



MR S. O'CONNOR: Good morning and welcome. 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. I would also like to pay my respects to their elders, past, present and emerging and to the elders from other communities who may be with us  
5 here today. Welcome to the meeting today. It's, um, Mt Owen Proprietary Limited is the applicant seeking to modify the existing development consent to mine an additional 1.97 million tonnes of run-of-mine coal within the existing approved mine life of the Glendell open cut coal mine located in the Singleton local government area.

10 My name is Steve O'Connor. I am the chair of this panel. Um. Joining me today are my fellow commissioner, Professor Zada Lipman on my right and Professor Chris Fell on my left. Heather Warton and Brad James from the commission secretariat are also in attendance. In the interest of openness and transparency and to  
15 ensure the full capture of information, today's meeting is being recorded and a full transcript will be produced, um, and made available on the commission's website. This meeting is one part of the commission's decision-making process. It is taking place at the preliminary stage of the process and will form one of several sources of information upon which the commission will base its decision.

20 It is important for the commissioners to ask questions of attendees and to clarify issues whenever we consider it appropriate. If you are asked a question and are not in a position to answer, please feel free to take the question on notice and provide any additional information in writing, which we will then put on our website. I  
25 request that all members here today introduce themselves before speaking for the first time – that assists in making sure the people transcribing know who's making the comments we're making – and for all members to ensure they do not speak over the top of each other, again, to ensure the accuracy of the transcript. We will now begin.

30 We have an agenda, ah, which has been, ah, circulated, um – and – but we might just start by going round the room and getting each individual to say who they are just again, so people transcribing are aware with the voices when they come online. So, Zada, we might start with you.

35 PROF Z. LIPMAN: Ah. I'm Zada Lipman.

MR O'CONNOR: Steve O'Connor, commissioner.

40 PROF C. FELL: Chris Fell, commissioner.

MR B. JAMES: Yep. Ah. Brad James, secretariat.

MS H. WARTON: Heather Warton, secretariat.

45 MS M. HOLLIS: I'm Melanie Hollis, Department of Planning.

MR. S. O'DONOGHUE: Steve O'Donoghue, Director of Resource Assessments and the Department of Planning and Environment.

5 MR O'CONNOR: Thank you. Um. Well, we might go straight to the department's assessment report, which we've all had an - - -

MR O'DONOGHUE: Mmm.

10 MR O'CONNOR: - - - opportunity to - to read, but, um, if you wouldn't mind, Steve - - -

MR O'DONOGHUE: Okay. Yep.

15 MR O'CONNOR: - - - giving us a bit of an overview.

MR O'DONOGHUE: Rightio. Um. Okay. So I'll - I'll just give a bit of a - if I get - sort of ..... a strategic context, I guess, to the - to the - to the mod. Um. So the - the Glendell - some modifications for the Glendell coal mine. Um. It's - it's operated by, ah, Mt Owen, ah, Pty Limited, a subsidiary of Glencore - part of the  
20 Glencore Group. Um. It's - it's - it's part of the - it's a mine that's sort of, ah, incorporated - incorporated into the broader Mount Owen Complex group of mines, um, which also includes the - the Mt Owen mine and also the Ravensworth East open cut, ah, developments as well. Um. So it's in the - it's in the Upper Hunter Valley, about 20 kilometres northwest of Singleton.  
25 So we've got a - just to show the - the regional context, we've got a map. Um. It's in the - it's in the report, but I just thought it would be just useful to pass this - this around. Um. So just showing the - - -

30 PROF LIPMAN: Thank you.

MR O'DONOGHUE: - - - the location.

35 MR O'CONNOR: Thank you.

MR O'DONOGHUE: ..... that one there, Chris.

MS HOLLIS: One for me.

40 MR O'DONOGHUE: Yep. So just to - just to put it in context of where - where we are. So, um, the - the Glendell mine, um, which is in, ah, it's shown as figure 1.1, um, which is - which is in our report as well. It just shows the - the, um - the Glendell mine in - in location with the Ashton Coal Mine to the - to the south. The Mt Owen mine to the north. Ah, the Ravensworth East to the north, as well, and  
45 there's - there's Liddell and Integra, Ravensworth operations around there as well. So it's - it's pretty central to the - to the - to the coal - Upper Hunter Coal Mining Precinct in terms of - so one of the issues here is - that's come up in submissions is

really about cumulative impacts as well in that – in that broader Upper Hunter Valley there.

5 So that's just – that's just sort of sets the context. So the – the, um – just for Glendell Mine, um, so just a bit of the history there. It was approved in May 1983, so it has been – been around – been around for a while in terms of the – the – the approval with mining leases secured in – in, ah – in – in 1990. Um. And where – and where initial preparation works were commenced at that time. However, mining – mining operations didn't really commence till – till 2008, um, in any significant way. Um.  
10 That was following some modifications to the original, um, project, which, um, has been modified on three occasions thus far. Mod 2, um, in – in 2008, um, brought in some significant changes to the original project approval. And I'll just – just, um – I've got a figure here, which, ah, sort of, shows the, um – the original approved area. So there's a couple of figures here ..... is that one here?

15 MS HOLLIS: Yep.

MR O'DONOGHUE: Um. And also ..... that one there.

20 MS HOLLIS: .....

MR O'DONOGHUE: Just to show the context here. So on the – on the figure 2.1, um, there's a – there's a, ah, there's a pink boundary there, um, which shows – this – this is in the report as well – which – which shows the originally approved, um,  
25 disturbance boundary from the '97 development. Um. It shows the approved – the 2008 mod, which brought back the – the, ah, the – the disturbance boundary and – and reduced the open cut area, um, and relocated the disturbance area. Um. And also this mod, which is the yellow boundary, which shows further changes to the – to the, ah, as part of this mod to the – to the approved boundary from mod, ah, 2 in that  
30 one. So – so I'm just putting it all in context of what – how it's changed. You know, it's just the original – original approval. Is – is there any clarifications on that particular aspect?

MR O'CONNOR: Yeah. Just one or two questions, if I can, Steve.  
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MR O'DONOGHUE: Yep.

MR O'CONNOR: The, um – the original approval, did it have coal washing and – on – as part of that approval and it was only later when it was modified it became  
40 part of the - - -

MR O'DONOGHUE: The – the - - -

MR O'CONNOR: - - - Mount Owen Complex?  
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MR O'DONOGHUE: No. There – there was coal – there was infrastructure. There was an infrastructure area as part of that. So ..... if you have a look at the original  
- - -

5 MR O'CONNOR: Yes.

MR O'DONOGHUE: - - - map here, so the surface facilities, which it was a rail load-out, plus a – a mine infrastructure area.

10 MR O'CONNOR: But they were never built. The - - -

MR O'DONOGHUE: They – they were never constructed. There is a small mine infrastructure area, um, but it's a not a – a coal washery. Um. It was really only in that mod 2 that – that it's part of the – you know, integration into that sort of wider  
15 complex so we can get efficiencies, that that – that that brought the – the Mt – the Mt Owen, um, washeries transfer the CHPP into that as – as part of that mod 2. So that, sort of, reduced the infrastructure area required for this mine, but it was using – you know, it's using the – the facilities and - - -

20 MR O'CONNOR: Yes.

MR O'DONOGHUE: - - - and getting efficiencies through that.

MR O'CONNOR: And I take it at the time there were modifications in parallel  
25 made to the Mt Owen - - -

MR O'DONOGHUE: The – the - - -

MR O'CONNOR: - - - mine.  
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MR O'DONOGHUE: So the - - -

MR O'CONNOR: Yeah.

35 MR O'DONOGHUE: The Mt – the continued operations has condition in there for – for, ah, receipt of coal from Glendell, which is – which is – in – in the definition of – of, ah, the – the Mount Owen Complex mines, so it's - - -

MR O'CONNOR: Right.  
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MR O'DONOGHUE: It can take a – the facility there can take 17 million tonnes a year, of which Glendell is – is part of the source going to that. So - - -

MR O'CONNOR: Yeah.  
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MR O'DONOGHUE: - - - that – which includes the Mt Owen Mine and also the Ravensworth East Open Cut Mine.

PROF FELL: Tailings dam and ..... collection dam, they are not part – that would be in the – the - - -

5 MR O'DONOGHUE: Also part of it – like, part of the – there – there's integration of – of tailings – tailings management. There's no tailings produced at – you know, from Glendell, because it's all – it's all coming from the - - -

MR O'CONNOR: Washery.

10 MR O'DONOGHUE: - - - from the washery, you know? So – so what goes back is really overburden management here and reject management here.

PROF FELL: .....

15 MR O'DONOGHUE: But the reject management is still – there's some integration between the three mines in terms of how they do that. But the tailings, there's – there's a sort of greater Ravensworth water and tailings scheme, which part of the Mount Owen Complex, there – there's the other Glencore mines that there is sort of sharing and efficiencies on how they manage water and tailings across a number of  
20 their operations as well. So that – so just – I just wanted to set that sort of context there. Just – just one thing to note on the figure here, um, this was from the – the – the modification application that the – the, um, the yellow boundary, um, here – um, just here, which they've brought it back, that's part of that, um, disturbance area that if – if you read in the report and in the modification application, they gave up some  
25 of the disturbance area to, you know – or they increased, ah, 12 hectares of disturbance as part of the – extending the mine out on that western boundary.

They gave some up, but in the response to submissions, they – they remodified that as – as well. So I'll just show a figure, just so it's clear. Um. I'll just show that one.  
30 Ah ..... shows that the – they've incorporated back in, um, an area that's southeast. Um. In – back into that. So the net – the net disturbance, um, sort of reduction was changed through the response to submissions. Is that – and the reason behind that was really it's – it's incorporated into the Mt Owen continuing operations where there – there's, ah, part of that is rail corridor. So it's – it's allowing for potential for  
35 future rail corridor through – through that – through that sort of line. So – so that was one change to the response to submissions as well on that one. So I'll get, just to set the context as well, um, probably worthwhile, um, I – I just wanted to give some – a landownership map. Ah. So I think that one's it. No.

40 MS HOLLIS: Ah, so that's Glendell and Mt Arthur underneath.

MR O'DONOGHUE: Oh, yeah. So that one?

MS HOLLIS: Yeah.

45 PROF LIPMAN: Thank you.

PROF FELL: Thanks.

MR O'DONOGHUE: So I guess in term – in terms of, um, of receptors, um, I guess the closest receptors to the – the Glendell mine is really to – down – down south,  
5 Camberwell Village area, um, which – which is – which the village has largely been acquired by mining companies and the – and the remaining residents, um, have acquisition rights, you know, because largely because of cumulative impacts - - -

MR O'CONNOR: Yes.  
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MR O'DONOGHUE: - - - you know, from – from – from mining operations. So there are – there are acquisition rights depending on which approval you're looking at and in – in sort of cascading effects. So the southeast open cut approval identifies acquisition rights for certain receivers. The – the Glendell Mine does – does also.  
15 The Mt Owen continuing operations, ah, develop consent as well, so the – the – but – but under all the approvals, the – there's acquisition rights for the, ah – the Camberwell Village residents, although it has largely been acquired.

MR O'CONNOR: Do you know how many remain in private ownership?  
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MS HOLLIS: Um.

MR O'DONOGHUE: Do you – do you have a figure on that?

25 MR O'CONNOR: I think there are about 40 dwellings in the village.

MS HOLLIS: It's – yeah. I think - - -

MR O'DONOGHUE: Yeah.  
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MS HOLLIS: - - - 40 to 50, I believe. I think.

MR O'DONOGHUE: All – all up.

35 MS HOLLIS: So – yeah.

MR O'CONNOR: That's all up, but do you know how many - - -

MS HOLLIS: Oh, no. I – I think there's approximately - - -  
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MR O'DONOGHUE: We'll just - - -

MS HOLLIS: I think around 40 not acquired.

45 MR O'CONNOR: Oh. Okay. Because I thought there was only - - -

MS HOLLIS: But – but we can - - -

MR O'CONNOR: - - - about 40 in the whole village.

MS HOLLIS: We can get back to you with that.

5 MR O'CONNOR: Okay.

MR O'DONOGHUE: With just – at – in the figure, it looks like there's about, um, five – five – five or six, um, private land – private, ah, subject to – subject to acquisition rights in the - - -

10 MR O'CONNOR: Right.

MR O'DONOGHUE: But that – that are still in private ownership.

15 MR O'CONNOR: Okay.

MR O'DONOGHUE: But we can give – we can give – we can give you a - - -

20 MR O'CONNOR: Well, if Melanie can clarify that for us, that would be good.

MR O'DONOGHUE: We can give a – we can give you a table of the exact number and that. But certainly in the – to the – to the north of the mine where the – where the extension's going, um, it – it's largely owned by, um, Glencore operations ..... Okay. So just on the – just on the modification itself, um, we might just go back to the figure 21, just – just to look at the modification components. So – so – so really it's – it's seeking to extend, um, the open cut pit in that – in that, um, sort of northwest quadrant, um, and – and seek to extract a – an additional 1.97 million tonnes of, um, of ROM coal, um, out – out of that extended pit area.

30 Um. It – it'd be – with – and there's about an additional 12 hectares of surface disturbance to facilitate that pit extension. A lot of that surface disturbance is – it – a lot of the pit is already within the approved disturbance area. Um. There's just – a lot of that disturbance is related to ancillary infrastructure along the edge of the pit, um, sort of, um, road – roads and – and water pipelines along – along the edge of the pit, rather than the pit extension itself. But there – there's about 12 hectares of disturbance, um, which is – which is offset, I guess, to some degree by the – giving up about 7.7 hectares of land, um, such that there would only be an overall disturbance of about 4.3 hectares increase in – in what – in what's already there, which is about – about a 0.5 per cent increase, um, of the improved disturbance area of 834 hectares.

45 So in terms of the – the comparison to – to impacts on what's already there in – in that sort of increase in – it's – it's fair – it's fairly low and, um, and looking at the impacts, it was – it was, ah, lodged as a, ah, minimal environmental impact, um, 4.5518 modification and it's just on that basis in terms of the – the level of impacts on that one. Um. So on that statutory context, it – it is a part 4 consent remains a part 4 consent. It was a – has been modified under section 75W in mods 2 and 3.



Um. Mod 1 was a – was a – the original mod 1 was a part 4, um, ah, ah, modification. Um. Under the transitional arrangements for conversion of, ah, 75W, part 3A projects. This – this is not a part 3A project, but four 75W modifications were done.

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Um. The – that – that sort of sets the comparison of the modification back to – back to the last 75W modification. So in terms of that, it's substantially the same test, so I just wanted to clarify that. Um. Is there any – that sort of sets the context. Is there any sort of assessment sort of areas you really – rather than go into every aspect of it, is there any - - -

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MR O'CONNOR: Ah. Well, we have got - - -

MR O'DONOGHUE: Yes.

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MR O'CONNOR: - - - as you know, on the agenda, um, some questions around impacts on rainwater tanks, which is - - -

MR O'DONOGHUE: Mmm.

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MR O'CONNOR: - - - mentioned in the report.

MR O'DONOGHUE: Yep.

25 MR O'CONNOR: And Aboriginal heritage. So you might want to speak to those two issues.

MR O'DONOGHUE: Okay. Well – well, I'll talk – well, since – like, rainwater's, sort of, um, linked – linked into the, you know, particulate matter, dust, so I'll sort of talk about that more broadly than narrow in on – narrow in on the, um, the – the rainwater tank issue. So I guess in relation to the – the air quality impacts, when they – when they first lodged the modification application, they did a – did a – a – a more of a qualitative assessment. They just – they looked at comparing emissions, um, compared to the peak here, um, and – and, ah, analysed that. And as the – as the modification area was moving further away from receptors, and the – the sort of dust emissions from those activities was much less than the peak here.

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They – they concluded that there would be no increase in the impact on – on, um, receptors. That – that was – that was accepted by the EPA and us as, you know, generally reasonable argument. Um. In the – like, in the submissions, it was – it was a – a lot of submissions did raise, um, air emissions and that. It should have been assessed against a more contemporary criteria under the approved methods, um, 2016, um, document. Um. So we – we did – we asked the – the proponent to – to do more – to do, ah, a quantitative assessment and more modelling, which they did do, ah, which – which did support the – the conclusions and that, um, did support that there would be no increased impacts on – on receptors and that there would be a movement of, I guess, that contour of dust impacts, you know, away from that – that

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Camberwell Village compared – you know, compared to – in that – in that final year. So there – there are some figures in the report about that. I can take you through – through some of that. Um. So - - -

5 MR O'CONNOR: I think we're reasonably - - -

MR O'DONOGHUE: Yeah.

10 MR O'CONNOR: - - - comfortable with that - - -

MR O'DONOGHUE: Okay.

15 MR O'CONNOR: - - - explanation that's provided in the report. Just questions about the rainwater tanks - - -

MR O'DONOGHUE: Yep. Okay.

20 MR O'CONNOR: - - - was raised in submissions and, um, the department argued in – in the report that it wasn't necessary - - -

MR O'DONOGHUE: Yep. Yep.

MR O'CONNOR: - - - to have a ..... condition - - -

25 MR O'DONOGHUE: Look – look - - -

MR O'CONNOR: - - - because it's already taken care of - - -

30 MR O'DONOGHUE: Yeah. Look - - -

MR O'CONNOR: - - - by the other operations.

35 MR O'DONOGHUE: Well, a couple of things there. I guess, like, it's – it's, um, it's – yeah, so if we're just looking at the modification itself, like, the – the – the condition isn't currently in the Glendell about the – about, you know, providing first flush, um, you know, ah – if someone puts their hand up it – I think in the Mt Owen consent and also the South East Open Cut consent, there is a condition there that if someone with that position rights can put up their hand at any time and seek, um, some sort of rectification or first flush system on the rainwater tank.

40 Um, I guess the – as – as the mod – as this mod is – is in – looking at the impacts of this mod in isolation, um, I – the – the – with the – the mine moving further away as part of the extension of the pit and also the – the – the total suspended particulates sort of emissions, it's coming down by 45 per cent in that – in that, um, that – as part  
45 of that modification of extending it compared to higher – higher, sort of, emissions in the current operations, the current, ah, occurring further to the south, um, and in close proximity. There wasn't a – a really strong argument to put that condition in – you

know, purely of this result of this modification. Now, there – there are – you know, there are provisions in those existing consents, um, for the South East Open Cut and Mt Owen that – that people can put up their – their hand, um, at the moment. What – if it would assist, we could probably provide a table to you and, you know, with all  
5 the receivers that – you know, what acquisition rights they have, um, and what consent it's under and, you know, just to help inform you of that.

MR O'CONNOR: I think that would be very useful.

10 PROF LIPMAN: That would be very useful.

MR O'DONOGHUE: Yep. Okay.

PROF LIPMAN: Yes.  
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MR O'CONNOR: Yeah. Yeah.

MR O'DONOGHUE: Okay.

20 PROF LIPMAN: Yes.

MR O'DONOGHUE: So if – if we're happy to - - -

PROF LIPMAN: Yes.  
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MR O'DONOGHUE: - - - table that - - -

MR O'CONNOR: Yes.

30 MR O'DONOGHUE: - - - and justify identify the receptors with the acquisition right, what – what consents they have – have – have it under.

PROF LIPMAN: Yes.

35 MR O'DONOGHUE: And how it would cascade if – if someone put their hand up.

PROF LIPMAN: Have you any idea – I – I – I see you mention in the report that, um, the Mt Owen conditions require rainwater tanks to be cleaned and that probably would encompass a lot of properties in question. Have you ever any idea how many  
40 properties would not be covered by that?

MR O'DONOGHUE: Look – well - - -

PROF LIPMAN: ..... other properties - - -  
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MR O'DONOGHUE: This is where the table will – I think will help you.

PROF LIPMAN: If there – so that would be in the table.

MR O'DONOGHUE: So, sort of, like – the – like – like, as I say - - -

5 PROF LIPMAN: Yes.

MR O'DONOGHUE: - - - there's the two – the two consents that will make it clear.  
If the – which the rainwater tank provisions apply.

10 PROF LIPMAN: Yes.

MR O'DONOGHUE: And then under what which consents. You know?

PROF LIPMAN: Yes. Oh. That'd be great.  
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MR O'DONOGHUE: And – and so that'll – that'll just sort of assist, you know, in  
terms of what provisions there are there.

PROF LIPMAN: That would be very useful. Yeah.  
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MR O'DONOGHUE: Yeah.

PROF LIPMAN: Yes. Yes.

25 MR O'CONNOR: Great. Thank you.

MR O'DONOGHUE: Yep.

MR O'CONNOR: Um.  
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MR O'DONOGHUE: Probably one other further thing on that. So with the – the  
South East Open Cut, um, can – just be aware of this. So the – the consent for that,  
um, since the – since the development hasn't commenced, um, you know, South East  
Open Cut, even – even though it's a condition in that, ah, approval, it's – it's – it's  
35 not – can't really commence until they take that consent up. So – so just be aware of  
that. So it might be sitting there in the consent, but until they actually start  
operations, um, people – people can't really request that through the South East Open  
Cut consent.

40 MR O'CONNOR: Which mine is that associated with?

MR O'DONOGHUE: That - - -

MR O'CONNOR: The South East Open Cut?  
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MR O'DONOGHUE: Yes. So that's – that's down - - -

PROF FELL: ..... down the bottom.

MR O'DONOGHUE: Down – so that – that's one – that's – that's probably, you know, closer to the Camberwell Village, where it would – it does trigger - - -

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MR O'CONNOR: Right.

MR O'DONOGHUE: - - - um, quite – quite a number of, you know, acquisitions under that consent.

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PROF LIPMAN: I see.

MR O'DONOGHUE: So, yeah, we'll get that – we'll provide that table just to give you – to assist you in that – deliberations on that. All right. I – I guess – I guess the conclusions we reached, which was really based about looking at the mod itself and – and, um, that the impacts were – would be less than the current – the current situation – compared to the current situation and the – and the conditions not currently on there.

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20 MR O'CONNOR: Okay. Um. The Aboriginal heritage issue. Um.

MR O'DONOGHUE: Yeah.

MR O'CONNOR: You might want to talk about that for us.

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MR O'DONOGHUE: So the – the – what's – what's the specific issue that you're – what – is it just in general or - - -

MR O'CONNOR: Um. So did – you'd raise that as a - - -

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PROF LIPMAN: Um. Yes. Um. I just, um, I suppose my – my question was more related to the condition that – in relation to the Aboriginal cultural management aspect. Um. Ah. I – I was concerned that, you know, that we've still got the date of 2008 in the condition. It hasn't been updated and a lot of the OEH and, ah, BCD requirements have not been, um, incorporated in that condition, um. I – I think that, ah, that's something we should perhaps talk about later.

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MR O'DONOGHUE: Look – look, probably – just the 2008, I guess that's – just in the – in the – in the timing there, that's - - -

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PROF LIPMAN: Mmm.

MR O'DONOGHUE: That was a driver for when – when the modification was - - -

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MR O'CONNOR: Yes.

MR O'DONOGHUE: - - - done at that time.

PROF LIPMAN: Yes.

MR O'DONOGHUE: So it was to get that first Cultural Heritage Management Plan in by that date.

5 PROF LIPMAN: Oh.

MR O'DONOGHUE: But there is an obligation in – in – in, um – there's a – the standard condition here, I think, was updated as – as part of – part of this, um - - -

10 PROF LIPMAN: Yes.

MR O'DONOGHUE: - - - approval.

15 MS HOLLIS: Um .....

MR O'DONOGHUE: So the provision of strategies, plans and programs. So even though that date – that date's more in relation to the first provision of – so they have – there is a Cultural Heritage Management Plan that is approved - - -

20 MR O'CONNOR: That does exist.

MR O'DONOGHUE: - - - at the moment. Um. And at – every year at – they have to review the – any management plan, so there's a trigger for review of management plans. One of them is when an annual review is done and – and something might

25 come out of that, um, that – that would warrant some – some change. If modification is made to – to, ah, ah, um, development consent, then that – then the required review within three months of – of determination of a modification and update the plan.

30 PROF LIPMAN: Yes.

MR O'DONOGHUE: And – and the – the third one is – is the audit – the audit program. So if there's an audit – if there's an independent audit, that usually occurs every three years. If there's recommendations out of that, um, then – then that's –

35 that's a trigger to also review the plan, um, and – and update it. So – so there's provision here, like, as part of this. So that – it's – it would have been updated since 2008. I – I – I'm not sure – we can get back to you on the - - -

40 PROF LIPMAN: Yes. It's - - -

MR O'DONOGHUE: - - - the date on the current approved plan.

PROF LIPMAN: See, what I'm a little bit concerned about - - -

45 MR O'DONOGHUE: Yeah.

PROF LIPMAN: - - - is that there a number of recommendations made by the then  
OEH - - -

MR O'DONOGHUE: Yeah.

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PROF LIPMAN: - - - and then also a number of recommendations made in the  
AusArc report - - -

MR O'DONOGHUE: Yep.

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PROF LIPMAN: - - - which – which I agree with. Um. There's ..... incorporated in  
the condition that has been set out here. Um. I'm not sure – ah, ah – I mean, the  
normal procedure is to – OEH wanted them list – ah, added, the – the new sites that  
were discovered in '17 and '18 added to the table of – of - - -

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MR O'DONOGHUE: Yep.

PROF LIPMAN: - - - Aboriginal items and also they were concerned about the, um,  
one site that was being disturbed, that everything was to be, ah, you know, retrieved  
and stored - - -

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MR O'DONOGHUE: Yep. Yep.

PROF LIPMAN: - - - before commencement. That doesn't come out clearly in this  
condition. And it's – it's not beyond – even with the three-month period - - -

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MR O'DONOGHUE: Yes.

MR O'DONOGHUE: - - - it's not beyond, um, the sort of, um, ah, you know,  
thinking that it's possible that they could actually commence without doing that - - -

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MR O'DONOGHUE: Look – look – yeah.

PROF LIPMAN: - - - because there's no restriction on that, because - - -

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MR O'DONOGHUE: It - - -

PROF LIPMAN: - - - it's not specifically noted.

MR O'DONOGHUE: It – there isn't, but there is a general – like, there is a, um,  
requirement, um, to – to – for the – the operation to – to, ah, undertake an accordance  
with the – the, ah – the – the – the, ah, original EIS, but as modified. So that  
incorporates – so in the definition, if you go to, um – um, ah, condition – schedule 2,  
condition 2, it's got to carry out the development generally in accordance with the –  
the EA, plus subsequent modifications. So the – they've committed in the – in the  
SCE and subsequent cultural heritage impact assessment as part of the response to  
submissions that they'll – that they'd undertake certain activities and

45

recommendations, which is included, you know, the area – that it's clear what areas that they're – that they're seeking to disturb, which is the – the one full artefact scatter, two partial, um, artefact scatter sites.

5 Um. And also there's an obligation to salvage and – and consult with the – the RAPs in doing that. So there's clear – they – they can't – the – they can't – they'd be in breach of the – of the conditions of they went in there and – and didn't do that in – in – in accordance with the – the schedule 2, condition 2. So there's an obligation then to do it. The management plan sort of formed – it – like, it does formalise that  
10 process, so – so it's – it's in the – in the – in the management plan that they have to do that, but, you know, the obligation is – is on them. If – if they went in there and – and didn't consult with the RAPs and didn't salvage the site, it would be a – it would be a – a breach of the – of the approval, you know?

15 MR O'CONNOR: Consent. You – you've taken us to that condition 2 in schedule 2.

MR O'DONOGHUE: Yep.

20 MR O'CONNOR: I note that, ah, it says:

*Generally in accordance with EA mod 2, 3 and 4 - - -*

MR O'DONOGHUE: Yep.  
25

MR O'CONNOR: So mod doesn't get a mention, nor does the original EIS. Is that – that a conscious thing that those – they're so outdated now they're not - - -

MR O'DONOGHUE: Look, I – the – the mod – the mod 2 – you know, given – I  
30 made significant – you know, a lot - - -

MR O'CONNOR: Such change.

MR O'DONOGHUE: A lot of change in terms of pulling back - - -  
35

MR O'CONNOR: Yep.

MR O'DONOGHUE: Pulling it. So that sort of did really reset the – you know, what the – what the – what they were intending to do, you know? So it's sort of – it  
40 did take out the requirement for the CHPP, you know ..... of the site.

MR O'CONNOR: Yes.

MR O'DONOGHUE: It – it substantially reduced the infrastructure area - - -  
45

MR O'CONNOR: The rail-load over and everything went.



MR O'DONOGHUE: - - - that the - yeah. All that, you know?

MR O'CONNOR: Mmm.

5 MR O'DONOGHUE: And so - so that made - that - that, you know, made, um, significant improvements to the - to the original EIS, so really we're at - this is resetting it back to EA mod 2, um, but also is modified subsequently ..... as said in the - said in what's - what's the - how they - how they operate the site.

10 PROF LIPMAN: I - I take all that on board, but the other modifications that I've been involved with have generally been more specific in relation to it and I'm a little bit concerned that we would be seen as a bit lax on the Aboriginal aspects if we don't really, um, update this a little a bit, yeah, particular condition.

15 MR O'DONOGHUE: Well, look - look, generally, we don't put in conditions that - that say you must salvage sites XY - you know, we're not - we don't put in specific ones.

PROF LIPMAN: No. No.

20

MR O'DONOGHUE: Oh, yeah. Okay.

PROF LIPMAN: There's usually a little - a little table - - -

25 MR O'DONOGHUE: Yeah.

PROF LIPMAN: - - - which sort of - - -

MR O'DONOGHUE: Yeah.

30

PROF LIPMAN: You know, if there's a little table that sort of set it out and included those - - -

MR O'DONOGHUE: Yes.

35

PROF LIPMAN: - - - sites, I'd feel a little more comfortable.

MR O'DONOGHUE: I think one of the - yeah. I look, I understand. I understand.

40 PROF LIPMAN: Yes.

MR O'DONOGHUE: Often in the consent there is a table that specified - - -

PROF LIPMAN: Yes.

45

MR O'DONOGHUE: - - - the – you know, these are the sites for salvage that – you know, these are the sites for – you know, to be – to be, um, maintained – maintained and protected.

5 PROF LIPMAN: Mmm.

MR O'DONOGHUE: I – I guess this one didn't have it in the – in the, um, as part of the original, um, conditions or – or the mod 2 conditions. So we sort of left it at that, ah, in terms – because there would have been some salvage of sites have already  
10 occurred - - -

MR O'CONNOR: Mmm.

MR O'DONOGHUE: - - - you know, from that – from that - - -  
15

MR O'CONNOR: Yep.

MR O'DONOGHUE: - - - mod 2.

20 PROF LIPMAN: Yep.

MR O'DONOGHUE: So it's sort of – so in this instance, since there was no sort of table to work on and the original sites to be protected, the original sites to be salvaged, um, would – it's more doing it through the – the management plan itself,  
25 the updated management plan.

PROF LIPMAN: I see.

MR O'DONOGHUE: Yeah.  
30

PROF LIPMAN: Because OEH does request specifically that those sites in 2017, 2018 be added to the table, which there isn't and there isn't a table to add it - - -

MR O'CONNOR: Well, there isn't a table to add it to. That's the issue.  
35

PROF LIPMAN: I know. I know.

MR O'CONNOR: Yep.

40 PROF LIPMAN: But they could be specified separately.

MS HOLLIS: Ah, I believe that that is the table in the Aboriginal Cultural Heritage Management Plan.

45 PROF LIPMAN: Yes.

MS HOLLIS: So, um, ah, BCD definitely want, um, the applicant to update their current management plan as a consequence of this mod.

PROF LIPMAN: And incorporate these sites. Yes.

5

MS HOLLIS: Yes.

MR O'DONOGHUE: So ..... yeah.

10 MS HOLLIS: And I believe that there are, um, some – some updates that, as you mentioned, haven't been included that BCD want to be included in an update.

PROF LIPMAN: Yes. Yes.

15 MS HOLLIS: Yes.

MR O'CONNOR: And BCD will get to a – review and approve that final plan, I take it.

20 MS HOLLIS: Um. So the condition - - -

MR O'DONOGHUE: The – the – yeah.

MS HOLLIS: - - - we've come to asks for approval, I believe, but it's, um - - -  
25

MR O'DONOGHUE: In consult – consultation.

MS HOLLIS: - - - in consultation.

30 PROF LIPMAN: Consultation - - -

MR O'CONNOR: Right.

PROF LIPMAN: - - - with BCD and the registered Aboriginal parties.  
35

MR O'DONOGHUE: Yep.

PROF LIPMAN: Yes.

40 MR O'DONOGHUE: So – so they'll have – like, generally, the - - -

PROF LIPMAN: Mmm.

MR O'DONOGHUE: And that – that – that's normally the case in my – you know,  
45 that consultation ..... began, you know, to formalise that, so the – so the RAPs, um, will certainly get a chance to look at the – the revised management plan through that before it's submitted to – to us – to us, but we'll ..... as part of our process – I mean,

they're required to consult with BCD first and, you know, make the changes. It'll come to – it'll come to us. We'll – we'll speak to BCD again that they're happy with the changes and then – and then, you know, the – go through the process like that.

5 PROF LIPMAN: Right. Right. Thank you.

MR O'DONOGHUE: Yep.

10 MR O'CONNOR: Okay. We might move on then to the, um, CHPP and - - -

MR O'DONOGHUE: Mmm.

15 MR O'CONNOR: - - - and, um, that's ..... under SSD5850 and just – you had talked a bit about that relationship.

MR O'DONOGHUE: Yep. Yep.

MR O'CONNOR: We just want to understand that a little better.

20 MR O'DONOGHUE: So we might point out the – we've – yeah. So we've got the condition for the Mt Owen, um, conditions here. So I'll just flag that one. So in, um, so this is, ah, SSD5850, so another Mt Owen continued operations project condition. So, um, ah ..... so – so in schedule 2, condition 7, um, so the – the conditions say the applicant may process up to 17 million tonnes, ah, of ROM coal from the Mount  
25 Owen Complex at – at the Mt Owen coal handling and prep plant in a calendar year. And so then the – the Mount Owen – the Mount Owen Complex, um, in the definitions, um, upfront, ah, includes the combined operations of Mt Owen, Ravensworth East and Glendell mines. So that's sort of where it ties it together. So they can take ROM coal - - -

30 MR O'CONNOR: Yep.

35 MR O'DONOGHUE: - - - from any of those three operations as long as it's – it's no more than 17 million tonnes in a calendar year in – in that one. So I guess they – the consents work together and ..... Glendell allows – allows it to go to the – the CHPP and – and this one allows to take that – take the coal up to a combined 17 million tonnes per annum.

40 MR O'CONNOR: Chris, did you want to - - -

PROF FELL: I'm – I'm – yeah.

MR O'CONNOR: - - - ask about the water side.

45 PROF FELL: I do. I do, thanks.

MR O'DONOGHUE: Yep.

PROF FELL: Now, basically they say the coal that's coming out 80 per cent thermal, 20 per cent metallurgic.

MR O'DONOGHUE: Mmm.

5

PROF FELL: That's not the highest value coal - - -

MR O'DONOGHUE: Yes.

10 PROF FELL: - - - basically. And my concern is a whole water question. The, ah, the calculations show about 1.6 megalitres a day from the pit - - -

MR O'DONOGHUE: Mmm.

15 PROF FELL: - - - if you like. That's lost by evaporation - - -

MR O'DONOGHUE: Yeah.

20 PROF FELL: - - - but they hold the licences. My concern is the operation to CHPP in that it has a range of coal coming into it from a number of things.

MR O'DONOGHUE: Mmm.

25 PROF FELL: A decision in terms of drought could occur, because ..... may not have enough water - - -

MR O'DONOGHUE: Yep.

30 PROF FELL: - - - to operate and, ah, they could say, "Well, we'd rather take one of the other mines products in this particular one." And I know that they have high security of water, but - - -

MR O'DONOGHUE: Mmm.

35 PROF FELL: And they take it from ..... Creek, I think, it is, but I would suggest in the current situation, a situation like we see next year, it's problematic whether high security water will be allowed ..... need.

MR O'DONOGHUE: Yes.

40

PROF FELL: Ah.

MR O'DONOGHUE: Look – look, it's certainly a – an issue that's crossed a lot of mine precincts at the moment.

45

PROF FELL: Of course.

MR O'DONOGHUE: Um. Certainly, it – it – it – not only in the Gunnedah Basin. But there's – the – the – the high security water that's not available. You know? And – and mines there, you know, have high security licences, but can't take their water.

5

MR O'CONNOR: No water to take.

MR O'DONOGHUE: So they're looking at alternative water sources. Ah, similarly – similarly in the Hunter, you know, I guess there's – well, all – all mines are looking at opportunities on how to – for water saving efficiency and – and where they – where they can get their water. And I think part of the – part of that – you know, that – that, um, Great Ravensworth water and tailing scheme is really looking at, you know, that water sharing opportunities, efficiencies across – across all their mining enterprises, ah, in terms of – of where they can get water.

15

MR O'CONNOR: Well, we're not asking them for any attempt at water efficiency ..... condition .....

20

MR O'DONOGHUE: Um.

MS HOLLIS: Sorry. The – so there is a condition in the Mt Owen consent that, um, requires them to adjust the scale of their operations to match available water supply.

25

MR O'CONNOR: It's Mt Owen.

MR O'DONOGHUE: Yep.

MS HOLLIS: Yep.

30

MR O'CONNOR: I'm talking about does that flow on?

MS HOLLIS: Well, I guess, it - - -

35

PROF FELL: Mmm.

MS HOLLIS: - - - the – the processing - - -

MR O'CONNOR: It's just a requirement of Mt Owen.

40

MR O'DONOGHUE: It – it would – look – yeah.

MS HOLLIS: Yeah.

45

MR O'DONOGHUE: Look, if – if they – I – I guess it – like – like, Glencore's operating these mines when – if there's water. If – if the – if it's driven by the CHPP in terms of the water they need for the CHPP operations, you've got the dust – now, the biggest - - -

MR O'CONNOR: ..... suppression.

MR O'DONOGHUE: This is probably going to be – be truck haulage and dust secretion generally across all – all the sites and where they get water from that. Ah.  
5 The CHPP water, um, it's probably – probably not as much as for – for – for dust suppression. But I guess they'll be making a judgment across the complex and in, um, efficiencies and – and what – what coal ..... they need as – you know, as coming out of the CHPP anyway, in terms of demand. Yeah.

10 PROF FELL: My reading of it suggests that, ah - - -

MR O'DONOGHUE: Yes.

15 PROF FELL: - - - Glendell doesn't contribute anything to total water balance, if you like.

MR O'DONOGHUE: The – I think that – it – because it's not – there's no water into the pit, so that's – that's correct. So there's no water being pumped out of the pit to – to be used, um, either, you know, for dust suppression, because it is – it – you  
20 know, under – under – the current conditions at least, the – there's – it's a high evaporation rates. But certainly in the report, um, there's very – there's very little water coming in. It's – it's evaporated off, so there's – there's really limited opportunity in Glendell for – for sourcing water.

25 PROF FELL: I just wondered if we should have something in there basically saying Glendell should look at any attempt to get water.

MR O'DONOGHUE: Um. Like – like, what – I think partly – it – it is partly covered in the water supply condition in that the onus is on the – you know, they've  
30 got to make sure that they've got enough water, um, supplied to the – to the mine to operate. So there's the – the onus there and this – this is what I - - -

PROF FELL: Well, the – the only water they'll be using is for dust control basically.  
35

MR O'DONOGHUE: Yep.

PROF FELL: Right.

40 MR O'DONOGHUE: Well – yeah. Well, mainly. Yeah. Mainly for – for dust suppression on the Glendell mine site. Yep. Yep.

PROF FELL: Look, I'm happy to let it go. I think we've realised what the problems are. They could be faced with shutdown.  
45

MR O'DONOGHUE: It could be. I – I mean, all mines – you know, if they can't get the water, it's like any other development. Like, a farming enterprise - - -

PROF FELL: That's their risk.

MR O'DONOGHUE: - - - that get the - if you can't get the water, it - it will have implications for - for operations.

5

MR O'CONNOR: Okay. We might move on. Um. We might just skip the recommended conditions for a moment and come back to that and talk about the, um, air quality and greenhouse gas management plan, which, um, the, ah, the secretariat have provided us with a copy of the - - -

10

MR O'DONOGHUE: Yep.

MR O'CONNOR: - - - current management plan. We're just struggling to understand the difference between the current condition, which you're proposing to delete, I think it's condition 51, um, and the new 23(b) or the - that you're proposing to insert.

15

MR O'DONOGHUE: Yep.

MR O'CONNOR: Um. Just what the - the reports that will be required as a result of that new condition, how will that differ from the current report required under condition 51, which we have a copy of?

20

MR O'DONOGHUE: Well - well - like, that's the - the energy efficiency.

25

MR O'CONNOR: It is. Yes.

MR O'DONOGHUE: Yep. Yep.

MR O'CONNOR: Yeah. Greenhouse gas emissions.

30

MR O'DONOGHUE: So - so - so that came out of - like, that - that was on a - that condition was on a lot of mines which came out of the energy savings action plan from - I think from the - from the early 2000 or nineties.

35

MR O'CONNOR: Yep.

MR O'DONOGHUE: Um. Which was a specific program. Um. I guess it - a more contemporary sense, they've got away from having a specific greenhouse gas, um, condition like that and - and just rolled - rolled it into the one, yeah, air quality and management plan. Um. So it's just - it's just really trying to roll it - I guess it's an administrative change to roll it into - into one report. Um. Now - um, as part of the management plan. Ah. But also the obligation there would be to really roll into reporting that in the annual reviews, so currently - currently there was a dedicated report just about that. Um. Now, the obligation will be to - as part of the annual review to - to - - -

40

45



MR O'CONNOR: Mmm.

MR O'DONOGHUE: Which reports on how – on the – on the outcomes of the – of the management plan and against those water – the – the compliance with water  
5 management conditions, noise conditions, etcetera and ..... how you – how you've complied with that condition and what you've done in – as part of the annual review report. So it's just probably more of an efficiency in terms of reporting, rather than having separate reports, but just sort of rolling it into the – into the one document.

10 PROF FELL: ..... yes.

MR O'DONOGHUE: It's – it's more the intention of that.

PROF LIPMAN: Can I ask a question, Mr - - -  
15

MR O'CONNOR: By all means, Zada.

PROF LIPMAN: Um. Yes. I – I think that's a good idea, but one of my problems is that there are two sections previously. Section 23 and section 51. And the new  
20 23(a), um, has very little on – on greenhouse gases. It – it leaves out a lot of the matters that are mentioned specifically in condition 51. And I'm just wondering, you know, the – I found that – with that – that new condition that they've been putting in generally, it doesn't sort of include a – a program to monitor greenhouse gas emissions, a framework for investigating and implementing measures to reduce  
25 greenhouse gas emissions or to describe how they've been monitored over time, um, at 23(a). Whereas, if you look at 51, it's, um, the old 51, ah, in mod 3. It's quite clear on all of those aspects.

MR O'DONOGHUE: Look, I – I – I guess this is where, um, um – there – there are  
30 already – for greenhouse gas emissions, this is a development that has to report as part of the national reporting - - -

PROF LIPMAN: Yes. Yes.

35 MR O'DONOGHUE: - - - requirements anyway.

PROF LIPMAN: Yes.

MR O'DONOGHUE: So – so I – so I guess there's an overlap - - -  
40

PROF LIPMAN: With that, yes.

MR O'DONOGHUE: - - - with that as well.

45 PROF LIPMAN: Yes.

MR O'DONOGHUE: So there's obligations for reporting – reporting – you know, how - - -

PROF LIPMAN: ..... yes.

5

MR O'DONOGHUE: - - - you're tracking against that. You know?

PROF LIPMAN: Yes.

10 MR O'DONOGHUE: So – so there are – which is – which is probably from a –  
from a – you know, a national contributions point of view, you know, that's – that's  
probably the appropriate place to go. Um. So in the – in the annual review, um,  
there – there would be generally a wrap up of how that – how that fits in. I know it's  
not explicitly – you know, there's no explicit, um, sort of condition around that. Um.  
15 But I guess there is that Commonwealth reporting mechanism that's required that's  
publicly available as – as – as well. Um.

PROF LIPMAN: You see, I've – I've – I've got a concern that the only thing at  
23(a) really is minimise the development's scope 1 and 2 greenhouse gas emissions,  
20 which seems to me very scant. The rest of it is just, ah, dealing with – with air  
quality, even though it's – you know, it's supposed to be the greenhouse gas  
management plan. Um. The monitoring aspect to me isn't – isn't properly  
addressed. I know it's reported, but it doesn't say how they'd be monitored over  
time, ah, reduced over time or anything like that. Um. I – I just think there should  
25 be something – some more reference to greenhouse gas emission. I know this is the  
new section and I think to amalgamate them's a good idea. Um. But I – I'd just like  
to, um, have a little more detail on greenhouse gas emissions there.

MR O'DONOGHUE: Okay. Yep. But I – I think just – I think if we – if – just a –  
30 keep in mind there is that national reporting framework.

PROF LIPMAN: Yes. Yes. I'm aware of that. Yes.

MR O'DONOGHUE: Um. But I think in terms of – I – I guess the sort of –  
35 because its – I guess it's the measures to be implemented to – to ensure that best  
practice is employed. So there is an – you know, through that – I'm trying to  
rationalise the condition, so the – the – part of that does drive to continue to look at  
what – what opportunities there are. In this sort of instance, it's sort of like, you  
know, diesel emissions contributions, so it's efficiency in – in - - -

40

PROF LIPMAN: Yes.

MR O'DONOGHUE: - - - um, equipment and that sort of thing. And it – the  
condition does drive them to look at best practice and if the – if there's savings to be  
45 had, incorporation of, um, ah, you know, better – better diesel – minimising diesel  
fuel, um, options on haul roads and - - -

MR O'CONNOR: It's that plus future ..... by mining practice.

MR O'DONOGHUE: Yeah. Yeah. The – the – well, that's fairly shallow – a shallow mine, but – yeah.

5

MR O'CONNOR: Yeah. I, um – I did have a look at the existing management plan prepared under the existing - - -

MR O'DONOGHUE: Yep.

10

MR O'CONNOR: - - - condition 51. And, ah, it did indicate that there was a ceiling of greenhouse gas emissions that they were looking to stay under each year, but no mention about how they were performing against that – that target. So would the department have been involved in setting that ceiling or it's going to assist the national report system?

15

MR O'DONOGHUE: No. No. That – that – that's my – and they talk about that in their – I think, in the mod report and maybe in response to submissions. I think, as – as a business – a business entity, Glencore-wide, I think – there's – there's a cap - - -

20

PROF LIPMAN: A voluntary cap.

MR O'DONOGHUE: - - - on – like, global – I think it's global, in terms of they've got – they've - - -

25

MR O'CONNOR: It is. Yeah.

MR O'DONOGHUE: They've got a global cap of 150 – I think it's 150 - - -

30

MS HOLLIS: Million.

MR O'CONNOR: Million tonnes per annum.

35

MR O'DONOGHUE: ..... yeah. So – so – and then – and – so they're committing all their operations to stay under that, but they certainly – that's not a – that's a – like, a voluntary approach by the company. You know, it's not a – it's not a requirement - - -

40

MR O'CONNOR: Okay. Okay. Well, I might - - -

MR O'DONOGHUE: - - - on that.

MR O'CONNOR: - - - put that question to the - - -

45

MR O'DONOGHUE: Yeah. Yeah.

MR O'CONNOR: - - - company then rather than yourselves - - -

MR O'DONOGHUE: Yep.

MR O'CONNOR: - - - if you've had no role in - - -

5 MR O'DONOGHUE: Yep.

MR O'CONNOR: - - - establishing what that cap is. Okay. Ah. We might then finally turn to the conditions.

10 MR O'DONOGHUE: Mmm.

MR O'CONNOR: Um. We've got just a couple of questions about some of the conditions. You've got a copy in front of you.

15 MR O'DONOGHUE: Yep.

MR O'CONNOR: I might lead off - - -

MR O'DONOGHUE: I do.

20

MR O'CONNOR: - - - and on page 5, the, um, schedule 2, condition 5 - - -

MR O'DONOGHUE: Yep.

25 MR O'CONNOR: - - - um, you'll note in the note that it currently, um, says the secretary and – well, it's not resource regulator, but it's another body that's being replaced by the resource regulator. Um. And there's proposal to make it “and/or”, so it can be either. We were just a bit confused by that, because there are other conditions later on that do require both the secretary and the resource regulator to  
30 sign off on – on certain thing.

PROF FELL: Yes.

35 MR O'CONNOR: Why – why is it “and/or” which is a conscious change that you're looking to make?

MR O'DONOGHUE: Um. Well, I guess there's the rehab of the site and provide offsets, the – the offsets is, um, in relation to, um, biodiversity offsets, so – which the resource regulator, I guess, don't have a – a – in that instance, they don't have like,  
40 an approval role in part of that, but there might – it – generally – like, a DIG resource regulator would be interested in – if offsets sterilised rights to all potential resources.

MR O'CONNOR: Coal resources.

45 MR O'DONOGHUE: But it's more of a - - -

MR O'CONNOR: Yep.

MR O'DONOGHUE: - - - consultation sort of process in that.

MS HOLLIS: Ah, yes.

5 MR O'DONOGHUE: Any more comment?

MS HOLLIS: So the change was at the request of the resource regulator, so they had input into this.

10 MR O'CONNOR: Right, because, um, we might just need to look at some of those other conditions then for consistency, where that it still says both and that – and I think it relates to rehab. Um. So if then - - -

15 MR O'DONOGHUE: So the – so the - - -

MR O'CONNOR: - - - if you accepted that, then you could have the resource regulator who doesn't want to have a role with the power to say yes or no in terms of whether it's satisfactory. It just seems odd, so just take them out altogether if they're – if they're saying "We don't want to be the authority that has a say."

20 PROF FELL: Sorry. I thought that was a function of the resource regulator wanting a clear function.

25 MR O'DONOGHUE: It is in terms of rehabilitation.

PROF FELL: ..... rehabilitation.

MR O'DONOGHUE: Yep. Yep.

30 PROF FELL: .....

MR O'DONOGHUE: But I – I – I think it's probably more the – incorporating offsets in here, which has sort of confused the issue a little bit. You know, compared to – if we're just about rehabilitation - - -

35 MR O'CONNOR: It would definitely be in.

MR O'DONOGHUE: - - - certainly it would be – it would definitely – you know, the resource regulator would be the - - -

40 MR O'CONNOR: Yep.

MR O'DONOGHUE: - - - sort of lead in that and – and really in terms of, um - - -

45 MR O'CONNOR: But because you've thrown in offsets - - -

MR O'DONOGHUE: Because if you look at the rehabilitation condition it's to the satisfaction of the resources regulator.

PROF FELL: Now, resource regulator reports to the secretary in the end.

5

MR O'DONOGHUE: Yes. But – yes.

MS WARTON: So could the condition be worded to make clear which bit is for the secretary and which bit is for the regulator?

10

MR O'DONOGHUE: It – it – it could be. We – we might go back to – we might clarify – if – if it's sort of been at the request of the resource regulator, we might go back to them and just clarify further about, you know, their intent there. And - - -

15 MR O'CONNOR: That'd be good if you could do that.

PROF LIPMAN: - - - get back to you on that.

MR O'CONNOR: Yeah.

20

MR O'DONOGHUE: Yeah.

MR O'CONNOR: Because don't want to have - - -

25 MR O'DONOGHUE: Yes.

MR O'CONNOR: - - - some confusion there. Um. The next question, just over the page, page 6, condition 14, um, and if you – you need to take these on notice - - -

30 MR O'DONOGHUE: Yeah.

MR O'CONNOR: - - - and come back, that's fine.

MR O'DONOGHUE: Yeah. Yeah.

35

MR O'CONNOR: Um. The – there's been a change there to introduce, um, a small (a) as a footnote and then insert that in 14(a) and 14 – condition 14(b). Um. And I just thought that the – it was quite relevant for 14(a), but probably not relevant for 14(b). So the change I thought might be needed was just to take out the small (a) after the word “public infrastructure” in (b). So you might just want to look at that and make sure - - -

40

MR O'DONOGHUE: Make – okay.

45 MR O'CONNOR: - - - that you would – you definitely wanted that reference - - -

MR O'DONOGHUE: We'll - - -

MR O'CONNOR: - - - to apply.

MR O'DONOGHUE: We'll check that one.

5 MR O'CONNOR: Okay. Ah, then, over on page 18, 37C, condition 37C. Um.  
The way they condition currently reads, um, there's a requirement to insert that little  
(a) after the second time the word "tree" appears in that, um, 37C(a). Um. But the  
first reference is actually "trees". It's plural, so it was just a – it's really the first time  
the "tree" occurs that that (a) needs to be inserted.

10

MR O'DONOGHUE: Okay.

MR O'CONNOR: Um. Did you have a concern about that condition as well, Zada?

15 PROF LIPMAN: Yes. Ah. My concern is that you – that (a) and (b) were they  
really necessary? When you go back to the original mod 3, ah, the consolidated – the  
conditions there just have two bullet points and it's far clearer, so – because .....  
damage is defined or mentioned in the conditions, it was covered.

20 MR O'DONOGHUE: Mmm.

PROF LIPMAN: Whereas now it's not – not clear whether it applies to the hollow  
trees and to the other ones.

25 MR O'DONOGHUE: Yep.

PROF LIPMAN: So I thought it'd be better just to revert to what we had originally.  
I don't know why (a) and (b) were put in, and you say applicant requested the change  
or something like that.

30

MS HOLLIS: There was a – um, a – a change in drafting conditions after United  
Wambo to try and remove notes to conditions - - -

MR O'CONNOR: Ah.

35

MS HOLLIS: - - - and to replace it with a – a footnote, rather than having a note, so  
that's where some of these, um, well, changes to notes to the conditions have come  
from, so that they're more consistent with that drafting style.

40 PROF LIPMAN: I think that they're clearer if we had the bullets though, because  
then it might sort of – you know, whenever the word is mentioned, it would be  
covered by the note, whereas now it's – where it really should be, I suppose, in ..... it  
doesn't – (b) doesn't extend to (a), which is – is certainly more important than – than  
the (b) one.

45

MR O'DONOGHUE: Well – well, have a look at it. Yeah.

PROF LIPMAN: But it should apply for both.

MR O'CONNOR: Yeah.

5 PROF LIPMAN: It should apply for both.

MR O'DONOGHUE: Because – because the intent was to try and - - -

PROF LIPMAN: Yes.

10 MR O'DONOGHUE: - - - you know, remove – like, notes like that - - -

PROF LIPMAN: Notes, yes.

15 MR O'DONOGHUE: - - - which might have some function. Yeah. Yeah.

MR O'CONNOR: And I take it that that was a legal requirement, that, whenever it was a note - - -

20 MR O'DONOGHUE: It was. Yeah.

MR O'CONNOR: - - - you could just ignore it.

MR O'DONOGHUE: Yeah.

25 PROF LIPMAN: That's right. That's right.

MR O'CONNOR: Because it's not part of the condition, really.

30 MR O'DONOGHUE: Yes. Yes.

MS HOLLIS: Yes.

MR O'DONOGHUE: We'll - - -

35 MR O'CONNOR: But if it's - - -

PROF LIPMAN: Yes.

40 MR O'DONOGHUE: We'll have a look at the wording and make sure if that's - - -

MR O'CONNOR: - - - a footnote, then it is part of the condition.

MR O'DONOGHUE: - - - if that's the most effective way.

45 PROF LIPMAN: But OEH did specifically - - -



MR O'DONOGHUE: Yeah.

PROF LIPMAN: I went back and read they had specifically requested that those notes be, ah, incorporated - - -

5

MR O'DONOGHUE: Mmm.

PROF LIPMAN: - - - in the condition, so - yeah.

10 MR O'DONOGHUE: We'll - we'll - we'll have a look at it and get something back to you and see what - see what you think - - -

PROF LIPMAN: Okay. Thanks.

15 MR O'DONOGHUE: - - - yeah, on them.

MR O'CONNOR: And my last question - well, I think I - I've actually gone back. This page 26, um, and you'll note on the consolidated version of the - the conditions you insert two new conditions, 9 and 10.

20

MR O'DONOGHUE: Mmm.

MR O'CONNOR: But then it goes conditions 9, 10 and 11.

25 MR O'DONOGHUE: Yep. Yep.

PROF LIPMAN: Yes.

30 MR O'CONNOR: I think they are actually numbered 11, 12 and 13 in - so I think it might have just been a typo - - -

MR O'DONOGHUE: Yep.

35 MR O'CONNOR: - - - in producing the - - -

PROF LIPMAN: Yes.

MR O'CONNOR: - - - consolidated version.

40 MR O'DONOGHUE: Yeah. Yeah.

MR O'CONNOR: When I've gone back, it they are conditions, um, 11, 12 and 13.

45 MR O'DONOGHUE: ..... yep.

MR O'CONNOR: Like you'd expect them to be.

MR O'DONOGHUE: Yep. Yep.

MR O'CONNOR: So it just might need a bit of - - -

5 MR O'DONOGHUE: Okay.

MR O'CONNOR: - - - tidying up.

MR O'DONOGHUE: Yes. Yes.

10 MR O'CONNOR: Nothing wrong with the - - -

PROF LIPMAN: No.

15 MR O'CONNOR: - - - conditions. Um. Anything from you, Zada, in relation to conditions?

PROF LIPMAN: No. No. I think we've covered – covered everything.

20 MR O'CONNOR: Okay.

MR O'DONOGHUE: Okay.

MR O'CONNOR: What about you, Chris?

25 PROF FELL: Oh. I have to say, I'm still puzzled about number 38 on page 18. Ah. New England Highway .....

MR O'DONOGHUE: Mmm.

30 PROF FELL: ..... basically saying the council ..... don't agree on those plannings and the applicant doesn't have to worry about it. It seems a very strange - - -

MR O'DONOGHUE: Look, that's a - - -

35 PROF LIPMAN: - - - let out.

MR O'CONNOR: Then again, it's a note as opposed to a – yeah - - -

40 MS HOLLIS: Yes.

PROF LIPMAN: Mmm.

MR O'CONNOR: - - - part of the conditions, so – yeah.

45 MR O'DONOGHUE: Look, I guess it's an existing one, so we'll need to go – you know - - -

MR O'CONNOR: Yeah.

MR O'DONOGHUE: It's not – it's not one that's sort of material - - -

5 MR O'CONNOR: Directly related to the mod.

MR O'DONOGHUE: - - - to the mod, but, um – so we didn't sort of play around with that one - - -

10 MR O'CONNOR: Yes.

MR O'DONOGHUE: - - - too much, but, um, um – we'll – we'll go back. Like, I mean, it might – it may be that, um, it – it's already been acted on.

15 PROF FELL: It - - -

MR O'DONOGHUE: You know, because by the end of October 2008, the applicant must do this. So we can at least clarify where it's at - - -

20 MR O'CONNOR: Sure.

MR O'DONOGHUE: - - - and get back to you.

PROF FELL: It's an ..... then. Right.

25

PROF LIPMAN: Yes.

MR O'CONNOR: Okay.

30 MR O'DONOGHUE: Yes. So – and let you – let you know if that's been acted on there has been the plantings and where it's at.

PROF FELL: ..... dropped a note in.

35 MR O'DONOGHUE: Yeah. And it might – it may not be relevant, but we'll – we'll get back to you on that one.

MR O'CONNOR: Okay. I don't think I have any further questions. Um. The commissioners? What about secretariat? Any questions?

40

MS WARTON: I think I don't really mind any query about the style.

MR O'DONOGHUE: Mmm.

45 MS WARTON: So, for example, the condition 38 you were just saying they've changed a word that used to say, um – they changed "secretariat" to update it - - -

MR O'DONOGHUE: Yeah.

MS WARTON: - - - but where a condition has already been satisfied by, I don't know, the director-general or something - - -

5 MR O'DONOGHUE: Yeah.

MS WARTON: - - - is it really necessary to go make everything secretary when the secretary wasn't the one that actually ..... approval. You know what I mean?

10 PROF FELL: .....

MS WARTON: I just ..... necessary.

15 MR O'DONOGHUE: I think – I think – yeah. I understand what – yeah. I know the point you're making.

MS WARTON: Confusing.

20 MR O'DONOGHUE: But it might – but if we leave – I mean, you could either go through and say it's acted on and – and potentially remove it if it has been fully acted on. That's – but, I guess, we're leaving the conditions in there for ..... aspect.

MS WARTON: Yeah. Yeah.

25 MR O'DONOGHUE: But – but also it was just a – a bulk change - - -

MS WARTON: Yeah.

30 MR O'DONOGHUE: - - - you know, in that. Yeah.

MS WARTON: I just thought – so ..... would have been fine if you'd just left the .....

35 MR O'DONOGHUE: Yeah.

MS WARTON: But – yeah. Okay. It's just the matter of style.

MR O'DONOGHUE: But by – yes.

40 MS WARTON: Yeah.

MR O'CONNOR: Um. I did have one last - - -

45 MR O'DONOGHUE: Right.

MR O'CONNOR: - - - question. Just relating to, um, the final void and the rehab that - - -

MR O'DONOGHUE: Mmm.

5

MR O'CONNOR: - - - I got the impression from reading the report that this was a – going to result in a very minor change to the final landform and – and the void that's there. Is – is that correct? I just wasn't 100 per cent sure.

10 MR O'DONOGHUE: It – it – it is – it is in terms of, like, the final – final void catchment, final void size, depth is – is consistent with the – with the - - -

MR O'CONNOR: Right.

15 MR O'DONOGHUE: - - - the approved – approved ones. I guess it's shifting it, you know - - -

MR O'CONNOR: Slightly.

20 MR O'DONOGHUE: - - - slightly – slightly to the north where – where it ends up, but the sort of configuration of it, um, in – in terms of how – how it all impacts, there's no deeper, um, the – the water catchment water and the size of it is – is – is – isn't changing.

25 MR O'CONNOR: Yeah.

MR O'DONOGHUE: You know? And – and in – and in general, like, I think it's some – some changes to woodland versus, um, sort of, ah, agricultural, sort of, outcomes, but you – it – in terms of areas, it's – it's pretty consistent with what's  
30 already there.

MR O'CONNOR: Okay. Well, um, I might just thank the department for their report and for the time today answering our questions and look forward to getting those further comments - - -

35

MR O'DONOGHUE: Yeah. We'll - - -

MR O'CONNOR: - - - feedback - - -

40 MR O'DONOGHUE: - - - get back to you as soon as we can.

MR O'CONNOR: - - - from you. Um. And, yeah, thanks for your time this morning.

45 MR O'DONOGHUE: Okay. Thanks. Thanks, Steven.

MR O'CONNOR: And we'll end the transcript tape.

PROF LIPMAN: Thank - - -

**RECORDING CONCLUDED**

**[10.28 am]**