacts in this location for the transmission line would likely be limited to edge effects and tree trimming rather than complete disturbance on that.

I just want to talk just briefly too about the River Redgum Rehabilitation and Restoration Strategy. HVO committed to update their existing strategy to mitigate impacts which would incorporate an additional 6.6 hectares into an existing restoration area that is already managed at the site under their existing consents.

The recommended condition of consent for the strategy requires the development of rehabilitation and restoration objectives for River Redgum populations and short, medium and long-term measures that would be implemented to rehabilitate and restore the area. It requires the development of detailed assessment and completion criteria for the rehabilitation and restoration of the area and a Trigger Action Response Plan. The strategy would be required to be prepared by suitably qualified experts in consultation with key agencies.

If reporting under the plan identifies that restoration is underperforming, the Trigger Action Response Plan would identify remedial actions to ensure the continued improvement of the community through the conditions of consent. The Department's Post Approval and Compliance Team would review reporting required under the plan and take appropriate action if they consider that it's not being implemented as required under the consent and through the Trigger Action Response Plan.

That's probably the main points. Was there anything in particular you wanted to go through?

MR SMITH: Yes, we asked the company, but we're also interested in your insight on measures, like, how is this area that's to be restored to be protected in perpetuity? And we've asked them to elaborate as a follow up to our meeting with them. But did you

consider anything about the tenure or what mechanisms could be used to ensure that once this is all rehabilitated, it's going to stay?

MR O'DONOGHUE: Is this for the River Redgum ...

MR SMITH: Yes.

MR O'DONOGHUE: ... Restoration Area in particular?

MR SMITH: Yes, the additional 6.6 hectares.

MR O'DONOGHUE: Well, certainly I think there's, I think the process is there in ensuring, like, good monitoring of the area, getting good plot data to feed into that ... And also looking at those actions that you can take to improve the outcomes. So, I think with the conditions that are set up, there is good opportunity for that monitoring and over time and developing actions to enhance the outcome.

MR SMITH: So, what I was thinking of, Steve, is that you've highlighted that we have to consider whether this impact represents serious and irreversible impact on a severely restricted endangered ecological community. It's clearly a positive that the company is committing to restore 6.6 hectares, and we heard that it's well located because it's adjacent to existing remnants and so forth.

So, what we're particularly interested to see is what legal mechanism could be used to make sure that all this good work doesn't go to waste in the future because of future inappropriate grazing or other inappropriate land uses or a desire to turn it into something else or whatever, when all of the mine's long gone. So, some kind of – I mean, there is a range of mechanisms to protective covenants on title or establishment of conservation areas as offsets, all of those sorts of things, but we couldn't see any information about those matters being considered.

MR O'DONOGHUE: Well, look, there's certainly opportunity for that. While it's being – I agree, while it's being managed under the consent, it's in the control of the company to put those measures in place through the strategy and management actions. There would be a step there to look at opportunity in-perpetuity protection of that. That's something that could be considered through the actions, through the consent and discussions with the company. But certainly, biodiversity stewardship agreement or some long-term tenure to protect that would be appropriate in the long term.

MR SMITH: Thanks, all right. We'll consider that. Other questions about biodiversity?

MS MILLIGAN: I'm a bit confused on SAII - the question about the difference in SAII.

MR CHILCOTT: Yes that's what I wanted to get onto.

MR SMITH: Okay. Well, why don't one of you take us there?

MR CHILCOTT: Yes. Just in relation to the serious and irreversible impacts question. The Department's assessment did not draw a conclusion in the end based on what it had before it and left the question for us to resolve. I'm interested in why the Department adopted that approach and what it felt it was missing in order not to be able to draw a conclusion in relation to that matter.

MR O'DONOGHUE: Sorry, it was just a bit – it was a bit muffled there, I haven't got my headphones on, sorry.

MR CHILCOTT: I'll try and speak up. I'm interested in, in the Assessment Report, the Department did not draw a conclusion in relation to whether the project would have serious and irreversible impacts in relation to its operations and its effects on EECs. And you left it to us, as the Commission, to consider those matters and draw a conclusion. I'm wondering what was it that you felt constrained based on the information you had before you, that limited your capacity to reach a conclusion concerning that question.

MR O'DONOGHUE: Look, in our Assessment Report we do, like, we do conclude that based on all the information that it's unlikely that it's going to significantly contribute to the extinction of the species. So, we do draw that conclusion. But we note that it's the ... So, we're sort of providing information, we provided information about stepping through the SAI steps and information available to make some commentary around that. But ultimately, the statutory requirement is for the consent authority in particular to make that conclusion.

So, we've sort of presented arguments on both sides of this and drawn out the information against the principles, the level of impact, and the significance of the impacts. So, but again, we're just being cautious and just following the statutory requirements that ultimately, it's up to the consent authority to make that conclusion.

MS MILLIGAN: Okay. So, your comment that, you know, noting that this is a decision for the consent authority doesn't actually convey anything about the strength of your analysis or where you landed on it.

MR O'DONOGHUE: I think in our report, I think we do provide commentary around that, we do provide a conclusion that the Department, based on the information, considers there unlikely to be SAI based on the – and it's unlikely to contribute significantly to the risk of extinction for that species based on the available info.

MR TURNER: But yes, you're correct, that comment is there to acknowledge the statutory arrangement for the decision.

MS MILLIGAN: Thank you.

MR CHILCOTT: Thank you.

MR SMITH: Okay. So, let's move to item 6 which is water resources. Colleagues, are there any questions about this? The material before us suggests that the potential impacts on water are well understood considering this is a long established site with

sophisticated water management plans and systems in place, and that it's been put to us that potential additional impacts can be easily or readily managed by the measures proposed. Is there anything, any other questions that you wanted to ask about that?

5 **MR CHILCOTT:** I don't have anything.

MS MILLIGAN: I had one question, just about the rehabilitated voids. I suppose my question is, the scale and size of those voids and the ability to sort of, I suppose, keep them safe and useful for the long term. Did you have any comment on that?

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MR O'DONOGHUE: Look, that's certainly – so, that comes, I guess, to the heart of the rehabilitation objectives in particular, incorporating final voids – to have a safe, stable and non-polluting outcome is a standard rehabilitation objective. And certainly, there are safety considerations, particularly when you've got high walls and trying to

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Now, there's certainly opportunity, and Mount Arthur is a good example where they're looking at post-mining land uses and what options there are for final voids, and they are looking at, like, pumped hydro investigation for the final void there. We've got a rehabilitation strategy requirement in particular to look at a high level what opportunities there would be for post-mining land use as the mine progresses towards closure, and review that frequently as to looking at opportunities around that.

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But I guess the overall objective is to have a safe, stable and non-polluting landform and that draws the final void into that requirement as well.

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MR SMITH: So, should we just finish just on the rehab point before we move on. So, in a hundred years who will be making sure that people aren't going to fall down the hole?

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MR O'DONOGHUE: Look, that's really about having measures in place about access to the site, will ultimately depend on who takes over control of the site once the consent has – once the mining lease is surrendered and the consent is surrendered. There's certainly requirements in there in terms of safety being a key issue, for instance, it's the site making people aware that there's a void there, and particularly in relation to the high wall and safety issues around that in the landscape.

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MR SMITH: So, how does the current final landform plan compare to the proposed final landform, if this extension is improved, what was going to be there prior to this application coming forward – still a similar void or a much bigger void now?

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MR O'DONOGHUE: Sorry, can you repeat that there, Chair?

MR SMITH: The current approvals that have only a short time to run no doubt had a rehabilitation obligation and already a post-mining landscape design envisaged. Presumably, that also had a final void or voids?

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MR O'DONOGHUE: Certainly. And it's probably the – this is where the resources regulator takes the lead on the detail on the final rehabilitation and safety aspects in

particular for the final landform. So, there's a requirement under the mining legislation to prepare a Rehabilitation Management Plan that is updated as they move towards closure. So, there would be further detail on that which is regulated under the mining legislation in particular.

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MR TURNER: I can add a little bit to that on the void too. In the current approved final landforms, there's four voids because of the different pits in North and South. With the amendment, they'd reduce that to three final voids. Otherwise, the landform in terms of future grazing and vegetation areas reflects the new final landform for the new mine plan, but it's generally consistent, and there's some information on the slide there.

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MR O'DONOGHUE: I just put the slide up there showing the approved project, which Jack's talked about, which has got the four voids as compared to the amended proposed project for the continuation, which has got the three voids. Probably also to note there's more, I guess, it's more sophisticated now in terms of final landform in getting more natural-looking slope and using landform evolution techniques to make it a more stable landform in the long term but also a more natural-looking landform. You still end up with high walls as part of the mining, which is where the sort of safety issues are which will need to be managed.

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MS MILLIGAN: And I suppose our assumption is, given that the application is to mine deeper, the voids in the application are significantly deeper than the voids in the approval as it stands.

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MR TURNER: We can look at the information in the report. With the changed mine plan, it may not be the case that it's significantly more, of course you move a lot of dirt around the site, but then you just extract what's like the coal resource and that gets moved around. And the conditions do require that they minimise the size of those final voids as they do their landform planning.

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MS MILLIGAN: Thank you.

MR CHILCOTT: It's gone. Another question. Steve, just in your response to the Chair's question concerning who's responsible for ultimately ensuring that the safety or there is anything that can be done in terms of that long term final form, you seemed to suggest that these are matters for the future rather than matters that can be conditioned. Am I correct in taking that away from your response?

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MR O'DONOGHUE: Look, sorry, Commission, just – hard to hear ...

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MR CHILCOTT: I'm obviously not speaking clearly enough, I'll try again.

MR O'DONOGHUE: Yes.

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MR CHILCOTT: Just from your response to the Chair's question concerning what can be done or who is responsible for ensuring the security and safety of the landform, the response that, as I heard it from you, seemed to suggest that these were matters that would be dealt with in the future between the Applicant and the resources regulator

rather than matters that were available to be conditioned in some form now to guide that. Am I correct in taking that away as what you were trying to express, or were you trying to express something other than that?

5 **MR O'DONOGHUE:** Look, there is still – I think the detail of, it really comes into the final rehabilitation management plans through the mining legislation, that's where a lot of the detail, particularly moving to closure of very specific items and completion criteria. We set high-level rehabilitation objectives in the consent, you know, which talks about safety as an example, and stability.

10 A lot of the detail ends up – that's taken by the resources regulator through the mining legislation to really have detailed performance criteria and completion criteria for rehabilitation, which would also incorporate those safety aspects but also, for example, what benchmarks for vegetation rehabilitation, benchmarks for if you're returning the landform to agriculture, in that. So, the consent sets the overall framework through the objectives and also the rehab strategy providing direction, but a lot of the detail – like I say, a lot of that detail comes through a formal rehabilitation management plan and requirements under the mining regulation, in particular.

20 **MR CHILCOTT:** Thank you.

MR SMITH: Okay. So, let's turn to item 7 about environmental controls. So, we spoke to the Applicant who said they envisaged, or they said they have longstanding environmental management controls on key impacts like noise and dust that would impact on neighbouring receptors and they said that, you know, they envisaged those controls largely continuing in their current form.

30 Can you tell us about any – and obviously it's very useful that they have those control systems presently. Can you tell us about any residual current issues or problems that the neighbours or the community experienced that are going to be dealt with in a better way if this approval is granted as requested? Like, in other words, are there sort of problematic issues that have never quite got fixed that should be fixed now?

35 **MR O'DONOGHUE:** Look, I think for mining ... I agree that for mining projects, there has been – if you look over the last 15 years, there's been a lot of technology improvements for air, noise, blasting, in particular, like it's got more sophisticated in terms of using models, predictive models based on weather forecasts. So, you're trying to get ahead of the game in terms of reducing impacts but also having real-time monitoring for both air and noise to feed back into control rooms at the mines, so that they can take immediate measures if it's trending towards impact.

45 So, I think from an air and noise point of view and managing those impacts is a lot more sophisticated and the mining companies do take that seriously in managing that to either the conditions of consent or environmental protection licences, to ensure that they get compliance. In saying that, if there are concerns, we have, both the EPA and the Department, has a Compliance Team people can contact with their concerns and undertake investigations based on noise or air quality impacts or blasting impacts as well.

MR SMITH: So, would you say that the conditions that you recommended on to control these issues would require continuation of current practice or a step up compared to current practice?

5 **MR O'DONOGHUE:** I'd say, certainly for those components (air, noise and blast), the conditions are – you've got more a continuation of current practice, so it'd be implementing processes in place already, particularly at this mine site. In terms of the, like I say, the real-time dust monitoring, met forecasting, and the procedures that they have to manage those impacts.

10 So, for those aspects, yes, the conditions are, if you look at the previous conditions, they are similar and we have drawn on the existing conditions and supplemented them where needed. But I think it's correct that there are good processes in place and a lot of it is continuing those processes.

15 **MR TURNER:** I'll just add, both the existing consents and the recommended conditions require that they implemented best practice control measures, so as best practice evolves, so should the management and monitoring at the time.

20 **MR SMITH:** Thank you, Jack.

MR O'DONOGHUE: And probably the other comment I'd make. Like, there is a requirement, it's a standard requirement in our consents for an audit. They would be looking at three-yearly cycle to look at the performance but also drill down, like, if the condition requires implementation or best practice, to look at that and what processes they have in place. So, there's a number of areas where there can be continual improvement and looking at technology advances.

30 **MS MILLIGAN:** Just a question. So, the audit is against the conditions, but the conditions might say "implement best practice". Is that what you're saying? Because I guess the issue here is the conditions that apply to the current approval have developed significantly, the company has done a lot in terms of technology development, and so those conditions look quite different to what the practice is at the moment.

35 You've picked up the current conditions – I think you sort of said updated them or increased them where required. So, I'm just trying to track how, in an area that presumably is developing quite quickly, how do you keep track of best practice, who defines that – is that the EPA? And are the audits against best practice, or are they basically against the conditions as set?

40 **MR O'DONOGHUE:** There's probably a bit of both. There's certainly guidance that is developed by the EPA over time about what constitutes best practice, like, there's the – particularly in air quality, over the years. So, there's certainly guidance that is developed.

45 But also, I think within the mining industry as a whole, they are looking at opportunities, and the companies do speak to each other about what's being implemented and learn within the sector as to what's working and what's not working.

I think, from a sector wide, there's certainly – there's always looking at opportunities for improvement and learning from what's happening in the industry, in particular.

5 **MR SMITH:** Are you, from reviewing the submissions that you received, did you identify any neighbours who you think have been sitting there patiently waiting for the current consents to expire, looking for peace and quiet to begin, that will not experience that if this is approved?

10 **MR O'DONOGHUE:** Sorry, Chair, could you just repeat that?

MR SMITH: Yes. So, did you, in reviewing the submissions, did you – were there any from neighbours who had been looking forward to the end of the current operation in terms of relief from noise and dust, who will be disappointed if this approval is granted?

15 **MR O'DONOGHUE:** I would say, look, the answer to that is yes, certainly ... I've been involved with a lot of projects and that is always a concern when there are extensions of projects. There would be an expectation that a mine has a finite time and people make plans around when that may occur. So, I would expect that certainly and
20 raised in submissions that that's a concern for a mine extension and those impacts do continue. So, it is a significant issue and a social issue to consider.

MS MILLIGAN: I suppose on a similar train, was there anything in the submissions that alerted you to aspects of operational controls that weren't really meeting the needs
25 of the close community? We've talked about the improvement over time of what the company is doing, but I'm just wondering if the submissions alerted you to any areas which perhaps are weak and the operational controls are not really meeting people's expectations, whether or not they could be. But I'm just wondering, yes, what analysis did you make and were there any messages in the submissions for you around
30 operational controls.

MR O'DONOGHUE: Jack, is there any – without getting into all the submissions?

35 **MR TURNER:** Would say it'd be submissions when they talk about air quality are talking about the cumulative level in the Hunter Valley. There wouldn't have been many submissions, if any, that would go to the specific level of operational controls for the mine. It's definitely an issue common to people in the Hunter Valley and is talked about at that level.

40 **MS MILLIGAN:** Right. So, nothing about blast or noise from the closer community that might have alerted you to the fact that perhaps more needed to be done in terms of conditioning?

45 **MR TURNER:** There would have been – I'd say there would have been receivers in the vicinity of the mine that would have raised air quality and noise and blasting in their submissions. But again, it'd be in the general sense rather than an operational control, but yes, it would be impacts from the project.

MS MILLIGAN: Thank you.

5 **MR O'DONOGHUE:** Look, it probably also comes down to the issue of what the level of noise is. I guess, the framework for noise, for example, is the Noise Policy for Industry which sets what is an acceptable noise impact under that policy. That's targeting – the way that's set up is it's targeting the bulk of the population, you know, it wouldn't be impacted at that level of noise or concern. Now, that's not to say that people don't have an issue with noise levels that are below that, that could be audible, even though it might be in compliance with the noise limits set in the EPL or the conditions of consent.

10 **MR SMITH:** Can we just touch on Aboriginal cultural heritage. Is there anything that you wanted to add? I think we heard from the company that changes were made to the initial proposal to avoid the impact on two Scarred Trees. Can you tell us a bit about your observations on the engagement with the Aboriginal community on those Scarred
15 Trees or other potential impacts?

20 **MR O'DONOGHUE:** I'd have to ... I don't have the information at hand there, Chair, about the engagement. It's certainly on those two particular Scarred Trees, just to say that there is the consultation requirements that the company went through, you know, consultation guidelines for the project with the registered Aboriginal parties. Through the process with the amended project, there would have been consultation with them, but I don't have the information at hand as to the exact input from the Aboriginal RAPs on the Scarred Trees themselves; I'd have to provide further advice on that.

25 **MR SMITH:** So, perhaps we might –

30 **MR TURNER:** I think – oh, sorry, I can add to that. In our report, we do mention that the consultation with the RAPs were supportive of the avoidance of those trees, specifically.

35 **MR SMITH:** All right. So, just thinking more generally about Aboriginal cultural heritage, you're confident that the consultation rules that apply, you know, the consultation with the RAPs has been conducted in accordance with the rules?

MR O'DONOGHUE: Yes, look, we are confident in that, and we consulted with Heritage NSW who provided advice on the consultation, and we're satisfied that the processes were followed properly in accordance with the guideline.

40 **MR TURNER:** Yes. Heritage does focus on that a lot, and towards the back end of the project, the company was making sure they provided evidence of, you know, email records to show that they've consulted appropriately at each stage.

45 **MR SMITH:** Thank you. Anything else on that topic? Okay. Anything left over on rehab, I think we covered that.

MR CHILCOTT: We covered it.

5 **MR SMITH:** Yes. So, we did want to just ask you a question about one of the conditions. We asked the company about your recommended conditions, and they expressed the view that they were satisfied they could operate the mine successfully if all of those conditions were applied. We are interested just in your experience about the kind of conditions that require technology reviews every three years to look for adoption of new best practices. Can you just tell us about your experience with those conditions leading to change in practice if best practice improvements became possible? Like, I guess we're just, well, I'm a bit sceptical that the condition as put would likely lead to action. Because it's quite generic and not very directive.

10 **MR O'DONOGHUE:** Look, I think it depends, I think, Chair, in the area. Certainly, like we talked about the noise and air in particular, there's been a lot of improvements to how that's monitored and tracked and managed over time, so that's one area I would say that the review process and implementation of emerging technology has improved performance over time and against tracking, against compliance in particular.

15 I guess for the greenhouse gas aspect, like we talked earlier, there's more opportunity now in that with the EPA as lead regulator to drill down on that. They've got experts within the Net Zero Modelling Team who we've been using to review greenhouse gas management plans in particular and comment on opportunities for improvement. So, we expect that'll be ongoing through that review process for greenhouse gas emissions, in particular.

20 We also engage Katestone, for example, to provide a checklist on review of management plans to ensure that they're contemporary and that they are looking at emerging technologies and that. So, we're confident from the greenhouse gas aspect, with the oversight of both the Department and the EPA, that there will be opportunity to ensure that those reviews are rigorous and that we look at opportunities for improvement for abatement, in particular.

25 **MR TURNER:** It also aligns with the framework for the CCMAPs is that they are reviewed every three years, so the requirements under the licence. So, we've developed that condition to be consistent with the EPA's approach there, and the EPA of course would be responsible for regulating those CCMAPs. But given the way the conditions are worded, they would talk to each other in terms of what's an expected level of mitigation or best practice.

30 **MR SMITH:** So, I guess in the case of both electrification of plant and equipment and also the potential for pre-mining drainage to prevent fugitive emissions in the case of an open cut mine, both of those things are kind of at the frontier of technological evolution.

35 So, I guess we're particularly interested to ensure that when those reviews are done, if that's what we approve, that they're going to produce information of a sufficient quality so that the decision makers at the time, and the company, can be having fully informed conversations about financial feasibility or costs and benefits, all of those sorts of very detailed conversations. Because there will certainly be a choice for every mining company as to who is going to be the first coal mine on the east coast to step up and try electric trucks. You know, there'll be a temptation for people to not be the first,

and as you know, when new technology comes along, there's always this caution, understandable, but somebody's got to make a start. So, we'd be wanting to make sure those reviews are providing really good information so that there's clarity about all the relevant factors.

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MR O'DONOGHUE: I think the pre-drainage in particular, we've certainly got recommended conditions there that step them through, that require them to go through a process, pre-scoping, pre-feasibility, trial, over around a 30-month period to really interrogate that, and that's in consultation – that's involving experts but also consultation with the EPA through that process. So, look, we're confident in that at least the pre-drainage trial that there's a good framework there to really interrogate that, look at the success of the trial, and implement pre-drainage if the trial is successful.

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MR SMITH: So, we asked the company about what would success – how would success be measured, and they said that it would be a – they would like to the cost of doing the work, look to the amount of mitigation that was achieved, and then compare the unit cost of mitigation there against offsets; if it was less than offsets, they'd do it, if it was more, they'd do offsets.

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So, that's a difficult situation in a context of an evolving technology, because unless people keep pushing to explore and develop the technology, the cost never comes down. In which case, that technology is never developed to commercial stage. So, I guess I'm just interested in any comments you have about how you overcome the chicken-and-egg problem with both pre-drainage and electric trucks.

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MR O'DONOGHUE: I mean, the policy settings in the CCMAPs is still to progress the hierarchy of avoidance, mitigate, substitute or offset, right. So, there's still – the settings are still to drive that mitigation in a best practice framework, like the Greenhouse Gas Mitigation Guide from the EPA does go through that in terms of – so, cost is a factor in that, in making that decision about the feasibility of it compared to offsetting. So, we'd need to step through that process with that trial, like, to look at that aspect in terms of whether you go down that path. And similarly, for electrifications.

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MR SMITH: Yes, okay. Thanks for your response. Any other questions on that matter? No? Any other questions at all?

MR CHILCOTT: Not from me.

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MR SMITH: Anything from you, Janett? Okay. All right. Well, I think we've taken – we've noted a couple of things we're going to write to you to ask you to follow up for us. But otherwise, we'd like to thank you very much for your attendance and for being helpful answering our questions etc.

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MS MILLIGAN: Thank you.

MR O'DONOGHUE: Thanks, Chair. Thanks, commissioners.

MR SMITH: Good. All right.

MR CHILCOTT: Thank you.

MR SMITH: Good morning. That ends this meeting.

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MR TURNER: Great. Thanks, everyone.

>THE MEETING CONCLUDED