

SUBMISSION TO THE INDEPENDENT PLANNING COMMISSION

HVO NORTH AND SOUTH OPEN CUT COAL CONTINUATION PROJECTS

Objector: Scott McCain Franks

Traditional Owner: Wonnarua People

Former Native Title Applicant: Plains Clans of the Wonnarua People (PCWP)
Wonnarua Elder and Lore Man

Strong Objection to Approval

I write to firmly and unequivocally oppose the approval of the HVO North and South Open Cut Coal Continuation Projects on Wonnarua Country.

My objection is based upon failures in Aboriginal consultation, failures in the identification of Traditional Owners, failures to properly consider cultural heritage impacts, failures to uphold commitments arising from previous Native Title negotiations, cumulative environmental impacts, intergenerational cultural destruction, and the broader inconsistency of continued coal expansion within the context of climate change and the Hunter Valley's ongoing transition away from coal.

Failure to Properly Identify and Consult Traditional Owners

The most significant issue before the Commission is the failure of the project to properly identify and consult the Traditional Owners of the affected land.

The Plains Clans of the Wonnarua People (PCWP) Native Title Party entered into Native Title negotiations with the project proponents and the State in relation to this mine and surrounding mining operations. As part of those negotiations, Ancillary Agreement Deed 31 was executed.

That agreement did not arise in a vacuum. It arose because the PCWP Native Title Party was recognised as the relevant Native Title party for the purposes of negotiation under the Commonwealth Native Title Act 1993.

Regardless of the current status of that Native Title claim, the execution of Deed 31 demonstrates a clear historical acknowledgment that the PCWP represented the Traditional Owners of the land affected by the project.

The proponents cannot rely upon the legitimacy of the PCWP when seeking consent and agreements under Native Title processes and then later disregard those same Traditional Owners when seeking planning approval.

This project has effectively attempted to separate Native Title recognition from cultural heritage consultation. That approach is fundamentally flawed.

The same Traditional Owners recognised during Native Title negotiations should remain central to any assessment of cultural significance, heritage values and cultural impacts.

Instead, the proponent has relied upon consultation processes involving individuals and groups who have not been identified by the PCWP as Traditional Owners and who do not possess authority under Wonnarua Lore and custom to determine the cultural significance of Wonnarua Country.

This is not merely a procedural failure. It strikes at the heart of Aboriginal cultural authority and self-determination.

Use of Aboriginal People to Silence Traditional Owners

One of the most concerning aspects of this project is the manner in which Aboriginal consultation has been undertaken.

Rather than consulting with those who hold cultural authority under Wonnarua Lore and custom, the process has elevated the views of other Aboriginal persons and organisations whose authority over the relevant Country remains disputed or unsubstantiated.

This creates a situation where Aboriginal people are effectively being used to silence Traditional Owners.

The consultation process becomes a mechanism to manufacture consent rather than obtain genuine cultural advice from those who carry cultural responsibilities to Country.

The Commission should be deeply concerned by any process that allows non-authorised individuals to make determinations regarding the cultural importance of land while excluding those who have consistently asserted and exercised traditional authority over that Country.

Destruction of Wonnarua Lore, Culture and Spiritual Connection

For Wonnarua people, Country is not simply land.

Country is the physical manifestation of our Lore, spirituality, creation stories, obligations and identity.

Our cultural responsibilities are inseparable from the landscape. Every ridge, creek line, valley, songline, ceremonial place and cultural landscape forms part of a living cultural system handed down through countless generations.

Every additional open-cut mining approval further destroys the physical foundations upon which our Lore, customs and cultural obligations depend.

How can future generations maintain connection to our Lore, creation, ceremony, storylines and cultural obligations when the landscapes that embody those traditions are continually excavated and destroyed?

The destruction caused by mining is not temporary.

The loss of cultural landscapes is permanent.

The loss of spiritual connection is permanent.

The loss of intergenerational cultural transmission is permanent.

No archaeological salvage program, cultural heritage management plan or offset arrangement can replace a destroyed cultural landscape.

Once Country is destroyed, it cannot be recreated.

Failure to Address the Cumulative Impact on Wonnarua Country

The Hunter Valley is one of the most heavily mined landscapes in Australia.

For generations, Wonnarua people have witnessed the progressive destruction of Country under assurances that the land would eventually be rehabilitated and restored.

Today, those assurances appear increasingly hollow.

Large areas of former mining land are now being earmarked for renewable energy infrastructure, transmission corridors and other industrial developments.

What was promised as rehabilitation is increasingly becoming permanent industrialisation.

This fundamentally undermines the commitments made to Traditional Owners and diminishes any prospect that future generations will inherit Country capable of supporting the continuation of Wonnarua Lore, culture and identity.

Failure to Protect Places of Historical and Cultural Importance

The broader Hunter Valley landscape contains places of immense cultural significance, including locations associated with frontier conflict, Aboriginal resistance and massacre sites.

Over many years I have advocated for the protection of places including the Ravensworth Massacre Site and associated cultural landscapes that tell the story of Wonnarua survival and resistance.

These places cannot be assessed as isolated archaeological sites.

They exist within a broader cultural landscape that continues to hold significance under Wonnarua Lore and custom.

The continued expansion of mining operations threatens not only individual sites but the integrity of the cultural landscape itself.

Previous IPC Position on Wonnarua Heritage

Of particular concern is the Commission's previous public recognition that Aboriginal cultural heritage throughout the Hunter Valley requires comprehensive auditing and assessment before further approvals proceed.

That position acknowledged a simple truth:

No authority can properly assess impacts upon Aboriginal heritage if the full extent of that heritage has never been adequately documented.

Years later, that commitment remains largely unrealised.

How can the Commission publicly recognise the need for comprehensive cultural heritage auditing and then continue approving projects before such work has been completed?

Traditional Owners are entitled to expect consistency between public commitments and decision-making.

The integrity of the planning system depends upon it.

Environmental and Climate Impacts

The environmental impacts of this project cannot be separated from its cultural impacts.

Country sustains culture.

Country sustains Lore.

Environmental degradation directly affects the ability of Wonnarua people to maintain cultural practices, fulfil cultural obligations and pass on knowledge to future generations.

The continuation of large-scale coal extraction contributes to cumulative environmental degradation, biodiversity loss, landscape fragmentation and global greenhouse gas emissions.

The Hunter Valley has already carried a disproportionate share of these impacts.

Conclusion

For all of these reasons, I respectfully submit that the HVO North and South Open Cut Coal Continuation Projects should be refused.

The proposal has failed to:

- Properly identify and consult Traditional Owners;
- Respect the recognition of Wonnarua Traditional Owners previously acknowledged through Native Title negotiations and Ancillary Agreement Deed 31;
- Protect Wonnarua cultural heritage, cultural landscapes and Lore;
- Address cumulative cultural impacts across the Hunter Valley;
- Honour commitments regarding rehabilitation and intergenerational equity;
- Adequately address environmental and climate impacts; and
- Uphold previous commitments regarding comprehensive Aboriginal heritage auditing.

As a Wonnarua Elder and Lore Man, I oppose this project in the strongest possible terms.

The destruction of Country is the destruction of culture.

The destruction of culture is the destruction of Lore.

The destruction of Lore is the destruction of identity, responsibility and connection to our ancestors and future generations.

The Commission has both the authority and responsibility to prevent that outcome.

I therefore call upon the Independent Planning Commission to reject this application and require a comprehensive Traditional Owner-led audit of Wonnarua cultural heritage across the affected landscape before any further mining approvals are contemplated.

Scott McCain Franks

Wonnarua Elder and Lore Man

Former Native Title Applicant

Plains Clans of the Wonnarua People (PCWP)