

7 August 2025
Our ref: NTS 008

Rose-Anne Hawkeswood
Team Leader
Resource Assessments
Department of Planning, Housing and Infrastructure

By online submission only

Dear Ms Hawkeswood,

Maules Creek Continuation Project (Application Number SSD-63428218)

- 1 We refer to the above development application lodged by Maules Creek Coal Pty Ltd for the Maules Creek Continuation Project (the **Project**).
- 2 NTSCORP Limited (**NTSCORP**) is the native title service provider for NSW and the ACT, with statutory responsibilities under the *Native Title Act 1993* (Cth) (**NTA**) to act to protect the native title rights and interests of Traditional Owners, native title claimants and holders in NSW and the ACT.
- 3 NTSCORP acts for the Gomeroi People native title applicant (**Gomeroi Applicant**) in relation to the Gomeroi People's Native Title Determination Application (Federal Court Proceedings number NSD37/2019) (**Gomeroi Claim**) and matters arising out of the Future Act Regime of the NTA.

Overview

- 4 The Gomeroi Applicant objects to the approval of the Project.
- 5 The area subject to the development application is part of the traditional Country of the Gomeroi People and falls within the Gomeroi People's native title determination application area.
- 6 The Gomeroi People have an obligation to access, care for and protect their Country under their traditional law and customs. Accordingly, the Gomeroi Applicant wish to ensure that the environmental, spiritual and cultural values of this area are protected.
- 7 The Gomeroi Applicant is concerned that the continuation of open cut mining operations until approximately 2025 alongside the increase to 14 million tonnes of run-of-mine coal per annum will have deleterious effects on the enjoyment of their rights and interests due to the expected climate change impacts resulting from the project.
- 8 The Gomeroi Application is also concerned about the impact of the Project on the health of Gomeroi Country, including the land and connected waterways above and below the surface.
- 9 The Gomeroi Applicant is disappointed that the Proponent has failed to identify concrete Project Emission Reduction Goals in line with their obligations under the Safeguard Mechanism. The Applicant is particularly concerned that the Proponent has not undertaken the required quantitative marginal cost of abatement evaluation.¹ By failing to do so, the Proponent has denied the Gomeroi

¹ Appendix J, Greenhouse Gas Assessment, p 42- 43.

Applicant the chance to comment on the effectiveness of any potential abatement measures. The Gomeroi Applicant considers that the capacity of the project to effectively engage in emission reduction measures is integral to the grant of development consent and should be considered prior to the grant of any approval.

Gomeroi People's Native Title Rights and Interests

10 The native title rights and interests claimed by Gomeroi People in the Gomeroi Claim are:

- (a) the right to access the application area;
- (b) the right to use and enjoy the application area;
- (c) the right to move about the application area;
- (d) the right to camp on the application area;
- (e) the right to erect shelters and other structures on the application area;
- (f) the right to live being to enter and remain on the application area;
- (g) the right to hold meetings on the application area;
- (h) the right to hunt on the application area;
- (i) the right to fish in the application area;
- (j) the right to have access to and use the natural water resources of the application area;
- (k) the right to gather and use the natural resources of the application area (including food, medicinal plants, timber, tubers, charcoal, wax, stone, ochre and resin as well as materials for fabricating tools, hunting implements, making artwork and musical instruments);
- (l) the right to manage natural resources including the right to carbon;
- (m) the right to share and exchange resources derived from the land and waters within the application area;
- (n) the right to participate in cultural and spiritual activities on the application area;
- (o) the right to maintain and protect places of importance under traditional laws, customs and practices in the application area;
- (p) the right to conduct ceremonies and rituals on the application area;
- (q) the right to transmit traditional knowledge to members of the native title claim group including knowledge of particular sites on the application area;
- (r) the right to speak for and make non-exclusive decisions about the application area in accordance with traditional laws and customs;
- (s) the right to speak authoritatively about the application area among other Aboriginal People in accordance with traditional laws and customs; and
- (t) the right to control access to or use of the lands and waters within the application area by other Aboriginal People in accordance with traditional laws and customs.

11 Gomeroi People have a vital cultural and spiritual connection to their Country. That connection consists of a deep and enduring connection to the cultural landscape. That is, a connection to the plants, animals, aquatic species and geographical forms which the Gomeroi People have cared for, and been cared for by, for millennia.

12 Gomeroi People's cultural landscape incorporates the dreaming stories which pass through their Country. These stories and song lines connect and unite the landscape and tell of the creation and formation of Country. That connection is enduring and continues today. Gomeroi People continue to tell the stories of their country and continue undertaking their cultural practices.

- 13 The Gomeroi Applicant believes that approval of the Project will impair Gomeroi People's enjoyment of their rights and interests in the Maules Creek region and across all of the traditional Country of the Gomeroi People.

Impact on Gomeroi People's Enjoyment of their Native Title Rights and Interests

- 14 According to the Intergovernmental Panel on Climate Change (IPCC) Synthesis Report of its sixth assessment report (AR6) published in March 2023, the world is facing catastrophic effects of climate change by the end of this century, which represent a dire threat to human well-being and planetary health.²
- 15 If the Project is approved, is estimated that approximately 5.7 Mt carbon dioxide equivalent [CO₂-e] scope 1 emissions,³ and approximately 421.65 Mt CO₂-e scope 3 emissions will be produced over the life of the project.⁴
- 16 Despite these estimates, Whitehaven Coal state that the Project will have a 'relatively low Scope 1 emissions intensity compared to other NSW mining operations,'⁵ and that the 'low greenhouse gas emissions intensity and methane content' makes the Project 'favourable from an emissions intensity perspective'.⁶
- 17 The Gomeroi Applicant considers that every fraction of a tonne of emissions produced by the Project will warm the planet and will materially contribute to catastrophic climate change impacts globally and in the Maules Creek region. These impacts will hinder the ability of Gomeroi People to exercise their native title rights and interests on their Country.
- 18 The expected impacts of climate change in the Gomeroi claim area include:
- (a) temperature increase;
 - (b) increased hot and very hot days;
 - (c) increased frequency, size and intensity of extreme weather events;
 - (d) changed precipitation patterns;
 - (e) increased droughts and wildfires;
 - (f) increased health issues; and
 - (g) loss of species and vegetation.
- 19 More fires, drought, and heavy rain events, and increased temperatures and hot days in summer cumulatively affect different species of plants and animals, ecological systems, and the relationship between Gomeroi People and their Country.
- 20 These effects include reducing the availability of bush tucker and bush medicines, and limiting Gomeroi People's ability to exercise their rights and responsibilities under their traditional laws and customs in relation to their land and waters.

² IPCC, 2023, AR6 Synthesis Report Summary for Policymakers, p 24 [3016].

³ Appendix J, Greenhouse Gas Assessment, p ii.

⁴ Appendix J, Greenhouse Gas Assessment, p ii.

⁵ Scoping Report, p 16.

⁶ Environmental Impact Statement, Executive Summary, p 19.

- 21 Furthermore, the Gomeroi Applicant considers that the consequences of small increases in temperatures will surpass the ability of biodiversity to adapt and will likely reduce groundwater recharge and impact ephemeral rivers.
- 22 Ultimately, the Gomeroi Applicant considers that these climate change impacts will affect the culture, identity and sense of being of Gomeroi People, disrupting their traditional relationships with each other and with their Country, including their moiety and totemic systems.

Impact of the Project on Waterways

- 23 The proposed activities of the Project have the potential to cause impacts to the surface water and groundwater on Gomeroi Country.
- 24 The project will occur within the Back Creek catchment, which is a tributary of Maules Creek and the Namoi River.⁷ The Namoi River is 8 to 10 kilometres west of the project.⁸
- 25 The project is predicted to cause one metre drawdown within the water table in some areas, and will remain to that level for up to 100 years.⁹ The effect of this drawdown will impact nearly double the amount of terrestrial groundwater-dependent ecosystems which are currently affected by mining operations along Goonbri Creek and Bollol Creek.¹⁰
- 26 A reliable source of groundwater is essential for the ecosystems in Gomeroi Country and the Gomeroi Applicant is concerned that any reduction or contamination of groundwater availability will severely destabilise the local flora and fauna populations and threaten the flow of waterways around the Project area.
- 27 Additionally, the water demand of the Project will be met by the Namoi River and off-site groundwater bores.¹¹ The Gomeroi Applicant is concerned that the extension and expansion of mining operations envisioned by the Project will irreparably deplete the waterways in this area of Gomeroi Country.

Next Steps

- 28 The Gomeroi Applicant strongly objects to the approval of the project for the following reasons:
- (a) The material contribution that the Project makes to climate change through the production of greenhouse gas emissions will disrupt the balance between Gomeroi and Country, because bush tucker and significant animals will disappear, connection to Country will be lost, and the mental health and social, emotional and cultural wellbeing of Gomeroi People will be impacted.
 - (b) The Project will threaten existing waterways which in turn threatens the vital cultural and spiritual connection of Gomeroi People to their Country.

⁷ Appendix B, Surface Water Assessment, p 29.

⁸ Appendix A, Groundwater Impact Assessment, p 20.

⁹ Appendix A, Groundwater Impact Assessment, p 122.

¹⁰ Appendix A, Groundwater Impact Assessment, p 144.

¹¹ Environmental Impact Statement, Executive Summary, p 11.

- 29 Should the Project proceed, the Gomeroi Applicant submits that it should be subject to the following conditions prior to the commencement of any works:

Access

- (a) Any right of the members of the Gomeroi native title claim group to access or use the Project Area is not to be restricted except in relation to those parts of the Project Area which are actively used for exploration or mining operations or for safety or security reasons relating to those activities.

Avoidance and Mitigation Measures

- (b) The Proponent must
- (i) ensure that all reasonable and feasible avoidance and mitigation measures are employed so that greenhouse gas emissions generated by the development do not cause exceedances of a maximum estimated total for greenhouse gas emissions generated by the Project.
 - (ii) develop cumulative maximum forecasts for the greenhouse gas emissions of the development during the period of commencement and every three years afterwards;
 - (iii) monitor and publicly report in the Air Quality and Greenhouse Gas Management Plan the development's actual greenhouse gas emissions against the cumulative forecasts;
 - (iv) Ensure that the actual greenhouse gas emissions generated by the development at the end of the periods referred to at paragraph 29(b)(ii) above which exceed the forecasts for those periods are 100% offset within one year after those periods;
 - (v) Ensure that the offsets required above are:
 1. Compliant with the requirements of the offsets integrity principles set out in the Commonwealth Government's *Carbon Neutral Organisations: Climate Active Carbon Neutral Standard for Organisations* (July 2020) as may be updated by the Commonwealth; and
 2. Not made twice in respect of the same emissions – once an exceedance is fully offset under condition at paragraph 29(b)(iv) above, that exceedance is not counted towards the measurement of actual greenhouse gas emissions for the next period.

Construction Practices

- (c) The Proponent be required to deploy best practice construction practices for sustainable water management and open communication with the Applicant relating to the monitoring of the impact of the Project on the environment.

Consultation

- (d) The Proponent continue to consult with the Applicant on all future assessments relevant to the wellbeing and views of the local Aboriginal Community, including Aboriginal Cultural Heritage and any environmental or rehabilitation plans.

Cultural Awareness

- (e) The proponent must ensure all employees, contractors and sub-contractors who may be involved in Petroleum Operations conducted on the Tenements, have undertaken Gomeroi cultural awareness training

Employment and Training

- (f) The Proponent must establish and thereafter maintain a recruitment and training policy and program which, subject to the availability of members of the Gomeroi native title claim group is designed to provide employment opportunities for Gomeroi People.

Engagement

- (g) The Proponent engage with the Applicant to negotiate economic and other benefits for the community and Gomeroi People.

Liaison Committee

- (h) The Proponent must establish a Liaison Committee provide a forum for the exchange of information between Santos and the Native Title Party concerning mining operations

30 If you require any clarification on the contents of this correspondence, please do not hesitate to contact the undersigned on (02) 8306 2731 or at wscott@ntscorp.com.au.

Yours sincerely,



William Scott
Solicitor
NTSCORP Limited

