

Opening remarks for Commission's meeting with IPC Panel on 24 July 2026

Thank you for the invitation to meet with you today.

I acknowledge that we are meeting on the land of the Gadigal people of the Eora nation and I would like to pay respect to Elders past and present. I also pay respect to any Aboriginal and Torres Strait Islander people here today. Such acknowledgements are only a starting point for recognising and addressing past injustice.

Before moving to questions and discussion, I will make a few opening remarks.

The Net Zero Commission was established by the *Climate Change (Net Zero Future) Act 2023* (NSW) (Climate Change Act). We provide independent expert advice and recommendations on NSW's approach to reducing climate risk, including progress towards meeting the state's legislated emissions reduction targets and adaptation objective.

I am joined by Will Rayward-Smith (our Executive Director) and Phoebe Colman (who leads our resources work). Today we aim to respond to your questions and provide evidence to inform your consideration of the HVO North and South Open Cut Coal Continuation Projects (HVO Continuation).

The Climate Change Act requires NSW to reduce emissions by 50% below 2005 levels by 2030, 70% by 2035, and reach the longer-term goal of net zero emissions by 2050. Current NSW Government projections show that NSW has much to do to achieve these legislated targets. Those projections, which include emissions from the amended HVO Continuation project, indicate exceedances of 10–20 MtCO₂-e in 2030 and 21–24 MtCO₂-e in 2035.¹ I refer you to Figure 1 in the handout.

In December last year, the Net Zero Commission published our Coal Mining Emissions Spotlight Report.² Relevant findings include:

Finding 3: That “Consistent with the objectives of the Climate Change Act, NSW consent authorities need to meaningfully consider greenhouse gas emissions and their impacts in all planning decisions, including those for additional coal mining.”

and

Finding 4: That “Continued extensions or expansions to coal mining in NSW are not consistent with the emissions reduction targets in the Climate Change Act or the Paris Agreement temperature goals it gives effect to.”

Climate and public risks

If approved, HVO Continuation would contribute more than 1 MtCO₂-e to NSW emissions in the 2030 target year, and almost 0.9 MtCO₂-e in the 2035 target year. I refer you to Figure 2 in the handout.

¹ NSW DCCEEW 2026, [NSW greenhouse gas emissions projections 2025: methods paper](#). Please note unless otherwise stated, all references to years refer to financial years to align with the reporting periods for the greenhouse gas inventory and the Climate Change Act targets.

² Net Zero Commission 2025, [Coal Mining Emissions Spotlight Report](#).

Over the 16 years up to financial year 2042, when HVO South is proposed to close, the average direct emissions would be around 0.9 MtCO₂-e per year.³

The Commission understands that the project's *net* emissions – after the use of carbon credits – are considered by the Environment Protection Authority and the Department of Planning, Housing and Infrastructure (DPHI) to decline in line with NSW targets.⁴

A key question is whether reliance on carbon credits ensures that emissions are reduced in a way that contributes to NSW's targets. The answer is not necessarily because those carbon credits may represent emissions reductions outside NSW.⁵ Project documents indicate that the mine intends to rely primarily on carbon credits to both comply with the Safeguard Mechanism and to achieve additional reductions.⁶ We note that this commitment is not currently enforceable in the draft consent conditions.⁷

The obligations under the Safeguard Mechanism alone would not result in all mine emissions being offset through carbon credits. This is because the Safeguard provides for a baseline of emissions granted to each facility. Only emissions above that baseline need to be covered by offset credits.

While the 'NSW Coal Industry 2026–50' policy states that the NSW Government expects that coal mining industry emissions will decline in line with NSW's targets, current projections show overall coal mining emissions increasing. The latest projections show NSW coal mining emissions peaking in 2028–29 and remaining 2.4 MtCO₂-e higher than 2023–24 reported levels in the 2030 target year.⁸ I refer you to Figure 3 on the handout.

The project is proposed to operate until 2045, beyond the 2030 and 2035 target years. Estimated 'scope 1' emissions would be 0.7 MtCO₂-e in 2040 and 0.2 MtCO₂-e in 2045.⁹

Although NSW has not yet set targets for 2040 and 2045, section 9, subsection (3) of the Climate Change Act requires these interim targets to be set by regulation. Section 9, subsection (4) requires that each interim target must specify a reduction that is greater than the preceding target. Approval for HVO Continuation would potentially lock in additional emissions until 2045 and may affect NSW's ability to meet those more ambitious targets.

³ Net Zero Commission calculations for total gross scope 1 emissions (converted from calendar years to financial years to align with reporting periods for the Climate Change Act targets) using proponent's data: HVO 2025, HVO Continuation Amendment Report, [Appendix E Greenhouse Gas Assessment](#), p. 25, Table 3.4. Note the project's material contribution to NSW's greenhouse gas inventory would be from scope 1 emissions, as in-state scope 2 and 3 emissions are comparatively marginal.

⁴ DPHI 2026, [Hunter Valley Operations Continuation Project Assessment Report](#), p. iii.

⁵ Net Zero Commission 2025, [Coal Mining Emissions Spotlight Report](#), p. 23; As noted by the NSW EPA, "...offsets generated outside of NSW do not currently count towards the NSW emissions reduction inventory": NSW EPA 2025, [NSW guide for large emitters](#), p. 36.

⁶ HVO 2025, [Appendix E Greenhouse Gas Assessment](#), pp. 46-55.

⁷ DPHI 2026, [HVO North Open Cut Coal Mine Continuation Project recommended conditions of consent](#) (SSD 11826681), condition B1; DPHI 2026, [HVO South Open Cut Coal Mine Continuation Project recommended conditions of consent](#) (SSD-11826621), condition B6.

⁸ NSW DCCEE 2026, [NSW greenhouse gas emissions projections 2025: methods paper](#).

⁹ Net Zero Commission calculation, see footnote 3.

Our 2026 Annual Progress Report finds the pace of economy-wide decarbonisation must increase if NSW is to meet its statutory objectives – see Figure 4 in the handout.¹⁰ In that context, limiting and avoiding future emissions where possible is a relevant consideration.

Full lifecycle emissions impacts, including scope 3

Total lifecycle emissions from HVO Continuation are significantly greater than those accounted for within NSW. The proponent estimates these at 809 MtCO₂-e.¹¹ That is equivalent to more than seven years of NSW emissions.¹²

Approximately 98% of these would be scope 3 emissions, primarily from overseas coal combustion. Regardless of where it occurs, every tonne of greenhouse gas emitted increases the impacts of climate change.¹³

Those impacts are felt in NSW, including effects on infrastructure, agriculture, our economy, human health and the environment. Limiting atmospheric warming to within safe limits below 2°C, in pursuit of 1.5°C, requires deep, rapid and sustained emissions reductions.¹⁴

The Intergovernmental Panel on Climate Change’s latest assessment finds that the effectiveness of many adaptation and mitigation measures decreases as climate change intensifies.¹⁵ This implies increasing risks to NSW’s ability to meet its legislated adaptation objective.

Advances in the growing field of climate attribution science provide an indication of the real-world impacts of individual fossil fuel projects. The Abram study, cited at last week’s public hearing, is an example of this.¹⁶

In the Commission’s view, total lifecycle emissions, the local and global climate impacts of projects and advances in climate attribution science are relevant to your considerations of the public interest and determining the likely impacts of this project.

International legal framework

Recent international decisions are clarifying governmental obligations on climate change. NSW policy settings should be informed by Australia’s international obligations and their potential implications.

¹⁰ Net Zero Commission 2026, [2026 Annual Progress Report](#).

¹¹ DPHI 2026, [Hunter Valley Operations Continuation Project Assessment Report](#), p. iii.

¹² Based on NSW’s reported net emissions in 2023-24, which were 106.2 MtCO₂-e (including removals from the land sector): Net Zero Commission analysis of Cth DCCEEW, [State and Territory greenhouse gas inventories: 2024 emissions](#).

¹³ IPCC Working Group 2021, [Climate Change 2021: The Physical Science Basis](#).

¹⁴ UNFCCC 2015, [Paris Agreement \(Article 2\)](#); IPCC. [Climate Change 2023: Synthesis Report](#), p. 57.

¹⁵ IPCC 2023, [Climate Change 2023: Synthesis Report](#).

¹⁶ Abram, NJ, Maher, N, Perkins-Kirkpatrick, S et al 2025, [Quantifying the regional to global climate impacts of individual fossil fuel projects to inform decision-making](#). See also: Callahan, CW & Mankin, JS 2025, [Carbon majors and the scientific case for climate liability](#).

In July 2025 the International Court of Justice delivered its Advisory Opinion on States' Obligations in respect of Climate Change.¹⁷ While not binding on specific countries, it is widely regarded as an authoritative statement of international law.¹⁸

The Court found that States must act with due diligence to mitigate climate change, including in relation to fossil fuel production and consumption.¹⁹ It stated that:

“Failure of a State to take appropriate action to protect the climate system from GHG emissions — including through fossil fuel production, fossil fuel consumption, the granting of fossil fuel exploration licences or the provision of fossil fuel subsidies — may constitute an internationally wrongful act which is attributable to that State.”²⁰

The Court also emphasised the need to rely on the best available science in environmental impact assessment processes and confirmed that failure to meet obligations may give rise to legal consequences, including cessation and reparations.²¹

Also worth noting is that the UN General Assembly has voted to affirm the International Court of Justice's Advisory Opinion on States' duties under international law to protect the global climate system.²²

Legal commentary suggests that measures facilitating fossil fuel expansion may now face greater scrutiny, including at the subnational level.²³

This is beginning to emerge in Australia. In June 2026, a complaint was filed with the UN Human Rights Committee alleging Australia is in breach of its international human rights obligations through continued approval and support of fossil fuel exports.²⁴

¹⁷ International Court of Justice (ICJ) 2025, [Advisory Opinion on Obligations of States in respect of Climate Change](#), which builds on 2 advisory opinions: International Tribunal for the Law of the Sea 2024, [Advisory Opinion on Climate Change and International Law \(case no. 31\)](#); Inter-American Court of Human Rights 2025, [Advisory Opinion AO-32/25 on the Climate Emergency and Human Rights](#). See also analysis of international legal developments: Setzer, J & Higham, C 2026, [Global Trends in Climate Change Litigation: 2026 Snapshot](#), p. 17.

¹⁸ Foster, CE 2025, [The 2025 International Court of Justice Advisory Opinion on Obligations of States in respect of Climate Change](#); Amirfar, C et al 2026, [When Science Meets Law: Climate Law and International Environmental Adjudication After the ICJ and ITLOS Advisory Opinions](#); Young, MA 2025, [The International Court of Justice's Advisory Opinion on Climate Obligations](#). See also, commentary: [Norton Rose Fulbright](#); [Gilbert+Tobin](#).

¹⁹ ICJ Advisory Opinion, as above; Foster 2025, as above; on ICJ treatment of fossil fuels in its Advisory Opinion, see also: van Asselt, H & Rao, T 2025, [Fossil fuel feuds and the ICJ Advisory Opinion on Climate Change](#).

²⁰ ICJ Advisory Opinion, [427].

²¹ ICJ Advisory Opinion, [92], [447]; McClelland, R, Peel, J, Nelson, R, & Young, M 2025, [What are the implications of the ICJ Climate Advisory Opinion for EIA in Australia?](#); IISD 2026, [What Does the International Court of Justice Advisory Opinion on Climate Change Mean for Environmental Impact Assessment?](#).

²² UN General Assembly 2026, [Resolution A/80/L.65](#).

²³ McClelland et al 2025, IISD 2026, and van Asselt et al 2025, as above; Asgarian, H 2026, [From Accounting to Accountability: Exported Emissions as a Due-Diligence Problem after the ICJ Climate Advisory Opinion](#).

²⁴ The Climate Litigation Database 2026, [Poelina et al v Australia \(the 'Hard Truths Case'\)](#).

Economic impacts

NSW Government guidelines underpinning the development of cost-benefit analyses for mining projects were published in 2018.²⁵ As a result, HVO Continuation's assessment may underestimate the cost of the project's scope 1 and 2 emissions.

Based on NSW's share of the global population, the project proponent's cost-benefit analysis counts the cost of just 0.33% of those emissions.²⁶

Current NSW Treasury guidelines (TPG24-34, released December 2024) do not permit this approach.²⁷ The impact of including 100% of the cost of emissions, rather than only 0.33%, would increase the cost by a factor of 300. This would materially reduce the project's estimated economic benefits.

Just transition considerations

DPHI's Assessment Report finds that the HVO Continuation would result in net positive benefits to regional communities in the vicinity of the mine, and notes submissions supporting the project highlighted job security and economic and social benefits to local communities.²⁸

However, the International Energy Agency's 2025 World Energy Outlook projects global coal demand to peak before 2030 and decline thereafter.²⁹ This creates real uncertainty about the long-term viability of individual mines, particularly for thermal coal.³⁰

While governments cannot control global demand, they can influence how the transition is managed. Planning for economic diversification and community transition is therefore important.³¹

In that context, the social and economic risks associated with long-term coal extensions projects may also be relevant to the Independent Planning Commission's consideration.

Conclusion

We bring these matters to your attention to assist your deliberations on the HVO Continuation project and its implications for NSW emissions and the statutory targets in the Climate Change Act.

We look forward to responding to any questions today and, should it be warranted, providing any further detail should that be required.

Thank you.

²⁵ DPHI 2015, [Guidelines for the economic assessment of mining and coal seam gas proposals](#); DPHI 2018, [Technical notes supporting the Guidelines for the economic assessment of mining and coal seam gas proposals](#).

²⁶ HVO 2025, HVO Continuation Amendment Report, [Appendix M - Economic assessment](#), p. 46.

²⁷ NSW Treasury 2024, [TPG24-34 Carbon emissions in the Investment Framework](#).

²⁸ DPHI 2026, [Hunter Valley Operations Continuation Project Assessment Report](#), p. vii.

²⁹ The IEA's latest World Energy Outlook projects global coal use to decline 22–92% by 2050: Net Zero Commission analysis of IEA 2025, [World Energy Outlook 2025 Free Dataset](#).

³⁰ IEA 2025, [World Energy Outlook 2025](#), pp. 169–170. Commonwealth Treasury modelling on the impact of declining global coal demand on the Australian coal industry projected domestic coal production to decline by at least 42% to 2035 and at least 71% to 2050 in a pathway consistent with Australia's nationally determined contributions and net zero 2050 target: Cth Treasury 2025, [Australia's Net Zero Transformation: Treasury Modelling and Analysis](#), p. 33.

³¹ See also finding 5: Net Zero Commission 2025, [Coal Mining Emissions Spotlight Report](#).