HUNTER VALLEY
OPERATIONS

1011 Lemington Road
LEMINGTON NSW 2330

Tuesday, 01 September 2026

Stephen Barry
Planning Director
Office of the Independent Planning Commission
Level 15
135 King Street
Sydney NSW 2000

Dear Mr Barry

Re: HVO North and South Open Cut Coal Continuation Projects (SSD-11826681 & SSD-11826621) – Response to Request for Information

Introduction

Thank you for the Independent Planning Commission's (Commission) letter dated 27 August 2026 in respect of development applications SSD-11826681 and SSD-11826621 (the Development Applications) which together seek consent for the Hunter Valley Operations Continuation Project (the Project).

HV Operations Pty Ltd (HVO) notes three key issues raised in your letter, being the:

1. Length of time for mining sought under the Development Applications;
2. Consideration of scope 3 emissions, the Paris Agreement and the Climate Change (Net Zero Future) Act 2023; and
3. Future Jobs and Investment Bill.

Each of these issues are addressed further below.

1. Length of time for mining under the Development Applications

Seeking approval for the Project until 2045 is entirely consistent with the NSW Coal Industry 2026-50 (Coal Policy) and reflects the NSW Government's stated support for brownfield extensions at existing mining operations "*where it can be demonstrated that environmental impacts of the project can be managed, to support ongoing job and energy security*".

Your letter states that "*the Commission is currently considering information provided by the applicant and the public in relation to the length of time for mining sought under the applications.*"

The period of continuation of mining that HVO is proposing is set out in the Development Applications, namely a continuation of mining at HVO North until the end of 2045 and a continuation of mining at HVO South until the end of 2042. As we explained in response to Question 7 of the Commission's questions on notice (see page 14 of our letter to you dated 29 July 2026), these periods are already the product of very significant compromise on the part of HVO in relation to our original preferred scope and operational life of the Project.

The Commission's letter asks for additional justification for these continuation periods sought in the Development Applications. Accordingly, we set out below our further reasoning.

Capital Investment

For a brownfield extension project such as HVO, the duration of approval is the critical mechanism determining economic viability. Restricting operations to a materially shorter timeframe would significantly undermine project viability and risk premature asset retirement.

Continuing operations at HVO requires substantial upfront and ongoing investment. The prolonged approvals process for HVO has resulted in delays to necessary infrastructure investments including tailings infrastructure and the Lemington Road realignment, in addition to other infrastructure relocations. Further capital investment is also required for fleet replacement, and other mine-supporting assets. These investments carry long payback periods and are justified only through the continuation periods currently sought. A shorter approval would materially impact the ability to recover these investments.

Specifically, the updated Economic Impact Assessment (EIA) in the Amendment Report (EMM 2025) identifies that HVO North (until 2045) alone requires capital investment of over AUD$2.1 billion to continue mining. HVO South (until 2042) requires over AUD$800 million of additional capital investment to continue mining.

These cash outlays are material, and a shorter approval time would force a reconsideration of these outlays and negatively impact the project's viability.

For a large-scale brownfield extension of this type and considering the significant capital investment, an approval of 19 years represents the minimum necessary timeframe required. Ultimately, the HVO Joint Venture parties require long term certainty to underpin a return on the capital investment required for continued operations at HVO until the end of 2045 for HVO North and the end of 2042 for HVO South.

The Project scope and mining extent are not arbitrary - they reflect where HVO considers an appropriate environmental, social and economic balance has been struck. HVO's detailed assessment over the past six years gives us confidence that we've struck the right balance between environmental impacts and economic benefits. On our assessment, further shortening the continuation period would be neither reasonable, proportionate or without consequence. Further reductions would compromise resource recovery, operational continuity and the fundamental purpose of the Project.

Regional and Socio-economic Impact

The regional implications are equally significant. HVO directly employs more than 1,500 people and supports approximately 4,000 indirect jobs. Over the last four years alone, HVO has spent approximately AU$3.8 billion on goods and services from around 750 local suppliers. Long-term approval provides these local Mining Equipment, Technology, and Services businesses with the pipeline certainty they require to invest in their own businesses, equipment, jobs and apprenticeships. A shorter approval timeframe will not provide the same level of certainty for these businesses and instead would likely shorten the need for their services, impacting their own ability to sustain and grow.

A long-term continuation also secures substantial economic benefits for NSW, including royalty revenues, regional employment, and the generation of cash flows that further strengthen the mine's capacity to meet rehabilitation and closure obligations at the end of mine life. It therefore provides the structural predictability required for a managed and orderly regional transition rather than an abrupt economic shock.

HVO also reiterates the significant socio-economic benefits arising from the Project. The Economic Impact Assessment (EY 2025) estimated the Project generates net benefits of AU$5.69 billion net present value (NPV) to NSW, average approximately 1,311 fulltime equivalent (FTE) jobs over the life of the Project.

This is a conservative estimate which the Department of Planning, Housing and Infrastructure acknowledged in their Assessment Report, noting that coal price forecasts assumed in the Project Cost Benefit Analysis (CBA) are lower than Consensus Economics forecast coal prices, and therefore if coal prices are higher over the life of the project than those assumed in the CBA, then both revenues and royalties would be significantly higher than those calculated.

NSW Resource estimates total royalties attributable to NSW from the Project at approximately AU$4.2 billion.

If consent is not granted for the full extension period, this would trigger a reassessment of the economic viability of the Project and life-of-mine for HVO – noting that approval for the current mining operations at HVO North expires on 31 December 2026.

A shorter approval is also likely to create acute "cliff-edge" economic anxiety potentially choking off local private investment, depressing the regional housing market, and triggering a flight of skilled labour out of the Hunter Valley.

Legality of shortening 19-year mine life

We question whether it is legally open to the Commission to approve continuation of mining for a period which is materially shorter than the period currently proposed in the Development Applications as a shorter mining period would fundamentally change the Project.

A shorter mining approval for HVO would require a complete reconfiguration of its mining operation. This would result in a different development to what has been proposed and assessed, with a different mine plan, a different progression of mining, different final landform and rehabilitation requirements, different benefits and different impacts.

Well before a project is subject to assessment, a viable project is first established that balances the capital outlay against the future potential economic return. A multitude of considerations are embedded within this decision such as:

- workforce requirements (construction and permanent);
- coal production rates;
- equipment requirements;
- upgraded or relocated infrastructure;
- associated capital (including the timing of the spend);
- environmental constraints; and
- social impacts.

Simply shortening the mine plan assessed in the HVO Continuation Project Amendment Report would potentially result in changes to all of these elements.

Within this context, we note that there is a limitation on the power to grant consent for development of a nature different to the development for which consent was sought in the application (see *Hunter Industrial Rental Equipment Pty Ltd v Dungog Shire Council* [2019] NSWCA 147 per Preston CJ at [296] – [298]).

It is also our view that a shorter period of operations would not be a '*specified part or aspect*' of the Project for the purposes of section 4.16(4)(c) of the *Environmental Planning and Assessment Act 1979* (NSW) and a shorter mining period would not be a discrete subset of the continuation for which consent is sought.

The impacts of a shorter continuation would potentially be materially different to the impacts of the Project as currently assessed. This is evident from the significant amount

of additional assessment that HVO carried out when it sought a reduced mining period in the HVO Continuation Project Amendment Report submitted in August 2025.

We are therefore of the view that the Commission does not have appropriate information to assess the impacts of a shorter continuation of mining operations. As we have previously advised the Commission, the environmental assessments of the Project are based on mining operations continuing for the entire period sought in the applications. Because the benefits and impacts of a shorter continuation period differ markedly from those that have been assessed, it is our view that the Commission does not have the information to assess the impacts.

Commodity Market Volatility

The continuation period sought by HVO also supports the effective management of commodity market volatility, which is an inherent characteristic of global coal markets. Coal prices are influenced by a range of factors outside the control of individual producers, including fluctuations in international energy demand, economic growth cycles, exchange rates, geopolitical events and supply chain disruptions. These factors can result in significant variations in commodity pricing over relatively short periods.

A longer approval term provides HVO with the flexibility to operate through these market cycles and make investment decisions with greater confidence. During periods of weaker market conditions and lower prices, the continuation period allows operations to be managed in a manner that preserves the long-term viability of the Project, rather than requiring production and investment decisions to be driven by shorter approval horizons. Conversely, during stronger market conditions, HVO can maximise the value of the resource and deliver greater economic returns from the efficient extraction of approved reserves.

The ability to realise returns across the full commodity cycle is important given the substantial long-term investments required to maintain mining operations, including workforce retention, equipment replacement, infrastructure maintenance and ongoing environmental management obligations. A stable and predictable approval framework supports these investments and reduces uncertainty for both the Project and its stakeholders.

In this way, the continuation period promotes the orderly and efficient development of the resource, allowing economic, employment and fiscal benefits to be realised over a longer timeframe while maintaining operational resilience through changing market conditions.

2. Consideration of scope 3 emissions, the Paris Agreement and the Climate Change (Net Zero Future) Act 2023

HVO does not contend that the impacts of the Scope 3 emissions of the Project are irrelevant. Nor does HVO contend that the system of Nationally Determined Contributions (NDCs) that exists under the Paris Agreement is a complete answer to the Project's Scope 3 emissions.

However, it would be an error for the Commission to completely ignore the system of NDCs when considering the impacts of the Project's Scope 3 emissions, and the weight to be given to those impacts.

The Commission can, and should, give appropriate weight to the fact that much of the coal extracted as part of the Project will be exported to countries which have made NDCs. That coal will therefore be subject to measures within those countries to reduce emissions.

We also direct the Commission to the responses to Questions 2 and 15 of the Commission's questions on notice (see page 47 of our letter to you dated 29 July 2026).

In respect of the *Climate Change (Net Zero Future) Act 2023* (the Net Zero Act), there is nothing in that legislation which supports the suggestion that the '*principles established under*' that Act limit the weight the Commission can, and should, give to the NDCs made by countries who will be receiving coal from the Project. There is nothing in the Net Zero Act which provides that the guiding principles in section 8 are legally binding on the Commission or that the Commission must refuse consent to any development application unless the determination is consistent with the guiding principles.

The Commission's statutory task is to consider Scope 3 emissions, not to assume responsibility for the emissions reduction policies of other sovereign nations.

The Project's customers operate within regulatory frameworks established by their governments, including commitments made under the Paris Agreement or equivalent measures. The downstream emissions from the combustion of exported coal will therefore occur in jurisdictions that have accepted responsibility under international law for managing their emissions trajectories in pursuit of their climate objectives.

In those circumstances, the Commission can reasonably conclude that it has considered Scope 3 emissions as required by law. To require more would effectively place the Commission in the position of second-guessing the climate policy settings, energy systems and emissions reduction pathways of sovereign nations that have themselves committed to the Paris Agreement framework.

This approach is entirely consistent with the Coal Policy which states:

> *NSW will continue to supply high-quality thermal and metallurgical coal to our trading partners, ensuring that producers continue to honour their export commitments and retaining our role as a trusted and reliable supplier as our partners meet their net zero commitments. All coal mines, and assessments for extensions of coal mines, will remain subject to rigorous and detailed environmental and planning frameworks.*

In any event, HVO has given detailed consideration to each of the guiding principles in section 8 of the Net Zero Act in section 4.6 of the Amendment Report dated August 2025. We also refer the Commission to Section 6.1 of the Allens legal advice at page 212 of our letter to you dated 29 July 2026.

3. Future Jobs and Investment Bill

Your letter invites HVO to provide the Commission with '*information on what minimum additional period of operations beyond the expiry of the existing approvals would be reasonably necessary to enable an orderly transition for the mine's workforce, suppliers and the local community'*.

We can only conclude that the Commission has asked this question for the purpose of a scenario where approval is granted for the Project only for the short period of time required to transition and close the operation.

As your letter states, the Future Jobs and Investment Bill (FJIB) is not law.

There is no certainty that the bill will ever be passed by Parliament and become law. It would therefore be premature for the Commission to give the bill significant weight. If the bill is passed following any approval of the Project, HVO will comply with the legislation on its terms.

We therefore do not consider the FJIB to be relevant to the Commission's determination and observe that at best it serves to provide further evidence of the NSW Government's support for the continuation of coal mining in the State until at least 2050.

In this regard, we note the Minister of Planning and Public Spaces, the Hon Paul Scully's, second reading of the FJIB in which he stated:

> *Coal continues to be the largest export in New South Wales and has contributed 3 per cent of gross State product almost every year for the past decade. Over 30 countries around the world rely on New South Wales coal for power generation and steel production. While this reliance on New South Wales coal will continue for years to come, we must plan for a shift in demand that will impact on New South Wales coal. We have a responsibility to work with our coal-producing regions to capitalise on new economic opportunities in both existing and emerging industries.*

...

> *To give members an insight into the path we must travel, current approvals for coal mining in New South Wales will be with us until 2050, and possibly longer.*

HVO welcomes Minister's Scully's acknowledgement and endorsement of the continuation of coal mining in New South Wales until 2050 and possibly longer. As the Commission knows, since originally making its Development Applications, HVO has reduced the length of time for mining sought from 2050 to 2045.

In terms of an orderly transition of the local community and regional economy, the Mayor of Muswellbrook Council, Mr Jeff Drayton made the following submission to the Commission at its Public Hearing on 16 July 2026 about the impacts to the region if HVO is not approved (emphasis added by HVO):

> *…If both do not proceed in the same window of time,* ***this region will face an economic and social shock without precedent.*** *Held in mining jobs, in the contractors and in small businesses that service this industry, in housing, in retail, and in many family budgets of thousands of households right across Muswellbrook and Singleton.*
>
> *This Commission does not carry that risk alone, but this Commission's decision materially shapes whether that risk becomes a reality. The NSW Government's own Coal Industry 2026-50 policy recognises what this community already knows: coal remains part of this state's economy for years yet. And that time needs to be managed deliberately, not ended abruptly by default, project-by-project through the assessment system.*
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> ***Approving the HVO Extension Project with the Department's recommended conditions is consistent with that state policy pathway. It buys this region something it cannot buy in any other way – time.*** *Time to build what comes next in a way that is planned, not panicked. Because let me be very clear: Muswellbrook Shire Council is not asking this Commission to keep this region dependent on coal forever. We are asking for the runway to reposition it.*

From a practical and legal perspective, we note that proposed draft Conditions of Consent for the Project (conditions B85 and B91 (HVO North) and B96 and B101 (HVO South)) already set out HVO's obligations in respect of mine closure which include:

- Under its rehabilitation strategy HVO is required to investigate ways to minimise adverse socio-economic effects associated with rehabilitation and mine closure. This would automatically include consideration of workforce impacts.

- Under its social impact management plan HVO is required to consider workforce impacts and transition aspects by:

- be prepared in consultation with Muswellbrook Shire and Singleton Councils, the CCC, local affected communities and other interested stakeholders;
- identify both positive and negative social impacts resulting from the development and following mine closure, both locally and regionally;
- specify adaptive management and mitigation measures to avoid, minimise, and/or mitigate negative social impacts; and
- include a program to monitor, review and report on the effectiveness of these measures.

In response to the Commission's specific questions relating to the:

1. transition measures that could be reasonably completed within a 5-year period; and
2. the shortest period that HVO considers is necessary to complete an orderly transition to closure,

our view is that all workforce and community engagement obligations relating to mine closure could be undertaken within the final 3-5 years of the final closure date, including but not limited to:

- worker and union consultation;
- supplier consultation;
- provision of training and counselling services for the workforce;
- local community consultation; and
- Local and State government consultation.

4. Conclusion

For a large, high value, long life brownfield asset like HVO, a short-term approval is economically equivalent to a rejection.

It prevents capital deployment, threatens the livelihoods of local workers and their families, and compromises state royalty streams.

The Commission is urged to grant the full 19-year, long-term continuation to ensure an orderly, economically viable, and well-funded transition for the Hunter region.

The long-term approval provides the structural predictability required for a managed economic transition. It gives local businesses, councils, and families a clear, dependable timeline to diversify the regional economy gradually, rather than forcing an abrupt, economically devastating structural shock.

Should you have any queries regarding the content of this letter please contact me on the details below.

Yours sincerely

[redacted]

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