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TRANSCRIPT OF PROCEEDINGS

TRANSCRIPT IN CONFIDENCE

O/N H-1008478

INDEPENDENT PLANNING COMMISSION

PUBLIC MEETING

RE: BOGGABRI COAL MINE MOD 7

PANEL:

PROF SNOW BARLOW
PROF ZADA LIPMAN
DR IAN LAVERING

ASSISTING PANEL:

DAVID KOPPERS

LOCATION:

BOGGABRI GOLF CLUB
KAMILAROI HIGHWAY
BOGGABRI, NEW SOUTH WALES

DATE:

9.58 AM, FRIDAY, 12 APRIL 2019

PROF S. BARLOW: Well, good morning and welcome. Before I introduce myself I would like to acknowledge the traditional owners of this land on which we meet and pay my respects to their elders past and present and to the elders from other communities who may be here today.

5

Welcome to the public meeting on the proposed modification of – from Boggabri Coal, the applicant, who is seeking to modify five aspects of its existing approval under 09-0182. And these are to secure biodiversity offsets through alternative mechanisms; to use an approved stockpile area for its product, coal; to undertake exploration activities within the approved disturbance area and to transport small tonnages of coal by road for testing and marketing purposes; and to re-align a small section of the project boundary with the adjacent Tarrawonga Coal.

15 My name is Professor Snow Barlow and my fellow commissioners of the Independent Planning Commission on this panel are Professor Zada Lipman and Dr Ian Lavering here. What we're trying to do here is determine this proposal from Boggabri Coal that has been referred to us as the Independent Planning Commission. Before I continue here, I should state that all appointed commissioners must make an annual declaration of conflict of interest identifying potential conflicts with their appointed roles. For the record we are unaware of any conflicts in relation to our determination of this proposed modification. However, you can find additional information on the way we manage potential conflicts on the commission's website so it's on the commission's website.

25 In the interests of openness and transparency today's meeting is being recorded and a full transcript will be produced and made available on the website. An addendum here is that unfortunately our PA system isn't working and that's why I've asked you all to come to the front and those that are speaking to project your voice because, while you are being recorded, it will not come out through the loudspeaker system. Thanks. This public meetings gives us an opportunity to hear your views on the assessment report prepared by the Department of Planning and Environment before we determine this application.

35 Just a little note about what is the commission and what role do we play in the determination. The Independent Planning Commission of New South Wales was established by the New South Wales Government on 1 March 2018 as an independent statutory body operating separately to the Department of Planning and Environment. The commission plays an important role in the strengthening of transparency and independence in the decision-making processes of major development and land use planning in New South Wales.

45 The key functions of the commission are to determine state significant development applications; conduct public hearings for the development applications and other matters; and to provide independent expert advice on any planning and development matter when requested by the Minister for Planning or Planning Secretary. The commission is an independent consent authority of the state for significant

development applications and provides an additional level of scrutiny where there are more than 25 public objections, reportable political donations, or objections by a relevant local council. The commission is not provided – is not involved in the department’s assessment of this project and the preparation of its assessment report
5 or any findings within it. And, of course, the department’s assessment of this project application is available on the commission website.

Where we are in the process is this – this public meeting is part of the commission’s process. We’ve also been briefed by the department on their assessment report and
10 we’ve met with the applicant. After today’s meeting we may convene with other relevant stakeholders if clarification or additional information is required on matters raised and transcripts of all meetings will be published on our website. Today’s ground rules for this public hearing are the meeting is not a debate; it’s your chance as the public to inform us, as the commissioners, of matters that are important to you
15 in the determination of this proposal. Our panel is here to listen, not to comment.

We may ask questions for clarification and it’s also beneficial if your presentation is focused on the issues that are of concern to you. It is important that everyone registered to speak receives a fair share of time. You all have been allocated a time
20 limit. We will enforce timekeeping rules and, as chair, I reserve the right to allow additional time for provision of further technical materials if warranted. A warning bell will be sounded by David Koppers, the commission officer here, one minute before the speaker’s allotted time is up and then when it runs out.

25 Although we will try to stick to our schedule today, speakers sometimes don’t show or are late, as might be the case today, so if anyone – you know anyone is not attending, please advise David. And if you would like to project anything on the screen please give it to David before your presentation and we do have a projector. And if you have a copy of your presentation it would be appreciated if you could
30 provide it to the copy – to the secretariat before you speak. And please note any information given to us today will be made public. The commission’s privacy statement governs our approach to your information.

If you would like a copy of our privacy statement you can obtain one from our
35 website. And, as we are meeting on licensed premises today, I have to advise you that no alcohol is permitted in this meeting and if anyone does bring alcohol into the – we will, unfortunately, have to ask you to leave. Finally, I would ask you all to turn your mobile phones off and that’s it. Now, I would like to ask the first speaker on our schedule today and that speaker is Ray Balks who is representing the
40 Boggabri Coal operations today and Ray has 10 minutes. Please come forward, Ray, and this is the

MR R. BALKS: Thank you, Commissioner. I appreciate the opportunity to speak
45 on behalf of Boggabri Coal and also to share this information with the members of the public that are present. I also wish to acknowledge the custodians of this land, the Gomeroi People and their elders past and present. And I would just like to provide a very brief background to Boggabri Coal. It commenced operations in

2006. In 2012 we received an updated approval and the current project approval that we're operating under is in place since 2012.

5 As part of that approval process and then expansion of the mine we successfully completed a major expansion including a new rail spur to the mine, new coal handling and preparation plant facilities and mine infrastructure facilities in 2015. The modification application that we're seeking to have assessed relates to five separate areas. It provides an update to the project approval that we're currently working under and is specifically in areas related to law and to enable us to meet our operational requirements. There is no increase in coal output from this application's amendments and there's no increase in environmental impacts as a consequence of these proposed changes. What we believe is that the primary outcome of the application will allow us to deliver on our environmental commitments in a clear transparent and unambiguous way moving forward.

15 As you have set down, the five key aspects revolve around securing biodiversity offsets using a currently approved stockpile area for Boggabri Coal rather than Tarrawonga, as it's referred to in the current project approval, including the approved exploration activities that we undertake as part of the current project approval allowing small tonnages of coal for transport by road for testing and marketing purposes and clarifying a common boundary approval that we have with Tarrawonga.

25 I will just address these amendments separately so in terms of the biodiversity offset security proposal we have already assessed the biodiversity impacts of the overall development through the implementation of our approved biodiversity offset strategy that we have in place and in September 2017 the Department of Planning approved a revised offset strategy following endorsement of OEH.

30 The current project approval requires Boggabri Coal to secure these offsets by entering into a conservation agreement under the National Parks and Wildlife Act. Since the project was approved in 2012 the Biodiversity Conservation Act 2016 has been enacted which provides a clear legislative and policy framework for securing offsets through a biodiversity offset scheme. This includes contemporary mechanisms for securing offsets such as stewardship agreements and conservation agreements under the Biodiversity Act rather than the National Parks and Wildlife Act. In addition, some of the offset areas that we're proposing may be of interest to the National Parks and Wildlife Service for transfer into national park estate.

40 These options are not currently available to Boggabri Coal under the project approval which limits our ability to provide the most effective mechanism or mechanisms to meet our biodiversity offset requirements. Also related to our proposal is a proposed extension to the date by which the offset security is required to be finalised, extending that until February 2020 and that will enable us to arrange for these alternative options to be explored and finalised. I would just like to finish in regards to the biodiversity offset amendment to make the comment that the proposed

modification will not change, alter or diminish Boggabri Coal's offset obligations and there will be no change to the biodiversity impacts of the project approval.

5 I will move on to the second item which relates to Boggabri Coal seeking to change the use of an existing approved area. We currently stockpile Boggabri coal on the area that is the black rectangle. This is our overall facility. Coal preparation occurs in this middle area. Coal becoming available for processing is stockpiled on one side. It is processed and then put out to this – what we call our coal product area. We have an approved area that we have already constructed – shown in purple – and 10 we have the infrastructure already in place to be able to stockpile coal on to this area. In the current project approval the purple area is specifically nominated and titled Tarrawonga Coal Stockpile. So I just want to work through that amendment.

15 So what we're seeking to do in our proposal is to enable the approved Tarrawonga coal stockpiling area to be used for Boggabri Coal product and that allows operational flexibility. For this proposal there are no additional coal above our current limit of 8.6 million tons per annum proposed to be handled through the facilities and the impacts of those stockpile areas that are already in place have already been assessed and approved under Modification 2. The third item that I 20 wanted to discuss was the proposed inclusion of drilling and exploration activities and to just share what we mean by drilling and exploration activities. This is a graphic of our 2017 activities which we have our open-cut mining operation area in the bottom.

25 The advancing area that we're going to be operating in the next 12 to 18 months to two years is the cleared area in front. And all of these small black items are the – what we call our in-fill drill holes or our – commonly referred in mining as exploration holes and I will just take you through the background and the reasoning for that. So you will notice that in this graphic they're predominantly located within 30 the next two years of mining activity. Historically, the rest of the coal lease – which is quite extensive – around our current operating area has been through an exploration drilling program and there has been what we call widely spaced drill holes done over the last 20 or more years at 500-metre and 1000-metre spacings.

35 To give you a bit of a concept, from one side of the mining operation to the other is about two kilometres. So if you could imagine that 500 metre spacing would be – would mean one drill hole on the edge, one at the quarter point, the halfway point, the three-quarter point and then the outside point, just to give it some context. Why 40 are we seeking to add this in to our project approval?

The – we're looking to expressly include the terminology “exploration activities” which is a combination of factors: drilling, sampling, geophysical exploration. Some of it is drilling. Some of it is non-invasive means of exploring and we're looking to include that in our project approval as it relates to our currently approved 45 disturbance area. That's already permitted under our project approval through our mining and exploration licences. And we're also looking to incorporate – we've

dealt with this in terms of our discussion through the environmental assessment with the modification 7 project approval.

5 There are no additional impacts from this proposal and the exploration activities that are currently included in this already exist and are managed under our management plans and conditions of approval. I will just move through the final item which is the transportation of coal. Again, to give it some concept, this is a 20-litre bucket and a 200-litre container. So in terms of coal sample transport that we're looking for – 20 kilos and one of these drums would be 200 kilos. We have an on-site laboratory
10 where we sample our coal up to the capacity that we have with our laboratory which is somewhat limited and we have to send coal off to other laboratories with far greater capacity from time to time.

15 And at – currently, our current approval does not have the wording included in the project approval to allow us to do that. So we're looking for small tonnages, less than 200 tonnes a year, maximum of 10 heavy vehicles per year travelling from Boggabri Coal Mine to either Gunnedah or Newcastle. With the – we don't believe that there's any material impact on this activity and we've done a calculation to indicate that that would be approximately 0.01 percentage additional traffic other
20 than what has been previously assessed. The project boundary item that we've got included – Boggabri Coal had a lease boundary at the southern side or the bottom side of this green area.

25 It was – it is also our project boundary. Our lease – our coal lease has been transferred to the red line at the top and the area in green is now the responsibility of Tarrawonga Coal and we're therefore seeking to have the project boundary realigned to align with our coal lease. There are no additional impacts from this modification and we have noted that the EPA have requested that we need to apply for a change in the environmental protection licence as a consequence. So just in final conclusion,
30 we're looking – we're seeking the assessment to be undertaken on the basis that there are no material impacts to environmental factors. We believe that the biodiversity adds greater certainty in respect of the future biodiversity management and we're looking to clarify other points under our project approval. Thank you.

35 PROF BARLOW: Thank you. Thank you, Ray. The next speaker listed today is Mitchum Neave representing The Mob, and Mitchum has 10 minutes. Thank you.

MR M. NEAVE: Yes. Yaama. I would like to pay my respects to the elders past and present and those who are in the room today, and “yaama” means welcome. So I
40 acknowledge and appreciate the time. I'm a little bit nervous. I'm not computer-literate so I have no paperwork because the wi-fi printer couldn't hook up to what I wanted to do so anyway, just going on the presentations just there, the biodiversity offsets, every time the mine goes for approval right at the beginning, they get approval on what they already have put forward. They always come back down the
45 track and make modifications. Take the biodiversity offsets: it should have been like for like, but they don't.

We know it's impossible to have like-for-like, but to actually – to go in there and get a modification just on the biodiversity offset to put trees in there and then use that as part of their biodiversity offsets which is agreed on as well doesn't make sense because every time the mines always want something, they do a modification –
5 reapply to the Department of Planning. I hope this speech today makes sense.

They should get approval – probably 20 years – however long – half the period of time they were in the industry, stick to what they already applied for, leave it there – because I know if I went and done something, I will be in hell for doing something I
10 want to do because there's no modification in the indigenous side of stuff.

When you bring things up, they go, "that was decided on back in 1987. We can't change it." They use things – mining people use things against us because it's already locked in. There's no modification for us. And I'm also the chair of Red
15 Chief Land Council. The biodiversity offsets is really the part where everything is and it's okay to say there's no impact.

They're going to give that part to Tarrawonga – don't understand why – must be coal there to help Tarrawonga to make their expansion bigger. So they've got little
20 agreements going along amongst themselves. The other thing is you get onto the carbon side of stuff, the government should have a cap, not let the industries – gas, mines – put their own cap on the carbon for the community.

He just said he's going to build another stockpile – there's more carbon coming
25 through the air because they pick their own target for the carbon. The government people should already put a low cap on carbon. At the end of the day, they're going to use more machinery so they're producing more carbon. So there needs to be a low cap, not let the industries – mines and gas – pick their own carbon because they'll go to the high scale of the whole event. The animal corridors – yes, they put them in,
30 they pull them out. I would like to see them leave the animal corridors left in there. That little green spot – that could be an animal corridor. As soon as they hand it to Tarrawonga, they're going to mine it.

The animals – I've already brought up this thing in other mines. I know it's off the
35 track but this is my opportunity to speak to you guys – animals, water. The most important thing here about water – these mines pump out a lot of water. The whole system here right up to Moree, beyond, rely on the underground water. And I was at a CCC meeting and Boggabri said the aquifer is two foot lower. We've got farmers here who've got hand-dug wells – they're dry.

40 They're not – the water is not coming back in to replenish. But there's no assistance from the mines – not just this mine, the other mines as well – to help these people out because they're the ones that made that – the water down below – two foot lower and they say, "oh it's a drought. It's okay." Then they blame the cotton people. So it's
45 the mines. We never had that problem until the mines come in.

Biodiversity, animal corridors, the carbon – it's all right to sit down and say, "yes, they belong in Narrabri Shire Council"; that may be so, but they are actually on Red Chief Land Council land – our area. We don't get much support from anybody – anybody. And I've had a gut full of that as well. I know it's off the track, doesn't
5 mean a thing here, but to me it does. The social impact on things are wrong.

Everybody bodes up applications and put whatever they want to seek approval. The modifications – I will go back to that. They put all these things in to get approved right at the beginning. Not too long down the track – five years or whatever – they
10 ask modifications. They get done by the Department of Planning and they go ahead and do it. They get approval from them. And the environmental people as well.

So I like to take these opportunities at these types of things – it's not the first one I've been to – because it's the only time you get to say something from a little
15 person. It's all right to go and get these high people that pay their money to do their job for them and put it forward. I can't afford it. Other people in this room are in the same boat. We're just little people. We haven't got the skills to produce something like that. We haven't got the opportunity to do that. Here we are, the community people, growing together to trigger you guys to come to listen to us because if we'd
20 never done that, you'd be none the wiser.

We can't produce things like that. We're here on our own time. Me, I've got no pecuniary or conflict of interest with the mine – and that's the other thing. People come up here, they should declare a conflict or a pecuniary interest. It's okay to
25 stack the meetings with whatever they want. Other mines do it. Other mines do that very well. I'm quite surprised there's no yellow shirts sitting in here. Biodiversity is a really important thing. In the early days – and you can ask them, they will verify it – Tarrawonga, Maules Creek; Maules Creek and Boggabri Idemitsu – they overlap in biodiversity offsets – "no, that's ours. Ask them – that's ours," but they use the
30 same part of the ground. They should be separate. Not go and get another bit of dirt and put trees in, which is what they've done – make them stick to what they agreed with at the beginning.

Stop the modifications. We need it to stop. Transport – he already said that he had a lab up here. Well, expand your lab and engage more community. Why put more
35 carbon? It's okay to say it's only minute traffic, but at the end of the day, it's carbon. Environmental is going downhill. Even the politicians don't agree. You've got one that – you know, they want it, they don't want it. So here's your opportunity to make a decision to stop them producing more carbon because they don't care. our kids,
40 your great-grandchildren will wear the brunt of everything that's going down. Thank you.

PROF BARLOW: Thank you, Mitchum. The next speaker scheduled is Phil Laird from the Maules Creek Community Council. Welcome, Phil.
45

MR P. LAIRD: Thanks, Commissioners. I would also like to pay my respects to the elders past and present. Mitchum and I had wi-fi issues, so I've – and printer

issues, so I've got the – I'm just going to read my presso out. I would like to say thanks, commissioners, for extending the exhibition period and for attending this hearing with the public in Boggabri today. It's important that the inherent conflict of interest that the Department of Planning, as regulator and consent authority, is
5 broken down every time it's contemplated.

Having said this, we would note that the department's recommendations in a draft consolidated consent condition – which are highlighted in purple – have already been conveniently placed on the IPCs website in anticipation of a speedy approval. We
10 hope that legitimate arguments put forward at this meeting will be incorporated into your deliberations. You may be interested to know why there's so much interest in the so-called administrative change claimed by the Department of Planning, particularly at Maules Creek. Well, the department claimed a modification for the Maules Creek Mine to be an administrative change and approved a modification that
15 allows the Maules Creek Mine to keep its water management plans secret. This is an absolute outrage for us.

Water has been identified in the very early planning stages of all the mines – even back in the eighties before they got developed – as a major issue and it has always
20 been an issue in parts of Maules Creek, particularly in drought. It's clear to us at least that the mine is drawing down much more water than was modelled and now we have a case where the mine is finger-pointing, saying that it's the drought is the reason for the water loss even though we've had plenty of droughts before in living memory which have had nowhere near the damage. We've learnt from bitter
25 experience that the Department of Planning is not to be trusted and, like I say, we welcome you here today.

MOD 7 is described as an administrative change to the existing mine approval as a means to extend Boggabri Coal's infrastructure to work with Tarrawonga to take
30 more efficient use of coal handling infrastructure for Boggabri Coal. This may be true but as it's currently framed it's quite possible that MOD 7 could facilitate the mining of the biodiversity corridor between itself and the Maules Creek Coal Mine. In its original statements of commitments the company said:

35 *Boggabri will maintain a natural vegetation corridor between the operations of Maules Creek Coal until the further assessments are undertaken, relevant approvals are received and appropriate offset measures are put in place.*

Now, the consolidated consent conditions following MOD 6 says:
40

The proponent shall not clear native vegetation from any land within the 250 metres of the adjoining Maules Creek Coal Mine mining lease boundary except with the approval of the Director-General following the endorsement of OEH.

45 Well, it's the secretary now. What MOD 7 is proposing is to allow the company to explore in the native – could potentially explore in the native vegetation corridor and delay or make changes to the offset measures. All that is left is for OEH to endorse

the company's offset changes and the secretary to approve the newly proposed corridor behind closed doors at a time unknown to the community. Like Boggabri Coal, the Maules Creek Community Council do not believe that the exploration of native vegetation corridor is – or exploration is expressly permitted under the existing state or federal consent conditions. In fact, the EPBC approval says:

The person taking the action must submit a biodiversity corridor plan for the approval of the Minister within three months of the date of this approval and the plan must address the following matters: protection of native vegetation of a total of 500 metres where the Boggabri Coal Mine lease boundary is adjacent to the Maules Creek Coal Mine; maintenance in perpetuity of this area as a biodiversity corridor.

So we do not believe that MOD 7 respects the original intent to maintain the area in perpetuity as per the native vegetation biodiversity corridor in condition 3 of the EPBC approval. And for this reason we would recommend that any drilling program to explore should be limited to areas in the project area outside the existing 250 metre native vegetation corridor between Maules Creek and Boggabri Mines. We think that's important. Furthermore, the current consent is framed so that the proponent shall carry out the project so that it's generally in accordance with the EA.

Page 24 of the EA specifically states that the company will mine down to the Merriwon seam. An exploration program of drilling that goes below the Merriwon seam, potentially to 400 metres, would also, in our view, be outside the scope of the EA and existing consent conditions and we would not consider this an administrative change in our view. This is an example of creeping approvals, a process employed by mining and the department to get around the intent of original approval conditions in order to increase mining intensity and duration.

Cumulatively it has the effect of industrialising the landscape, further impacting the local community. The original approvals of Boggabri Coal, Maules Creek Coal and Tarrawonga Coal have had a total of 17 modification applications since the original consents back in 2012. Rather than operational administrative efficiencies some modifications appear to be designed purely to get around conditions imposed in the original consent because they're inconvenient or costly. MOD 4 from Maules Creek Coal to reduce the sound power requirements comes to mind and from the community's perspective it's an expensive, time-wasting abuse of the process.

Indeed, MOD 7 will generate 22 more train movements, on my count, through Boggabri and more noise over the longer duration for those residents. We would argue that this is not an administrative change and should never have been characterised as such. That the department thinks that this is so speaks volumes about the culture that appears to have arisen out of, you know, the original land use conflict as per the Mullard Report. Together with the framework of flexible management plans the 17 modifications represent a platform of shifting sands that severely challenges the community's understanding of the original project concepts

and the strict conditions on which they're given their start in the district, the pretext on which they're given permission to start.

5 Unfortunately, there's no such planning modification process to reduce the impacts on the community or the environment when lived experience or new information comes to light. It's all one-way traffic and, as such, the modification process is inherently unfair. It also rankles when original conditions have not been implemented and then modifications are sought. A clear example before us is the biodiversity offset condition imposed on Boggabri Coal. Rather than implement the
10 condition it can be more expedient to game the system by delaying, ignoring or changing the consent definitions while lobbying government to change or introduce new legislation and regulations in the background such as the Boggabri – such as the Biodiversity Conservation Act 2016.

15 We believe that there should be a clear transactional cost for not implementing conditions or seeking modifications and this is the argument I'm putting to you. For example, recent consent conditions at Wallarah 2 have shifted the burden of proof for compensatory water loss onto the miners rather than the community. This makes sense because the mining companies have access to baseline studies, water
20 monitoring bores, expert hydrologists and the Department of Planning specialists. That is, the miners have to prove they're not causing the loss of water, not the farmers have to prove that the miners are causing a loss of water.

25 Other obvious conditions that would be a – that should be a tariff on seeking modifications should include backfilling of final voids, requiring water meters with telemetry to monitor all ground and surface water take and the installation of surveillance cameras to monitor blast gases. It's time that such conditions are included as a deliberate path to upgrade consent conditions on behalf of the community when modifications are sought. In this instance we would recommend
30 that as a result of this modification that the Tarrawonga Coal Mine backfill its mine pit like Boggabri Coal has to so that no final void remains at the end of the mine life.

We also recommend that based on our community's lived experience that both companies be required to install water meters with telemetry on all water sources and
35 surveillance cameras to monitor mine blasts. In addition, new information which has come to light as mining operations have progressed should be factored in. We only have to look at the sea surface temperatures, atmospheric temperatures since 2012 when the mines were originally approved to see how much hotter it has got. This is new information since those mines have been approved. So what we're sort of
40 saying is we think that the balance of climate risks are being exacerbated by the operations of both coal mining companies and both should offset their scope 3 emissions from their product coal.

45 It's arguable that a company like Boggabri Coal which is part of a vertically integrated group – Idemitsu – is partially responsible for scope 3 emissions from the generation of power within the group and, therefore, they should be directly accountable. The Tarrawonga parent, Whitehaven Coal, also partners with other

joint venture partners and it should also be accountable for its scope 3 emissions.
Thanks very much for your attention. I hope you can take those arguments on board.

PROF BARLOW: Thank you and I do – if I may note - - -

5

MR LAIRD: Yes.

PROF BARLOW: The fact – all information is placed on the IPC website and the
fact that the department’s recommendations are placed there is part of the transparent
10 process. It has no standing in terms of what the final decision is.

MR LAIRD: Does it say the word “draft” there or anything there to - - -

PROF BARLOW: No. It’s the department’s – it is the department’s assessment.
15

MR LAIRD: Yes.

PROF BARLOW: It’s not the IPC decision.

20 MR LAIRD: I get that.

PROF BARLOW: Yes.

MR LAIRD: It just seems to me like it’s a foregone conclusion and thanks for
25 setting me straight.

PROF BARLOW: Yes. Thank you. I would now like to call Roselyn Druce.

MS R. DRUCE: Thank you very much. I also would like to acknowledge the
30 Gomeroi country and that I pay my respects to the past, present and future elders. I
appreciate the time given to speak on this modification application. I regret that it is
almost impossible to speak to all concerns, given such short allocation time – only
minutes when these modifications have implications on the local community for
decades. So I will elaborate on the proposed sections of this MOD 7 that I am most
35 concerned about and if it were to be approved.

I am one of the Boggabri Coal community consultative committee representatives
but I am here today to represent my personal views which I know are also shared by
many local community members on why this modification should not be approved. I
40 would strongly disagree that this modification is purely administrative. Extra tonnes
of heavy coal samples on the already impacted dirt and tarred roads is not
administrative – there will be impacts. The possible impact of aquifer interference
with deep drilling is not administrative. The lack of offsets secured by the due date
may sound like administrative but the possibility of the biodiversity offset corridor
45 being mined in the future due to administrative changes is not purely administrative
and there will be impacts.

By being labelled administrative there would be no need for public scrutiny and no need to be put up for public exhibition. Instead, the department simply put it on their website and hoped that it would be – there would be no complaints and submissions against this modification and it would be approved expediently. That didn't happen
5 and there were over 30 submissions. If the department is to uphold any credibility with the local community that is heavily impacted by this mine and two other mines in the Leard State Forest I would suggest that in the future they err on the side of judgment and exhibit all modifications, no matter how small, in relation to any and all mining projects that are in the Maules Creek, Boggabri, Gunnedah and Narrabri
10 districts.

It is our personal lives and livelihood that are impacted very heavily by this mining precinct in the Leard State Forest and I believe that the community all deserve open, independent and transparent information as to how these mines intend to proceed
15 with any changes to the initial project approval. The Boggabri Coal CCC were informed of this modification in a meeting and after discussions as to why this MOD 7 was to be regarded as administrative and not go through the normal process of public exhibition the reason was given that there would be no impacts, therefore, no need to put it on exhibition and to consult with the community.

20 After more discussions Boggabri Coal did inform us that we could make submissions to the department regarding MOD 7. This went some way to restoring trust but there is always the modification from 2016 that states:

25 *The proponent may prepare any revised strategy, plan or program without undertaking consultation with all parties under the application condition of this approval with the agreement of the Secretary.*

Similar to self-reporting, this type of implication by the proponents play a big part in
30 the department and proponent's decision to include or exclude the community in decisions that would ultimately affect their very livelihood. Leaving the community in the cold is simply not good politics. This is what is happening with some documents that are produced by the mining proponents in this precinct. The community are excluded from reviewing and having input on documents that the
35 department and the proponents decide the local community don't need to be consulted on. A comment from Boggabri Coal goes on to state that:

40 *The community is wasting government's resources by having the MOD 7 referred to the IPC.*

I find this offensive. I am of the understanding that if there is sufficient concerns and objections through submissions by the community and the general public regarding a modification then it is automatically referred to the IPC. Is that correct that if there's
45 more than 30 submissions, if I may ask that?

PROF BARLOW: If I may clarify a little.

MS DRUCE: Yes.

PROF BARLOW: This wasn't placed on exhibition - - -

5 MS DRUCE: No.

PROF BARLOW: - - - and, therefore, there weren't – submissions were not official.

MS DRUCE: Yes.

10

PROF BARLOW: But what happened was when the IPC – us – became aware of the number of unsolicited submissions that were received the commission made a decision to hold a public hearing.

15 MS DRUCE: Great. Thank you for clarifying that. It was only by the fact that this modification was disclosed at a CCC and was taken further by concerned community representatives that this modification had the spotlight turned on it and here we are today. Approval creep is now the norm – modification after modification. This is not what the community was presented with in the initial Boggabri environmental
20 assessment or EA and what we expected from this mining company has now grown from the original project planned footprint to an extension much larger with many changes along the way – almost one every year and some major changes such as the new bore field in 2016.

25 This is frustrating when so many changes are made to plans behind the scenes with the Department of Planning to facilitate the outcomes that were never revealed at the very beginning of the approval process. In this instance it relates to the long term biodiversity offset area security arrangements in the MOD 7. These offsets were to be secured in December 2017 in perpetuity and here we are in mid-2019 extension
30 after extension was granted and still no offset secured and further leeway given until February 2022 unless another extension is granted after that date. No firm details are revealed of how they are to be secured in perpetuity. The vegetation corridor between Boggabri and Maules Creek Coal Projects:

35 *For the vegetative buffer corridor required to be retained in project – and protected between the project under condition 7 of schedule 2 of this approval, the proponent shall use its best endeavours to work cooperatively with the proponent of Maules Creek Coal Project to enhance the functioning of the area as a biodiversity corridor and include in the biodiversity management plan the*
40 *details of how impact on the corridor are to be maintained to the satisfaction of the Secretary.*

Now, the Planning Assessment Commission – PAC – recommendations:

45 *The value of the biodiversity corridor was further highlighted by the Planning Assessment Commission assessment with a key recommendation that the project that was that a minimum 500 buffer be retained between Boggabri and*

Maules Creek Coal Mines with no surface disturbance within 250 metres of the mining lease boundaries between the mines;

Establish a viable biodiversity corridor through the Leard State Forest.

5

Now, OEH and DPE also agreed with this recommendation. Then I find in an obscure document called Residual Matters Report 1, July 2011 mining of barrier coal:

10 *The coal resource known to occur in the vicinity of this boundary – barrier coal – is not currently proposed to be extracted as part of the project. It is understood that the barrier coal is not proposed to be extracted as part of the Maules Creek Coal Project. But elsewhere Boggabri Coal commits to using its best endeavours to reach in good faith an appropriate barrier coal extraction*
15 *agreement with Aston by the end of year 5 of operations.*

At this time both operations will substantially be advanced and be better placed to determine a suitable solution for the extraction of the barrier coal which considers best practice, final land form and ecological outcomes.

20

I find this inconsistent. One minute it is not going to be touched and to be secured in perpetuity and then in the next it is definitely on the radar of both mining companies. In my view, there is no ecological outcome or biodiversity preservation if this corridor is to be mined – just the loss of more EEC community and habitat. In February 2013 the Boggabri Coal Mine extension was approved and the conditions:

25

Protection of native vegetation of a total of 500 metres where the Boggabri Coal Mine lease boundary is adjacent to the Maules Creek Coal Mine lease boundary. Maintenance in perpetuity of this area as a biodiversity corridor. And evidence that the biodiversity corridor will be protected in perpetuity through a legal mechanism that would provide the equivalent protection of a conservation covenant. The approved biodiversity corridor plan must be implemented.

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35 So Boggabri Coal produced their biodiversity corridor plan – BCP. All the while the community was unaware that the words included in this BCP would in the future allow this mining company to plant or somehow produce an alternate biodiversity corridor to be approved by the Secretary or equal – of equal biodiversity value. I don't believe that this is a possibility to replicate the same like-for-like biodiversity.
40 It takes hundreds of years to produce white box hollows and to grow substantial habitat. So are the recommendations of the PAC, the OEH and the DPE to be disregarded. If this Independent Planning Commission makes recommendations – and I think you said you were actually making the final decision. Was I incorrect in thinking that?

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PROF BARLOW: We will make a determination. Yes.

MS DRUCE: Yes. Do you expect that any of your – well, that's wrong because I just put do you expect to make your recommendations, will they be implemented, but, obviously, you guys are actually going to make the determination. So – yes. I just find it a little bit off-putting that the PAC and the OEH and the DPE were just
5 ignored on this respect. The main objective of this biodiversity offset corridor was to protect threatened flora and provide east/west connectivity between these two mines and provide a corridor for the birds, bats, reptiles and mammals. The recommendation that the corridor be protected in perpetuity along with other offset areas and to be placed by December 2014, obviously, biodiversity and wildlife have
10 come as second best to coal under a 500 metre wide strip of old growth forest. Biodiversity conservation means nothing.

While Boggabri Coal considers that they have been disadvantaged by the delay in getting approval of this MOD 7, please consider that the community have waited five
15 years for the offsets to be secured in perpetuity, and they are still not any the wiser as how to this – that this will happen and when. This is a very big stumbling block that was to be part of the very approval in 2014 has long since passed. With the aid of approval creep, the possible destruction of the joint biodiversity offset corridor is definitely in the sights of both of these mines, and the security of the offsets will be
20 decided by an arrangement that it is acceptable to the secretary of the day, not even the Minister. The very instruments that are to be used to secure these very important offsets that will take decades to even come close to the quality of now destroyed old growth forest with its critically endangered ecological communities are still not specifically defined, a work in progress and a complete disappointment.

25 Regarding this particular biodiversity offset corridor that divides these two mines, I feel it would be right in saying that many of the community also feel deceived by the changing of words in documents which would enable this continuous and precious piece of Leard State Forest to be protected one minute and destroyed by the stroke of
30 a pen in the next. I hope that I haven't confused you and that you have a greater understanding of the inconsistency of documents that myself and community members have to wade through, literally hundreds and hundreds of pages of management plans and approvals, modifications and consistently refer you to another section of another document that has just been changed and modified.

35 Transport of coal samples by road. Up until now, we have been told that there have been coal samples transported in – by road in small quantities in containers, some with approvals, presumably some without approval. My concern is there is no specifics on the number of times that this would be necessary each year or over the
40 life of the mine, only the amount variable. The possible 60-tonne samples are very large samples. For large samples like these, there must be a way that they can accommodate them on the rail system and not be transported by road. The Schedule 2 Administrative Conditions December Modification 2018:

45 *The proponent may transport up to 200 tonnes of coal per year from the site by road for marketing and testing purposes. All other coal must be transported*

from the site via the Boggabri Rail Spur except in exceptional circumstances as agreed with RMS and council and approved by the secretary.

5 So why is it necessary to have this modification if they already have approval for transport up to 200 tonnes per year? It's confusing to me, but, anyway, I will go on. Drilling and exploration. Previously, there were only core and open-hole drilling to the basement of the coal basin. Now, there is an array of different techniques to be used. There appears to be a lack of detail in relation to the location of the exploration bores a map on the MOP an acknowledge that they will indicate
10 locations progressively. So not set plan regarding bore hole locations, and that's not even administratively explained.

15 It is concerning that exploration drilling requires drilling to the bottom of the coal basin, 400 metres, when Boggabri Mine only has an approval to open cut mine to the level of Merriwon coal seam which is 300. Why is this necessary? With deeper drilling – I'm almost finished. With deeper drilling, there could be potential impacts of aquifer interference, as stated in their MOD 7. In light of the water issues or lack of water at this time in this district, this is of great concern.

20 It is my understanding that Boggabri Coal have purchased or are seeking to purchase zone 11 groundwater entitlements. Why would Boggabri Coal require zone 11 entitlements, and is this through their existing works approval or due to this modification or to future modifications? The community have not previously been aware that Boggabri Coal has had the need to acquire a zone 11 licence or
25 groundwater allocation. Or perhaps is this to allow for another modification in the future to permit approval of mining of more coal seams below Merriwon? Or is this just in case there is an aquifer interference or impact on zone 11? This modification lacks specific detail and is very concerning especially in respect of our underground aquifers which require much more detailed research and verification.

30 I hope that the commissioners understand that approval creep is one of my major concerns that may seem insignificant at the time of writing but have grave consequence further down the track, and this is where the community lose all confidence in the planning sector and proponents. In this IPC process, we're grateful
35 to have the opportunity to voice our concerns, but we also would like the opportunity to further elaborate on these concerns if the proponents are extended that same opportunity. After all, this is our district, and we are the impacted community. I also hope that any and all of your recommendations are wisely worded to leave no gaps that there are no – that are used as loopholes in the future. Thank you very much.

40 PROF BARLOW: Thank you, Roselyn. I now call on Libby Laird. Is Libby here? She is. Thank you. Libby is representing the Maules Creek Branch of the Country Women's Association.

45 MS L. LAIRD: Yes.

PROF BARLOW: Thank you. Libby, can you speak at the podium, please?

MS LAIRD: Yes. Good morning, IPC commissioners. I also would like to pay my respects to the indigenous people, Gomeroi People, past – present and past. The Country Women’s Association of New South Wales was formed in 1922 and our branch was formed in 1923. Our organisation is arguably the most influential
5 women’s organisation in New South Wales working to improve the conditions of women and families in rural Australia. At our 2018 state conference, our state patron His Excellency General The Honourable David Hurley said of the Country Women’s Association:

10 *You’ve been the backbone and to some extent the saviour of generations of families that live in some of the harshest and driest agrarian lands. The Country Women’s Association makes it possible for families to continue to live in those regions.*

15 Our branch has some members with one or more of their families working in the coal industry, including Boggabri Coal. We acknowledge this. People need jobs. However, with regards to our region’s future jobs, today is the opportunity for Maules Creek women to participate actively and talk directly to what has changed since the commencement of this modification process. There is new information that
20 has come to light for us and there are new impacts to be assessed and the matters are pressing. To be explicit – towards the Boggabri Coal Modification 7, our position is clear. It is contained in the New South Wales CWA Just Transition policy and that is that the Country Women’s Association of New South Wales support positive action on climate change by calling for and supporting the implementation of the plan for
25 transforming regions, communities, and workers from fossil fuel extraction, processing and burning sectors to new inclusive and sustainable economies.

New South Wales Country Women members have overwhelmingly supported a move away from coal-dependent regions and an openness to new economically,
30 socially, environmentally and climatically responsible possibilities. We object to the Boggabri Coal Modification 7. Daily, our members are facing serious and undeniable environmental problems – noise and dust that were predicted in numerous submissions at the time of the Boggabri Coal Mine expansion approval in 2012. Nevertheless the expansion was approved and three years later, Boggabri Coal
35 sought to increase its water extraction by developing a new bore field, namely MOD 5 and obtained water licences to aquifer and surface water.

Boggabri Coal sought approval to modify their consent to create six new bores: two to supply water for the mine and four contingency bores because they found they
40 needed 9.5 megalitres per day to run the mine. The mine found it has site deficiency of 4.7 megalitres per day, half their water demand. The Maules Creek Branch made a submission to the Boggabri Modification 5. Our submission outlined our fears regarding the approval of a new, high-risk bore field, as there was and still is no Leard Forest Mine Precinct Water Management Strategy, as prescribed by condition
45 38(d) of Major Projects Approval 09_0182.

The Precinct Water Strategy is still not in place, to the best of our internet searching, and certainly has not been understood by our community to date. Neither is the Regional Biodiversity Strategy, known as stage 3, not stage 2 that you will see on the website. We are really concerned about the potential catastrophic, irreversible
5 consequences to the groundwater in zone 5 and 11 and to regional biodiversity outcomes. We cannot agree with the Department of Planning assessment's view that further modifications to this project or new projects in our area should go forward without current biodiversity and water conditions being complied with by our current major projects.

10 Right now from mining we consider that our community, ecosystem and water are at risk. Since 2016, our social impacts have increased. Firstly, adaptive management is very complicated, as documents are continually changing. And secondly, it has become even more difficult to gain an understanding of the mine's projects because
15 the local mining company's project approvals have changed so that the community's right to consultation on up-to-date plans has been removed. Schedule 2, condition 21 reads:

20 *With the agreement of the secretary, the proponent may prepare any revised strategies, plans or programs without undertaking consultation with all parties under the applicable condition of this approval.*

Commissioners, today we are pleased to see you. You have come to meet with us and find out what is going on. We ask that you carefully read and find answers to
25 our written submissions and those of the 34 community members and groups who raised many concerns in regards to lack of transparency and information in this modification. You have immense power in your hands. The decision you make will impact the health and financial fortunes of families in the area, a grave responsibility, because this modification is not what it seems. Therefore, we do not want to see any
30 fast-tracking of the IPC process.

We are concerned about the lack of detail surrounding this modification. Boggabri Coal project appears to be setting up for a further expansion, but only if this approval to conduct extensive drilling is approved. We consider that the IPC must carefully
35 consider rejecting this modification in light of Australia's role in the global commitment to limiting warming to 1.5 degrees. This modification application is a creep towards expanding coalmining. The wisdom of planning in 2012 was to put a break on exploration and expansion.

40 The stop has come for this project and as a community we need to pause and recognise that the rest of the world has moved on and we do not want to be left behind. This modification is a big deal hidden in plain sight. Briefly regarding the trucking movements – we raise the amendments to the proposed road haulage – the increased tonnage from the 60 tonnes, as requested by Boggabri Coal, to an increase
45 to 200 tonnes awarded by the Department of Planning. This is exceptionally large for a sample of coal. We do not understand it, and we ask what this is all about, and a modification process around this change.

Secondly, regarding drilling and exploration activities, our current Department of Planning and Boggabri Coal have told the community that the definition is not in the approval. The claim by both the company and repeated by the Department of Planning is that exploration activities are implicit in the approval. We say this is false. The reason for the exploration deal is part – is not part of the current approval is because if the community were told that the mining and impacting of the biodiversity and water in and around the Leard State Forest was to go on to the end – until post-2050 or further, this mine would not have gained approval. The magnitude of the impacts are huge.

This is an approval creek process. While the detail is not stated in this environmental assessment, the skeletal environment assessment, if approved, is to be the one stapled to the project consent, with any changes continually updated through mine operations plans and other ways away from public scrutiny. Currently, what is revealed through the Mining Operation Plan is a drilling program of 200 boreholes up to a depth of 400 metres. At least 10 of these boreholes will be drilled deeper than the current Merriwon seam at approximately 300 metres down to the seam at 400 metres. The important information, as it is that it's beyond the depth of the current approval limits of mining. The Merriwon seam is where mining currently stops. We need more information and a proper modification process around this detail.

Further, the specific drill sites are not known. The impacts to biodiversity have not been assessed and this is not acceptable in 2019. Thirdly, and crucially, the impacts to groundwater systems from drill holes intersecting multiple aquifers, including altering groundwater chemistry, altering groundwater levels in aquifers, possibly contamination from runoff from drilling fluids and chemicals, and possibly produce water occurring, are not well understood, let alone well known by the community.

Our aquifers cannot take any more experimentation from mining until we have scientific certainty. Modification 7 is a bridge too far. Maules Creek CWA are aware that the scientific knowledge and understanding of aquifers in our area is not well known. The deep and the shallow aquifers despite – said to be extensive monitoring, the knowledge around these and their impacts are unaware – we are unaware. Our community are currently experiencing unprecedented water impacts.

We are in intense drought and the lack of certainty around water is very stressful. In closing, we ask the Commissioner to take the precautionary approach and exercise careful evaluation. We say this is including the adequacy of information for modification 7. It is the opinion of the Maules Creek – hang on – CWA – it is the opinion of the Maules Creek CWA that modification 7 does not provide the decision-makers with the requisite information to make a careful evaluation within the intent of the New South Wales planning laws. We say that intergenerational equity has been disregarded in both the planning and regulation of the Leard Forest Precinct coal mines.

The mines are being allowed to proceed apace and even to modify their consent conditions to the detriment of the environment and to the detriment of

intergenerational equity. We believe that it is preferential to apply the precautionary principle, as, for example, has been applied to local farmers since 2006 over many years with the use of a section 324 clause on groundwater extraction under the Water Management Act 2000.

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PROF BARLOW: Thank you, Libby. And finally I would like to call Elizabeth Ann O'Hara, representing the Armidale Action Group on CSG&M SLA Armidale.

10 MS E. HUNTER: So my name is Ellie Hunter, and I'm not Liz. She can't make it. Do you mind if I read her speech that has been provided to me?

PROF BARLOW: We're happy with that. Thank you.

15 MS HUNTER: And I just want to say that I just came today to support all the volunteers and community people who come here from their own time and so this – attending these kind of events has been a regular activity for us of late because we are under fire from many, many projects in this region at the moment. So the Armidale Action on Coal Seam Gas and Mining Group is an Armidale-based sustainable living group. I have been given quite a long speech which probably
20 won't fit the timeframe, so I may just skip a little bit here and there, if that's okay.

They wish to express in the short – express concern about the short timeframe given for comments, especially considering the draught conditions and the extraordinary impost made on the time of community members already dealing with other mine-
25 related issues and matters of everyday family life. They also agree, as with many other speakers today, that it's very inaccurately described as administrative changes that are required. It's a complex process here today with, you know, five elements as we've talked about. They would like to draw attention particularly to the offsets and management of biodiversity.

30

It would seem appropriate that the modification can be separated into these different components and each treated separately. This is especially the case with the matters regarding the offsets and security – and the security of the offsets which are being dealt with by the Office of Heritage and Environment which was dissolved earlier
35 this month. The group seeks assurances that the IPC will carefully examine the proponent's proposals regarding the mechanism proposed for securing the required offsets. The request by Boggabri Coal to modify condition 47A of its consent to extend the time limit to register offsets – so will I be able to provide this written report to you so that it's - - -

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PROF BARLOW: Yes. Well, I make a statement about – that you can.

MS HUNTER: Yes, thank you, that's great. So, yes, as has been reflected earlier, there are some grave concerns about the biodiversity offset. It was supposed to be
45 already in place. Not only is it not already in place, they're also seeking an extension for it and for it to be watered down through exploration holes to be drilled into it. Clearly this is quite damaging and from the Armidale Group's – you know, their

primary concern is sustainable living and clearly this is an undermining of the sustainability of the region.

5 Just – I will just include there concluding comments. It's ironic that none of the
three banners on the Idemitsu website, which is 80 per cent stakeholder in Boggabri
Mine, refers at all to the mining. It announces a sustainable future. It omits its
plans to build on its sustainable agricultural and cattle business. The second
proclamation is investing in renewables and pumped hydro, and the third says it's
10 committed to the safety and wellbeing of our people and working closely with local
communities. These slogans point to a way forward for a company which has no
social license to destroy an important carbon sink through this proposed expansion in
a community that has, through experience, come to regard its reassurances with
scepticism.

15 As an example of this breach of trust, two years after the mine was issued – had
issued assurances that it had sufficient water allocation to service the expansion
sought in MOD 5, it set about creating a brand new borefield. If the mine owners
were to take the current opportunity to rehabilitate the entire mine site with a full
suite of plant assemblage, not only would jobs be created but issues of sustainability
20 would be addressed and the community would be reassured. We request that the IPC
thoroughly review the modification and make representations to the Minister for
further studies, especially with regard to the shallow and deep aquifers, the
biodiversity and transport and the implementation of a transparent compliance
regime.

25 PROF BARLOW: Thank you. I will – and thank you all for your clear
presentations. The Commission is happy to receive any other submissions like this,
noting though that you are – because of our transparency policy, that those
Commissions are – become public. They're public – part of the public record and
30 will be placed on our website.

The second thing is following these hearings there is a period of seven days when
anyone can either add to their current submission or make a different submission to
the IPC, but that is only a seven-day period, and so if you make it within seven days,
35 it will form part of our consideration and it will also be placed on our website. The
only other thing is to thank you, the transcribers. Thank you, David and
Commissioners. But also thank you all for, you know, the very civil and
information-rich way we've conducted this meeting today. It's – this is what it
should be. I hope that it has been illuminating for those of you who came, but it's
40 also good to conduct it in a civil manner, and we hope we can make a good decision.
Thank you.

RECORDING CONCLUDED

[11.14 am]