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TRANSCRIPT OF PROCEEDINGS

TRANSCRIPT IN CONFIDENCE

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INDEPENDENT PLANNING COMMISSION

MEETING WITH DEPARTMENT OF PLANNING AND ENVIRONMENT

RE: BOGGABRI COAL MINE MOD 7

PANEL:

PROF SNOW BARLOW
PROF ZADA LIPMAN
DR IAN LAVERING

ASSISTING PANEL:

DIANA MITCHELL
NAOMI MOSS

DEPARTMENT OF PLANNING AND ENVIRONMENT:

STEVE O'DONOGHUE
ROSE-ANNE HAWKESWOOD

LOCATION:

IPC OFFICES
LEVEL 3, 201 ELIZABETH STREET
SYDNEY, NEW SOUTH WALES

DATE:

11.01 AM, THURSDAY, 11 APRIL 2019

PROF S. BARLOW: Well, thanks for coming.

MR S. O'DONOGHUE: That's all right. Yes.

5 PROF BARLOW: I have got something official which you - - -

MR O'DONOGHUE: Yes.

10 PROF BARLOW: - - - that I need to say at the beginning of the meeting.

MR O'DONOGHUE: Yes, yes

15 PROF BARLOW: Firstly, good morning to you all. Before we begin, I would like to acknowledge the traditional owners of the land on which we meet, the Gadigal People of the Eora Nation, and pay my respects to their elders past and present and emerging and to the elders from other communities who may be here today they're not. Welcome to the meeting. This is about Boggabri Coal and is seeking to modify the Boggabri Coal Mine and locate it between Narrabri and Gunnedah Local Government Areas.

20 The applicant is seeking to modify five aspects of the existing approval to secure biodiversity offsets through alternative mechanisms, use an approved stockpile area for its coal product, undertake exploration activities within the approved mining disturbance area, transport small tonnages of coal by road for testing and marketing
25 purposes and to realign a small section of the project boundary.

My name is Professor Snow Barlow. The other – this is Professor Zada Lipman here for another member of the Commission and this is Dr Ian Lavering here, who is another member – another Commissioner. We have here, of course, the Naomi Moss
30 and Diana Mitchell here from the Commission. As you know, this – in the interests of openness and transparency and to ensure full capture of the information we discuss, this meeting is being recorded and a full transcript will be produced and placed on the Commission website. So I think that's all we need to say at this point
- - -

35 MR O'DONOGHUE: Sure. Yes.

PROF BARLOW: - - - as we're aware. Perhaps the best way to begin, Steve, is to – just you outline how you see this application - - -

40 MR O'DONOGHUE: Yes.

PROF BARLOW: - - - and then we have some questions for you.

45 MR O'DONOGHUE: Okay. Right.

PROF BARLOW: Yes.

MR O'DONOGHUE: Look, I will just I'm Steve O'Donoghue, Acting Director Resource and Energy Assessments in the Planning Services Division and Rose-Anne
5 Hawkeswood is on my team, as well. So I will just introduce so, look, I just thought I would start by maybe just giving a bit of history to the Boggabri, sort of, operation.

10 PROF BARLOW: Yes, that would be useful.

MR O'DONOGHUE: So just to put it in context, I – it commenced mining operations in 2006. It was operating under an earlier 1989 consent back at that time. So it has been operating now for about 12 or 13 years. So it's an open cut mine – mining operations only, not underground. A new part 3A – under the Environment
15 Planning Assessment Act, under part 3A, there was a new approval granted in 2012, which is the current approval we're operating under with the surrender of that earlier 1989 approval.

20 So that's the one we're talking about. It's – just in context for the area, it's one of three mines. And this is, sort of, part of the modification application in terms of boundary adjustments. It's one of three mines operating around Leard Forest. There's Maules Creek to the north, which is operated by Whitehaven Coal, and Tarrawonga Coal Mine also operated by Whitehaven Coal is located to the east of – to the south-east of Boggabri. So I've just got a – just to help, I just thought I would
25 pass around – this, sort of, gives a regional context - - -

PROF BARLOW: Thank you.

MR O'DONOGHUE: - - - just of the mines. So this is a map from one of the, sort of, regional strategies, just showing the context, so it's a good one just showing the
30 locations of the mines. So the Maules Creek Mine in red, the Tarrawonga Mine to the south of that and then the Boggabri Mine in the middle between the two. It – this map also just shows the offsets in the regional context for all the three mines and the amount of – I guess, it, sort of, shows the size of the mining operations and the
35 offsets that are associated with the three mines. So that just gives some regional context.

PROF BARLOW: So where is the offsets, Steve?

40 MR O'DONOGHUE: So they're in – so in orange here - - -

PROF BARLOW: Okay. Them.

MR O'DONOGHUE: - - - they're there, so they're, sort of, the Maules Creek
45 offsets in orange.

PROF BARLOW: Yes.

MR O'DONOGHUE: The ones in blue are the Boggabri Coal offsets, so this one comes into some of the issues around - - -

PROF BARLOW: Yes.

5

MR O'DONOGHUE: - - - the security offsets for Boggabri. And then Tarrawonga also has some in the blue here - - -

PROF BARLOW: Okay.

10

MR O'DONOGHUE: - - - there's, sort of, Tarrawonga Mine offsets there.

PROF BARLOW: Tarrawonga is the light blue - - -

15

MR O'DONOGHUE: Yes.

PROF BARLOW: Boggabri is the dark blue, and Maules Creek is the orange.

20

MR O'DONOGHUE: Yes. So there's – a lot of the offsets were adjoining national parks or, you know, within a, sort of, a regional corridor - - -

PROF BARLOW: And are these all acquired assets by the mining company?

25

MR O'DONOGHUE: They are. They're all owned by the mining companies and so they're active offsets at the moment, so they're approved offsets and being managed under individual Biodiversity Management Plans for each mine.

30

PROF Z. LIPMAN: Do they include the Crown land that's – part of the offsets that aren't owned by the mines?

MR O'DONOGHUE: Yes, there is. There's a – this hatched area over here is a shared – a, sort of, shared offset property through here, which is part of – which is, sort of, operated by both Boggabri and Maules Creek as a joint offset.

35

MR: Okay.

MS: Right. Right.

40

MR O'DONOGHUE: So just to give you an idea of the regional context - - -

PROF BARLOW: Yes.

45

MR O'DONOGHUE: - - - of what we're talking about. So I guess one pertinent point is that – if we pull out another figure that might help. Here's just a figure showing the boundary between – and we will get into this in a bit more detail - - -

MR: Yes.

MR O'DONOGHUE: - - - on that issue, but this is just showing the boundary between the Tarrawonga and Boggabri Mines in more detail. So you can see where they're integrated into each other in the joining leases.

5 PROF BARLOW: Steve, what you didn't say - - -

MR O'DONOGHUE: Yes.

10 PROF BARLOW: - - - was – both Maules Creek and Tarrawonga are owed by Whitehaven.

MR O'DONOGHUE: Yes.

15 PROF BARLOW: What's the ownership of Boggabri?

MR O'DONOGHUE: Idemitsu - - -

PROF BARLOW: Idemitsu.

20 MR O'DONOGHUE: - - - Boggabri own the Boggabri Coal.

PROF BARLOW: Okay.

25 MR O'DONOGHUE: Yes. Yes.

PROF BARLOW: Is that a – how does that relate to coal – to Whitehaven? It doesn't.

30 MR O'DONOGHUE: It doesn't. They're separate - - -

PROF BARLOW: Yes.

35 MR O'DONOGHUE: - - - operations. I mean, they're still set up as separate companies. So Tarrawonga and Maules operate as separate subsidiary companies, but Whitehaven Coal operate – essentially operate the mine – those mines. And Boggabri Coal operates the – Idemitsu Boggabri operates the Boggabri Mine.

PROF BARLOW: Okay.

40 MR O'DONOGHUE: Yes.

PROF BARLOW: Thank you. That's good.

45 MR O'DONOGHUE: Yes. But this figure here just shows how, you know, close the Tarrawonga and Boggabri Mines are, and there's really – they're basically – rehab is sort of, you know, right up against each other which becomes the issue of the boundary adjustment part of the modification which I will sort – I can talk about

a bit more, but I just thought I would just show, you know, how close the operations are in this context. So the Tarrawonga Mine, just to give some context there, there was an extension project approved in January 2013.

5 There was a modification of Boggabri Coal that allowed the receipt of coal from Tarrawonga to be washed at the Boggabri washery, then railed out, and there was a – it was Boggabri mod that would accept that coal and treat the coal from Boggabri. There was a – there was going to be an agreement to do that, but one of the issues is that there's – they haven't been able to come to commercial arrangements. And
10 that's never happened. So that's one of the issues in this mod as well where Boggabri Coal want to use an approved stockpile area, but that was targeted for Tarrawonga Coal.

PROF BARLOW: Yes.

15 MR O'DONOGHUE: But because they're not – because there's no agreement yet to use that, they want to use that already approved area - - -

PROF BARLOW: Okay.

20 MR O'DONOGHUE: - - - for that.

PROF BARLOW: So – and Tarrawonga transport their coal by road; is that right?

25 MR O'DONOGHUE: They do. They transport it by road to the Gunnedah CHPPs which is on the outskirts of Gunnedah. So they've – it's – they can transport up to three million tonnes a year to the CHPP - - -

PROF BARLOW: Okay.

30 MR O'DONOGHUE: - - - in conjunction with another mine. There's a cap of three million tonnes between a couple of the mines on that transport route - - -

PROF BARLOW: Okay.

35 MR O'DONOGHUE: - - - and that one.

PROF BARLOW: Good. Thanks.

40 MR O'DONOGHUE: Okay. So, I guess, just the Boggabri Mine. So it's – that's open cut, 8.6 million tonnes a year of ROM coal. There's a coal washery at the site, rail load out, and it's approved to operate till 2033. And, as I said, it has got approval to take and wash up to three million tonnes of coal from Tarrawonga as part of its approval. The modification is being assessed under a 75W modification as a
45 transitional Part 3A project. So they made a modification request before 1 March in 2018 at the time of when the Environment Planning Assessment Act was being amended.

PROF BARLOW: Yes.

MR O'DONOGHUE: There was a – there was provisions there that if – there was a cut-off date of 1 March. If they got the modification request in by then, it could be
5 assessed as a 75W modification as part of that, and the application letters and that are on our website too. But I can provide a copy of that if you need it, but that's important in terms of the - - -

PROF BARLOW: Yes.

10

MR O'DONOGHUE: In - - -

PROF BARLOW: The way it's being determined, yes.

15 MR O'DONOGHUE: - - - the modification process that you need to consider. With the – do you want me to go through the – is there any questions on that sort of process, or do you want me to just go through the modification components?

PROF BARLOW: Go through the modification components - - -

20

MR O'DONOGHUE: Yes. Okay.

PROF BARLOW: - - - I think.

25 MR O'DONOGHUE: So like – so like you – you mentioned in your – the lead up, there's five aspects to it. I will just sort of – just step through – through each one. The first one is really about securing offsets and the mechanisms for that. The – the current approval only – only permits one mechanism to secure, you know, their offsets, which is about, you know, we're talking, you know, 8000 – 9000 hectares of
30 land that is tied up into offsets. That's quite a significant area. The approval only – only allows conservation agreement under the National Parks and Wildlife Act as the mechanism for securing offsets.

I guess, since the – since the approval condition was put in, there has been – the
35 Biodiversity Conversation Act has come in and the company is seeking more contemporary security mechanisms to secure offsets. So there's Stewardship Agreement is one option. Conservation Agreement, also under the Biodiversity Conservation Act.

40 But they also want to – want to look at the opportunity to possibly transfer some of their offsets into National Parks' land, if – if Parks are interested. And that certainly, I guess, the – the government position is to support transfer to National Park estate, because that's the highest form of security, but – but also Stewardship Agreements are a preferred mechanism to secure offsets, as well. But also keeping conservation
45 agreement mechanism available to them.

So I guess the intention of that first part of the mod was really just to change those security arrangements and give them time to – to be able to secure it under – under those new arrangements. So it's not changing impacts or the offset properties. It's just – it's just really a security – to give them more options for security mechanism.
5 The offsets don't change. They're still being managed under the approved Biodiversity Management Plan. So that's set in place and – and they have to manage it – manage them – manage the offsets in accordance with that.

10 PROF BARLOW: There was some mention in there of a 217 report that they haven't done. What's that one?

MR O'DONOGHUE: Which one's that? Two - - -

15 PROF BARLOW: I think there was some mention of a conservation report that they had to make which they haven't done or – late. Is that right? Or maybe I - - -

MR O'DONOGHUE: There – there was a – there's – there was a couple of, in the conditions, there's – there's a requirement to do an original biodiversity strategy. So if it's that - - -

20 PROF BARLOW: Yes.

MR O'DONOGHUE: If it's that one?

25 PROF BARLOW: Yes, that's right.

MR O'DONOGHUE: So – so that has – that has been done. That's been approved. So that - - -

30 PROF BARLOW: Yes.

MR O'DONOGHUE: - - - that – that was – I think early last year. I haven't got the exact date, but that – that has been approved, and that covers – that's a strategy covering – and this is a strategy, so - - -

35 PROF BARLOW: Yes.

MR O'DONOGHUE: - - - it's covering all the offsets from - - -

40 PROF BARLOW: Yes.

MR O'DONOGHUE: - - - from these three mines.

45 PROF BARLOW: Okay.

MR O'DONOGHUE: And – and recommendations on how they should be managed and performance completion criteria around that.

PROF LIPMAN: Sir, can I - - -

PROF BARLOW: Yes.

5 PROF LIPMAN: - - - ask a question.

MR O'DONOGHUE: Yes.

10 PROF BARLOW: Thank you, Zada.

PROF LIPMAN: Well, the first thing I would like to ask is why there was a four year delay in transferring these offsets. They were supposed to have transferred them in 2014.

15 MR O'DONOGHUE: Look, I think part – part of it is the, you know, complexity around – around the size of the – size of the areas, but also there was delays in – in getting a revised offset strategy finalised. So there's conditions in there to supplement the offsets that were required in the approval, with an additional 1000 hectares of – of offset properties.

20

PROF BARLOW: Yes.

MR O'DONOGHUE: So it took – took some time to – to identify the properties, get agreement with OEH on – on the properties, do – do field trips on that and – and
25 basically get it signed off and incorporated into the – into the management plan. So there was delays around that. And there was – there was – there was delays in – in, you know, developing the – the regional biodiversity strategy across, you know, Commonwealth, New South Wales government and three mining operations in – in trying to get a – get a sign off on the strategy that was acceptable to all parties. So
30 there was delays in that and I – I guess the key is that it's not changing – they're still – the offsets are still being managed. You know, the security mechanism provides that – that security into perpetuity, you know, so - - -

35 PROF BARLOW: Yes.

MR O'DONOGHUE: - - - it's not really – it's not changing – preventing the offsets but – from being managed, it's just – it's really a mechanism that, once mining ceases, that there's – there's obligations there for whoever owns the land to continue managing that land in a – in a – in appropriate – appropriate fashion. So it's not
40 really constrained or affected the – the management of those properties.

PROF LIPMAN: Can I ask another question? In relation to the conditions, I was looking at condition 47(a) - - -

45 MR O'DONOGHUE: Yes.

PROF LIPMAN: - - - and it's now – it now seems that, although OEH had agreed on registration by December 2019 - - -

MR O'DONOGHUE: Yes.

5

PROF LIPMAN: - - - it's now put out to February 2020, and I'm wondering what the additional extension is about?

10 MR O'DONOGHUE: To be honest, just from experience on how long it takes – because part of it is – is getting it through – through the Biodiversity Conservation Trust and going through all their steps in – in – in trying to secure property. It – it does involve field trips by Biodiversity Conservation Trust if it's going to be secured by the Stewardship Agreement or a Conservation Agreement. They do – they do – they will do their own detailed sort of field – field studies and that – and that can –
15 that can take some time, just from – from my experience in looking at it, we can – it can – it can take a number – number of years, even though – even prioritising it, you're probably looking at – at a good year to try and secure the – secure these through that process.

20 PROF LIPMAN: Just seems a bit strange that OEH has stipulated that it had to be – well, agreed that it had to be December 2019 and then, at this stage, it has been put forward just two months. It just doesn't seem – it seems inexplicable and there's nothing in the documentation to suggest that OEH has agreed to that additional extension. That was one point, and it – other point is, there seems to be a lot of
25 concern, and I – that, again, the way 47(a) is worded, which is standard wording, I accept. It – that it's conceivable, in terms of that, that the secretary, with agreement of OEH, could then give an additional extension. So, I mean, there's no assurance even that it's going to be 2020. So - - -

30 MR O'DONOGHUE: Yes, look, I think part of – part of that is – is recognising that there can be delays outside the – out – it's outside the control of the mine, you know, so – so part – part of it is – is that there has be – that there's input by the Biodiversity Conservation Trust, or if it's the case of transfer to National Parks, there's a process there that needs to be go through and that can be – that – that – from – from looking
35 at previous history of it, that can be delayed through government agencies to – to get – to meet those – those deadlines. So it's – so I think there – there does need to be some flexibility there to – to allow – to allow, you know, with reasonable – if there's reasonably advice from the company that the – that there's – there's – it has been delayed for reasons, to give that – to give that enough flexibility. Yes.

40

PROF LIPMAN: I haven't seen the reasons from the company. They haven't submitted any. But I just say, is there any way in which the – perhaps the condition – we could reword the condition so that there's – you know, it's not going to continue happening and we're going to have four years down the track, find that the
45 offsets haven't been registered – offsets haven't been registered. I was just - - -

PROF BARLOW: That sits with the secretary, doesn't it - - -

MR O'DONOGHUE: Yes. It does, yes.

PROF BARLOW: - - - at this point?

5 MR O'DONOGHUE: Yes.

PROF BARLOW: Well, that's the proposal.

10 PROF LIPMAN: Well, that's the proposal but I'm saying, we have – have the power to suggest amendments to the conditions to ensure that that is not the case.

PROF BARLOW: Yes, yes.

15 PROF LIPMAN: Yes.

MR O'DONOGHUE: Yes, look, I – I understand your comment but I – but I – all I can – I can – all can reiterate is that, you know, it's – it – it is – in terms of securing offsets, it's not always – it's not always the – the – you know, it's sometimes out of control of the company in terms of timing, so I think there needs to be a – you know, at least some – some consideration of that.

20 PROF BARLOW: What – what is the attitude of the National Parks to accepting some of these offsets? Because it seems to me that, you know, they would then have the responsibility to manage them.

25 MR O'DONOGHUE: That – that's right.

PROF BARLOW: So the – the - - -

30 MR O'DONOGHUE: Yes.

PROF BARLOW: - - - mining company is effectively not abrogating but – because they would have been making alternative arrangements, but they would be lightening their load - - -

35 MR O'DONOGHUE: But – yes - - -

PROF BARLOW: - - - in managing their offsets.

40 MR O'DONOGHUE: Yes. Look, just, Parks - - -

PROF BARLOW: How does that work?

45 MR O'DONOGHUE: Parks would generally – they – they will take – they will look at the property and the land. They're not going to – they won't take on any land that requires, you know, a lot of rehabilitation or restoration work. They – they – they're interested in – in, you know - - -

PROF BARLOW: High quality.

MR O'DONOGHUE: - - - better, pristine, high quality, which – which requires little management intervention or, at least, may – they may take a property in the
5 future which – where there's some sort of rehabilitation or restoration required, but they will consider it once that has been – once that has been done. So in general, they – they will take on properties that have a – that are – are in good condition already - - -

10 PROF BARLOW: Yes.

MR O'DONOGHUE: - - - usually and, as part of that, they will be – as part of the negotiations, they will be expecting, like, a – a upfront cost that that would be as
15 property in – in perpetuity, in terms of a funding mechanism.

PROF BARLOW: Presumably all this offset land is old grazing land, because that's, you know, it had to be private ownership - - -

20 MR O'DONOGHUE: If you look at the Boggabri offsets here - - -

PROF BARLOW: Yes.

MR O'DONOGHUE: So, like, there's quite – it is a bit of a - - -
25

PROF BARLOW: Yes. It goes up quite a way.

MR O'DONOGHUE: It is a bit of a mix so it's – so there's a combination of – you know, in quite heavily forested areas - - -
30

PROF BARLOW: Yes, that's right.

MR O'DONOGHUE: - - - where there has probably been minimal, you know, cultivation or grazing to – to a combination.
35

PROF BARLOW: Yes. I agree

PROF LIPMAN: With – sorry. With 47B, it refers to land that's – that's not to Crown land in addition so it seems that Crown lands have been committed to some
40 extent as an offset. Is that usual?

MR O'DONOGHUE: It can be but I guess part of the revised – when they developed the revised offset strategy that was one of the – one of their requirements was to look at that and if Crown lands – if the Crown lands weren't available that
45 they would have to look at alternative offsets to replace those Crown lands. So that was part of the revised offset package that they developed. They did consult with Crown Lands and in cases where Crown Lands were happy to transfer that to private

ownership that was the process. Otherwise Crown lands were excised out of the – out of the offset and the alternative offset properties found in the case of Boggabri Coal.

5 PROF LIPMAN: Thanks very much.

MR O'DONOGHUE: So there was a process that went – yes, went through that as part of that revised offset strategy.

10 PROF BARLOW: So what you're saying is that – which I think is stated in the application and you acknowledge it – is that all these offsets are actually owned by the company now.

MR O'DONOGHUE: Yes.

15

PROF BARLOW: Yes. Even though some may have come from Crown lands but their own private companies.

MR O'DONOGHUE: Originally but there's – yes. Yes.

20

PROF LIPMAN: Yes. But 47B says land not owned by the – by the proponent so - - -

MR O'DONOGHUE: Yes.

25

PROF LIPMAN: Yes. So – but it seems as if it's currently not owned. It's Crown land and not owned – it's – well, that was my reading of it.

PROF BARLOW: Yes.

30

PROF LIPMAN: Am I correct?

MR O'DONOGHUE: I would have to have a look.

35 MS R. HAWKESWOOD: Yes, I think it was a - - -

PROF LIPMAN: Yes.

MS HAWKESWOOD: It was a residual wording derived from - - -

40

MR O'DONOGHUE: Yes.

PROF LIPMAN: Yes.

45 PROF BARLOW: And so what's the status of that though?

PROF LIPMAN: Yes. I just wondered.

MR O'DONOGHUE: Of the?

PROF BARLOW: Of the proposed Crown land that's still Crown land and is proposed as an offset. That's your question, isn't it?

5

PROF LIPMAN: Yes, indeed. Indeed.

MR O'DONOGHUE: No, no, the – in the revised offset strategy – so that they've – they have determined which Crown land would be – is transferred to them or Crown land that they wouldn't proceed with and they've found the alternative offset. I mean, I can clarify it further with the company but my understanding is that that process has been completed. Yes.

10

PROF BARLOW: Yes. I think it would be useful if you did. That would - - -

15

PROF LIPMAN: It would be good to know who exactly it belonged to.

PROF BARLOW: Yes. Yes.

20

PROF LIPMAN: Yes.

PROF BARLOW: And I guess the other question that comes – Zada, do you have any more questions? I'm not going to a different thing but it's the same part of biodiversity but it - - -

25

PROF LIPMAN: I think – well, I suppose the only other question I had was of this – and it comes into another point – was in relation to the exploration issues. I know that the – that's another point, of course, but whether those – I realise it's incidental and that type of thing - - -

30

PROF BARLOW: Yes.

PROF LIPMAN: - - - but whether they are – we know where they are and it's claimed by the mine that there are actually already – environmental impacts of those are already costed but if we don't know where they are and what's going to be done, how do we know that they've been costed into the offsets.

35

MR O'DONOGHUE: Well, because it's only – it's confined to approved disturbance areas so they're doing exploration. The exploration we're talking about is in areas that have already been offset for clearing. So it would be in advance of the mining – that's ahead of the mining just – so informs the mine planned. Just basically doing drilling in advance of mining in the mining footprint. So it has already been – so the clearing has already been accounted for. It's already accounted for in the management plans in how you manage it and also in the mine operations plan. So there's no – there's no new – there's no new impact. It's all within the disturbance footprint. But it's - - -

45

PROF LIPMAN: That's better.

MR O'DONOGHUE: It's a – I guess Boggabri – I think, as we say in our report, it's sort of, like, most – most mines do that as a matter of course. It's just standard
5 practice to do, you know, drilling to inform the mine plan, you know, over the next, you know, three to five years. Boggabri Coal just wanted to – since it wasn't mentioned in the original EA, even though, you know, the MOP allows those sort of activities they just wanted to make it explicit in the – in this modification that's an activity that they could – that they could do. Just to – to remove any doubt about
10 that.

PROF LIPMAN: Okay. Thanks a lot.

PROF BARLOW: Yes. And probably in summary of that biodiversity unless
15 you have any questions on biodiversity.

DR I. LAVERING: No. I think my only concerns initially were what is the certainty of what we're dealing with in the end point.

20 MR O'DONOGHUE: Yes. Yes.

DR LAVERING: Yes. And I think if you can clarify, you know, what was going to be in – stayed in and what was not going to stay in, then that would certainly make that clearer.
25

MR O'DONOGHUE: Yes. Okay.

DR LAVERING: I didn't have too many concerns over the disturbance impact – a factor associated with exploration because I think, you know, that's usually a fairly
30 minor – you know, a very confined area.

MR O'DONOGHUE: Yes.

DR LAVERING: And I know what you're doing in terms of you want to make sure
35 that you're going to mine something that you want.

MR O'DONOGHUE: Yes, that's right. Yes. Yes.

DR LAVERING: Before you start cutting the coalface but you still want to know
40 what's there.

MR O'DONOGHUE: That's right. Yes.

DR LAVERING: Yes. Otherwise that was fairly clear – to me, anyway. I don't
45 have any problems with the other aspects but we need to still go through those, I think.

PROF BARLOW: Yes, we do but I just wanted to finish the biodiversity.

DR LAVERING: Biodiversity; yes.

5 PROF BARLOW: And your assessment makes the point that the proposed changes here are actually probably going to strengthen the – and so what's the basis of that?

MR O'DONOGHUE: Look, if you look at a hierarchy of mechanisms - - -

10 PROF BARLOW: Yes.

MR O'DONOGHUE: - - - I guess, like, putting it into a national park is the highest security because there's a high level of protection for - - -

15 PROF BARLOW: Yes.

MR O'DONOGHUE: - - - about what – you know, what you can do in there or not. Stewardship agreements, I guess, come next in the preferred mechanisms because it's a – it's the – similar to bio-banking agreements that used to, you know –
20 but it has been stewardship agreements under the new Biodiversity Conservation Act. But one of the – what they do is that it provides funding upfront. So if you enter a stewardship agreement - - -

PROF BARLOW: Yes.
25

MR O'DONOGHUE: - - - there's an agreement between the Biodiversity Conservation Trust of what in perpetuity costs are going to be and that money is provided upfront by the mining company and that's going to fund management actions into perpetuity, you know.
30

PROF BARLOW: Yes.

MR O'DONOGHUE: And that – and the way that works is that - - -

35 PROF BARLOW: Is there a covenant over – under the - - -

MR O'DONOGHUE: There is, yes.

PROF BARLOW: Yes.
40

MR O'DONOGHUE: It's – it goes on title. The same with conservation agreement – it goes on title as well.

PROF BARLOW: Yes.
45

MR O'DONOGHUE: Right. So that the stewardship agreement will have, you know, a monitoring program, it will have a management program which would be

consistent with the Biodiversity Management Plan. So at any point where, you know, if mining ceased or, you know, then there would be those funds upfront on those properties and they can be managed with payments out of the Biodiversity Conservation Trust fund.

5

PROF BARLOW: Okay.

MR O'DONOGHUE: So conservation agreements work similarly to stewardship agreements in that they have, you know, monitoring and management programs requirements in there but there's no money upfront that gets paid. So that's more funded by the landowner as obligations under the conservation agreement.

10

PROF BARLOW: So your argument is as this is the – there is a potential actual shift in the amount of these offsets going one to a stewardship agreement and perhaps to a national park although that national park hasn't happened yet.

15

MR O'DONOGHUE: That's right.

PROF BARLOW: And that would be high level security.

20

MR O'DONOGHUE: Yes.

PROF LIPMAN: Section 69B of the National Parks and Wildlife Act has been repealed in any event.

25

MR O'DONOGHUE: But – I know, yes. So it's not – yes.

PROF LIPMAN: And these are far more contemporary mechanisms and there's far more alternatives than there would be under the conservation agreement.

30

MR O'DONOGHUE: Yes. That's right.

PROF LIPMAN: Both are subject to the same problem, unfortunately, but in perpetuity doesn't mean much if the mine is going to – if mining is going to take place on the site because it cancels out all

35

PROF BARLOW: Yes. Yes. Okay. Let's – Ian, do you want to go to some of the other provisions in – you know, other changes.

40

DR LAVERING: Yes, only – yes. The project boundary, I guess, is probably what you call nip and tuck, you know.

MR O'DONOGHUE: Yes. Yes.

45

DR LAVERING: You want to make sure that you're not doing the wrong thing in other title and, geographically, everything is secure.

MR O'DONOGHUE: That's right. So I think the – I mean, the key there – and I guess the figure I had – and this is sort of – this is out of the – our report – and this, sort of, shows the boundary adjustment - - -

5 PROF BARLOW: Yes. Thank you.

MR O'DONOGHUE: Yes. That's just a - - -

10 PROF BARLOW: A bigger map is good.

MR O'DONOGHUE: That, sort of, ties in with this one here. So this is – shows, I guess, in more detail the aerial photo – and this is out at the Tarrawonga Mine. So there was a modification from Tarrawonga where that – where they would be moving some of their open cut operations into the south of the Boggabri Coal Mine. Right.
15 So as part of that, they're – they took over the lease area from Boggabri Coal and that has all been – so that area is that yellow bit there. Yes. Then they put - - -

PROF BARLOW: That's ML 1685?

20 MR O'DONOGHUE: - - - an MLA in for that one. And that Mining Lease Application has been granted and now - - -

PROF BARLOW: Right.

25 MR O'DONOGHUE: - - - from this line down, those two MLs under the MOP, the Mining Operations Plan, Tarrawonga has management for rehabilitation within that area.

30 PROF BARLOW: Okay.

MR O'DONOGHUE: So they've taken over control under the Mining Lease for that area - - -

35 PROF BARLOW: Yes.

MR O'DONOGHUE: - - - and Boggabri - - -

PROF BARLOW: Sorry I just turn it off.

40 MR O'DONOGHUE: - - - want to, you know – to realign – and their mining lease boundary has been changed, as well, so they just want to re-align the project boundary to be consistent with the agreed rehabilitation that has been - - -

45 DR LAVERING: Yes.

MR O'DONOGHUE: - - - set by the Resource Regulator – – –

DR LAVERING: Now, is that - - -

PROF BARLOW: - - - Resources Regulator.

5 DR LAVERING: - - - driven more by the – these ones here being, you know, better able to manage the operation - - -

MR O'DONOGHUE: That's right. The – yes - - -

10 DR LAVERING: - - - whereas the other guys have already - - -

MR O'DONOGHUE: They're moving north - - -

DR LAVERING: They have gone the other way, yes.

15 MR O'DONOGHUE: - - - they're going up that way.

DR LAVERING: I can understand that.

20 MR O'DONOGHUE: And they are, you know, moving into - - -

DR LAVERING: Yes.

MR O'DONOGHUE: - - - that area - - -

25 DR LAVERING: Yes.

MR O'DONOGHUE: - - - to integrate that into - - -

30 DR LAVERING: Yes. Well that - - -

MR O'DONOGHUE: - - - their water management system and their rehab responsibility - - -

35 DR LAVERING: That ticks a lot more - - -

MR O'DONOGHUE: Yes.

DR LAVERING: - - - you know, logical reasons for it, anyway, straightaway – yes.

40 Well, I can understand – I could probably guess that from your picture, anyway, that that is what has happened. They have already mined and exhausted what they want to do there and they have moved on to other things - - -

MR O'DONOGHUE: Yes. Yes.

45 DR LAVERING: - - - so the other guys “Look, well, we're ready to have a go at this side”, yes - - -

MR O'DONOGHUE: So Boggabri is heading north - - -

DR LAVERING: Yes.

5 MR O'DONOGHUE: - - - if you look at the - - -

DR LAVERING: The map here.

MR O'DONOGHUE:

10 DR LAVERING: Yes.

MR O'DONOGHUE: So they're – sort of, they're heading – here's their mine here
- - -

15 DR LAVERING: Yes.

MR O'DONOGHUE: - - - and they're, sort of, heading around - - -

20 DR LAVERING: So they've got a lot of - - -

MR O'DONOGHUE: - - - and up through here.

PROF BARLOW: Yes.

25 MR O'DONOGHUE: Yes.

PROF BARLOW: Yes. And this is Tarrawonga there?

30 MR O'DONOGHUE: That's right.

PROF BARLOW: Yes. And so Tarrawonga - - -

MR O'DONOGHUE: Tarrawonga will be moving in here and they will integrate
35 this land

PROF BARLOW: And they will share a responsibility for rehabilitation of that – is
that right?

40 MR O'DONOGHUE: Well, Tarrawonga will be responsible for everything in their
mining lease.

PROF BARLOW: Yes.

45 MR O'DONOGHUE: So Boggabri will, you know, leave it - - -

PROF BARLOW: Yes.

MR O'DONOGHUE: - - - and then Tarrawonga will come in and finish that off.

PROF BARLOW: I understand.

5 MR O'DONOGHUE: Yes.

PROF BARLOW: Okay.

10 MR O'DONOGHUE: Yes.

PROF BARLOW: Yes. Okay.

PROF LIPMAN: May I ask a question just coming at it from a lawyer s - - -

15 MR O'DONOGHUE: Yes?

PROF LIPMAN: - - - from a legal point of view, I've read that they have actually entered into commercial agreements to finalise that and that has all been done, and I'm just wondering whether you have any, sort of, authorisation from the neighbouring mine in relation to it because you've only got Boggabri's assertion that these agreements have been entered into and that the boundaries are being redrawn. Are there any other legalities that we need to be aware of to – in order to corroborate this position – the legality of this position?

20 MR O'DONOGHUE: Probably more in the modification – it has already been embedded into the – Tarrawonga's approval.

PROF LIPMAN: Right.

30 MR O'DONOGHUE: Right. So – in their modification for this extension. So the boundary adjustment has already happened for – in what – in Tarrawonga's approval. So, sort of – so their project approval already reflects this - - -

PROF LIPMAN: Right.

35 MR O'DONOGHUE: - - - and their Mining Operations Plan already reflects this, so it's really adjusting this so that Boggabri is – all their approvals are consistent with Tarrawonga. So, yes, in that it has already gone through a modification process to lock that in - - -

40 PROF LIPMAN: So it's

PROF BARLOW: Yes. So, presumably, it has come from Tarrawonga so they - - -

45 MR O'DONOGHUE: Yes.

PROF BARLOW: - - - must know

PROF LIPMAN: So that sounds good because - - -

MR O'DONOGHUE: Yes.

5 PROF LIPMAN: - - - I just know in other cases where there has been this situation, you usually get a letter from the neighbouring mine to say that this is the situation and - - -

PROF BARLOW: Yes.

10 PROF LIPMAN: - - - no – I was just surprised there wasn't anything, but if it's in the approval - - -

MR O'DONOGHUE: No. I've been out on-site with Tarrawonga and - - -

15 PROF LIPMAN: And it's all

MR O'DONOGHUE: Yes. Yes. It's all and they know what they've got to do and, you know, Boggabri know what – you know, so they're working - - -

20 PROF LIPMAN: That's

MR O'DONOGHUE: - - - their environmental officers work very closely together because of the – you know, because of the - - -

25 PROF LIPMAN: Yes.

MR O'DONOGHUE: - - - you know – and meet regularly with this sort of stuff.

30 DR LAVERING: Just as well you're not operating on reticular blocks with geoid changes - - -

PROF LIPMAN: Yes.

35 DR LAVERING: Good old irregular mine boundaries would make a lot more sense in that respect.

PROF LIPMAN: Okay.

40 PROF BARLOW: Okay.

PROF LIPMAN: So that ticks that box - - -

45 PROF BARLOW: Ticks that box. So I think we've done that. And there's the transport issue, aren't there – isn't there?

MR O'DONOGHUE: Yes. So I guess that was – so – I guess the background of that is again they want – they – I guess it's routine practice that companies take samples to labs or – for marketing purposes. Boggabri just wanted to make that clear in the MOD that that's something they – that they do and they would like - - -

5 PROF BARLOW: Yes.

MR O'DONOGHUE: - - - you know, would like to do. The conditions in – so you can only transport coal by rail but really that – the intention there was really – we're

10 talking about product coal going to port - - -

PROF BARLOW: Yes, that's right.

MR O'DONOGHUE: You know?

15 PROF BARLOW: Yes. Yes.

MR O'DONOGHUE: So we're talking about, you know, very – you know, very small tonnages, you know, like, out by rail, we're – you know, we're talking, you

20 know, 7 million tonnes a year, 8 million tonnes a year, we're talking here about 200 tonnes - - -

PROF BARLOW: Yes.

25 MR O'DONOGHUE: - - - you know, going out by – either light vehicle or heavy vehicle. It's a very small number in the scheme of – you know, heavy vehicles on the Kamilaroi Highway but even coming into the mine site, it's a very small percentage - - -

30 DR LAVERING: Is that sampling – specific sampling in any way driven by potential buyers? They just say, "Look, we want a - - -

MR O'DONOGHUE: It is - - -

35 DR LAVERING: - - - sample of what's coming - - -

MR O'DONOGHUE: Yes, yes.

DR LAVERING: - - - through your pile - - -

40 MR O'DONOGHUE: Part of it is for, you know, marketing purposes in terms of - - -

DR LAVERING: Okay.

45 MR O'DONOGHUE: - - - quality of coal and - - -

DR LAVERING: Yes.

MR O'DONOGHUE: - - - you know, ash sulphur content - - -

5 DR LAVERING: Point to the bits you want and we will give it to you.

MR O'DONOGHUE: Yes, yes. And – you know, and there's different – you know, they're targeting different seams and, you know, it's going to – the quality is going to change, so I think it's that ongoing check by their customers - - -

10 DR LAVERING: Need – yes.

MR O'DONOGHUE: - - - and, potentially, new customers about the quality of the coal - - -

15 DR LAVERING: And you can't change it all just to have that rail car with just that sample in it.

MR O'DONOGHUE: Yes. Yes.

20 DR LAVERING: And you just get the run of the mill.

MR O'DONOGHUE: So it is a, you know, continual requirement to analyse the coal and provide specifications and that to the – for the market. So it's just – really just part of that process. And it's not – we're not – you know, we're talking about very small traffic movements, you know, negligible really compared to the background movements and for very small tonnages.

30 PROF BARLOW: At least, they're – well, you know, the heavy ones seem, you know, light, but the light ones seem even lighter in some ways because there's sort of 500 movements a day.

MR O'DONOGHUE: Yes. Yes, that's right. So – yes. Yes.

35 PROF BARLOW: And, presumably, what, they have a workforce of 250 or something, do they?

MR O'DONOGHUE: I think it's more – I think we're talking about - - -

40 PROF BARLOW: I don't know - - -

MR O'DONOGHUE: It could be about 400 or something or - - -

45 PROF BARLOW:

MR O'DONOGHUE: - - - that sort of order, yes.

PROF BARLOW: Yes.

MR O'DONOGHUE: Yes, it's quite a – yes, between - - -

5 PROF BARLOW: It's - - -

MR O'DONOGHUE: Like, between the mines there, like employ quite a – the complex there - - -

10 PROF BARLOW: Yes.

MR O'DONOGHUE: There's a lot of movements - - -

PROF BARLOW: Yes.

15 MR O'DONOGHUE: - - - you know, because the access road coming into Boggabri also serves the Maules Creek - - -

PROF BARLOW: Mine.

20 MR O'DONOGHUE: So they sort of join into each other and get access to Kamilaroi Highway.

PROF BARLOW: Yes.

25 MR O'DONOGHUE: So there would be additional truck movements from Maules Creek which is a bigger mine as well.

PROF BARLOW: Yes.

30 MR O'DONOGHUE: So - - -

PROF BARLOW: So it transports its merchantable coal by truck to - - -

35 MR O'DONOGHUE: No. No. It's by rail.

PROF BARLOW: Yes.

MR O'DONOGHUE: But in terms of, you know, the - - -

40 PROF BARLOW: Trucks.

MR O'DONOGHUE: - - - employees coming in and - - -

45 PROF BARLOW: Yes, that's right. Yes.

MR: Yes.

MR O'DONOGHUE: - - - you know, heavy vehicles coming in for diesel, you know, refuelling and that sort of stuff.

PROF BARLOW: Yes. Yes. Yes.

5

MR O'DONOGHUE: So Maules is a bigger – that's a – I think around a 12/13 million tonne ROM coal.

PROF BARLOW: Yes. Yes.

10

MR O'DONOGHUE: So it's a bigger mine - - -

PROF BARLOW: Yes.

15

MR O'DONOGHUE: - - - you know, compared to Boggabri's. There's more, you know, vehicles, although there are commitments around shuttle buses for the light vehicles and that and that sort of stuff in terms of employees getting to the site for the shift work.

20

PROF BARLOW: Well, I think that seems reasonable to me, yes. So that – so what else have we got left? I think – is that it?

MR O'DONOGHUE: I think that was it.

25

PROF LIPMAN: No, the pile – the stockpile

MR: Stockpile.

MR O'DONOGHUE: The stockpile area – well, yes.

30

PROF BARLOW: The pile. Yes, that's right.

MR O'DONOGHUE: So I guess that one - - -

35

PROF BARLOW: Was a consequence, yes.

MR O'DONOGHUE: - - - again – this is just a blow-up. Probably got the - - -

PROF BARLOW: Thank you.

40

MR O'DONOGHUE: - - - figures in your report anyway. But – so, really – so the – as part of that – as part of the – there was a modification to – so I talked earlier about the Tarrawonga Extension Project sought to bring coal into the – to Boggabri - - -

45

PROF BARLOW: Yes.

MR O'DONOGHUE: - - - and wash it and transport it offsite. To allow that to occur, Boggabri modified its approval. It's Boggabri Modification 2 which basically set it up to allow the receipt of coal and increase capacity through the CHPP to take coal from Boggabri. So this sort of pad here - - -

5

PROF BARLOW: Yes.

MR O'DONOGHUE: - - - was to take, you know, product coal to ship off to market from Tarrawonga. Since they've never come to a commercial arrangements, even though it's approved, it has never been used. Boggabri, just for efficiencies and in allowing more room to have different product coal specifications depending on the market, they're just seeking the opportunity to use that area to store their coal even though it's identified for Tarrawonga Coal. So it's an approved area. The impacts have been – already been assessed in terms of the size of the stockpiles. You know, the air and noise impacts have – were assessed as part of that Boggabri MOD 2. They're just seeking to use that area for their own – their own coal - - -

15

PROF BARLOW: Okay.

MR O'DONOGHUE: - - - for – for efficiencies and – and product specification, different product specs.

20

PROF LIPMAN: Do they need approval for that?

MR O'DONOGHUE: Look, it's – it's one of those ones where the – they're trying to be thorough and – and they want to make it, you know, they – they potentially could have used that area, if it's an approved area but, I guess, it was done on the basis of - - -

25

PROF BARLOW: Another product - - -

30

MR O'DONOGHUE: - - - of – of another coal mine using it. They just - - -

PROF BARLOW: Yes.

35

MR O'DONOGHUE: - - - want to tick all the boxes and – and make it – make it clear that, you know, we're going to use it, you know, we would rather get it – you know, make it clear in the approval that we can and - - -

40

PROF BARLOW: Yes.

MR O'DONOGHUE: - - - you know, that - - -

PROF LIPMAN: Yes. Fair enough.

45

MR O'DONOGHUE: - - - that's – that's their intention. Yes.

PROF BARLOW: Tidying it up, yes. Again.

PROF LIPMAN: No problem. No, there's - - -

5 PROF BARLOW: Seems reasonable to me. So that's just about it.

PROF LIPMAN: I think so.

PROF BARLOW: Now, Zada, do you have any more questions for Steve?

10 PROF LIPMAN: No. Very happy with that.

PROF BARLOW: Well, thank you. Look, thank you also on the maps you brought along. I think it has made our job much easier to have larger maps and - - -

15 MR O'DONOGHUE: No, it certainly helped, I think.

PROF BARLOW: - - - to know what we're talking about.

20 MR O'DONOGHUE: Yes, yes.

PROF LIPMAN: These maps are great, yes.

PROF BARLOW: Yes. So thanks very much for your preparation, Steve, and

25 thanks for coming.

MR O'DONOGHUE: No, that's all right. Yes.

PROF BARLOW: Yes.

30 MR O'DONOGHUE: It has been good.

PROF LIPMAN: Steve, can – can I just ask you, though, whether you could sort of clarify that - - -

35 MR O'DONOGHUE: With the Crown lands, yes.

PROF LIPMAN: - - - the Crown land.

40 PROF BARLOW: Yes.

MR O'DONOGHUE: Yes, no, what – yes, we - - -

PROF LIPMAN: Thank you, thank you.

45 MR O'DONOGHUE: I will speak to the company and – yes, yes.

PROF BARLOW: We will come back to you on that.

MR O'DONOGHUE: Yes, okay.

5 PROF BARLOW: notification from the department. Thank you.

MR O'DONOGHUE: Okay.

10 PROF BARLOW: As you know, we having a public hearing now tomorrow morning.

MR O'DONOGHUE: Yes, yes. You heading off tonight or - - -

15 PROF LIPMAN: This afternoon, yes.

PROF BARLOW: This afternoon.

MR O'DONOGHUE: Yes. Yes, okay. Very good.

20 PROF BARLOW: To the coal province.

MS N. MOSS: Just very quickly, Steve, if I might - - -

25 MR O'DONOGHUE: Yes.

MS MOSS: Just which modification for Tarrawonga was it that changed that boundary? Just so that I can - - -

30 MR O'DONOGHUE: That was - - -

MS MOSS: - - - just relate back to - - -

PROF LIPMAN: I think it's mod 3.

35 MR O'DONOGHUE: Mod 3.

MS MOSS: Mod 3?

40 MR O'DONOGHUE: Yes.

MS MOSS: Sure.

45 MR O'DONOGHUE: Tarrawonga mod 3 did their boundary adjustment and that was in 2015. And Boggabri mod 2 was the one that allowed the receipt of coal - - -

PROF LIPMAN: Yes.

MR O'DONOGHUE: - - - you know, from Tarrawonga.

PROF LIPMAN: Yes.

5 MR O'DONOGHUE: Yes, sort of all fitting together, the puzzle.

DR LAVERING: Just so long as there's - - -

MR O'DONOGHUE: Yes.

10 DR LAVERING: - - - that it all adds up.

MR O'DONOGHUE: Yes.

15 DR LAVERING: Same number of bits of paper

PROF BARLOW: Well - - -

MR O'DONOGHUE: Okay.

20 PROF BARLOW: - - - that's good. Thanks for your time and – and we will proceed.

MR O'DONOGHUE: Okay. Very good. Okay.

25 PROF LIPMAN: Thank you very much.

MR O'DONOGHUE: Thank you.

30 PROF BARLOW: Yes, thank you.

DR LAVERING: Thanks very much, Steve.

PROF BARLOW: Thanks, Steve.

35 PROF LIPMAN: Thank you very much Steve.

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[11.46 am]