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**Glendell Continued Operations Project Environmental Impact Assessment Report
(State Significant Development Application # SSD-9349)**

EIS Public Exhibition

Submission in Brief

This submission in brief provides comment on the following elements of the abovementioned EIS only:

- i. *Appendix 22 Glendell Continued Operations Aboriginal Cultural Heritage Assessment Report (22-ACHAR) ;*
- ii. *Appendix 23 Part A Heritage Assessment (23-HA)*
- iii. *Appendix 23 Part B Heritage Impact Statement (23 HIS).*

As a geoarchaeologist and Aboriginal cultural heritage management professional with prior experience of survey, assessment and regulation of Aboriginal cultural heritage within the Hunter Valley I wish to highlight the following:

1. The main conclusion drawn in relation to traditional Aboriginal cultural heritage values within the study area is inappropriate and contrary to the lawful National Native Title Tribunal process in which one Registered Aboriginal Party (RAP) for the Project, namely the *Plains Clans of the Wonnarua Peoples* (PCWP) is actively engaged.

Herein I note that at page viii of the executive summary of 22-ACHAR the conclusion is drawn that:

“Alongside a previous ACHAR over the wider Project area (the Mount Owen Continued Operations Project ACHAR), this ACHAR has reaffirmed that there are no traditional cultural values associated with the Project Area (directly and specifically) held by the participants in this ACHAR process. By 'traditional' cultural values, we refer to these in the Native Title sense as an inherited and cohesive body of 'traditional' knowledge, laws and customs that are still observed and maintained by a particular Indigenous group”

The PCWP has a Registered Whole of Country Native Title Claim over a portion of the Hunter Valley that includes the Project area. There has as yet been no determination made by the Native Title Tribunal with regard to the nature, extent or indeed extinguishment of Native Title Rights of the PCWP in the Project area and surrounds.

2. To the extent that the 22-ACHAR makes the claim that there are no traditional Aboriginal heritage values within the Project area - and indeed that it refers to the PCWP as 'knowledge holders' rather than as Registered Native Title Claimants – suggests that the document seeks to undermine the rights to Native Title of the PCWP and/or pre-empt any decision of the Native Title Tribunal. By implication, it cannot be concluded that the ACHAR presents a fully impartial and/or comprehensive assessment of the Aboriginal cultural heritage values within the Project Area.
3. Further to this, in 2013 when employed by Tocomwall Pty Ltd I was involved in all aspects of the preparation of the document titled: *'Beginning and Belonging: The traditional, historical and contemporary Aboriginal cultural landscape of the Mount Owen Continued Operations area: A plains clans of the Wonnarua Perspective'*. With my unique knowledge of this document (and its development as part of the broader Mount Owen Continued Operations Project Area (MOCO) ACHAR [to which the quote from page viii above refers]) I note that:
 - i. Despite my documentation of some of the traditional values held by the PCWP within the broader study area as part of the MOCO EIS process [and the inclusion of this document within the MOCO ACHAR] this prior EIS is being used to 'reaffirm' a lack of traditional Aboriginal values within this Project area.
4. With a view to be able to seek further opportunity to articulate my reasoning and professional viewpoint that the Ravensworth Homestead and its surround is of National Aboriginal and Historic Heritage significance I note the following:
 - i. Attachment 1 includes pages 69-73 of the *'Beginning and Belonging: The traditional, historical and contemporary Aboriginal cultural landscape of the Mount Owen Continued Operations area: A plains clans of the Wonnarua Perspective'* (Tocomwall, 2013);
 - ii. This document highlights that
 - a. The Ravensworth Estate was a focal point of frontier violence in the period 1825-1827.
 - b. One of these violent offences included the massacre (i.e. the brutal killing and dismemberment of a single individual) at or near the Ravensworth Homestead in 1826.
 - c. The events that lead to the death of 'Jacky Jacky' and the subsequent Australian precedent setting trial of Lieutenant Howe' arose at the Bowman's Estate.
5. In so far as the history of the Ravensworth Estate is a colonial history it is without doubt intrinsically linked to nationally historic events of immense impact and importance to the PCWP and other Indigenous Australians. This significance; and the importance of maintaining the situation of the Ravensworth Homestead Estate in its current and historical landscape context to reflect this colonial frontier; is not adequately documented, explored and/or addressed within any of the three heritage assessments provided in the Glendell Continued Operations EIS.

I thank you for the opportunity to provide this brief commentary; and look forward to the opportunity to being able to further articulate my concerns in relation to the Aboriginal and Historic Heritage Assessment of the Glendell Continued Operations EIS.

Yours Sincerely,

Maria Cotter

ATTACHMENT 1
(Tocomwall, 2013, pp.69-73.)

The Gaggin and Lethbridge families, and their associated properties, variously feature in the history of the central Hunter Valley during the colonial period. John Braybn Gaggin was the son of Mr John Gaggin and his wife Mary Brabyn. Mary was the daughter of John Brabyn the person first granted the portion of land that became 'Sydneyham' in 1824 (Dangar, 1828, p.17.). It is commonly understood by the PCWP - and well documented elsewhere (e.g. Wood, 1972; Gollan, 1993, Millis, 1993) - that the Lethbridge property 'Bridgman' was the focal point of an 1826 attack by Aboriginals that resulted in the death of two white men within a station hut; and led to the raising of a party of Mounted Police that pursued and reportedly massacred up to eighteen Aboriginals in reprisal¹³.

Eye witness accounts of these events indicate that the Aboriginal individuals who conducted this attack and other associated attacks on nearby Hunter River Estates including Merton, Edinglassie and Ravensworth (HRA, Vol. X11, pp. 610-612; Millis, 1992, pp.55) were recognised by the settlers/farm managers and/or the militia involved and, in some cases, individually named. John Woodbury in his sworn statement to Robert Scott, JP taken 'on the spot' the day after the attack on the Lethbridge property provided a comprehensive account of the event. The following are two extended excerpts from this deposition that illustrate the familiarity of the settlers with the Aboriginal party who attacked them:

'That I am at Hunter's River looking after Cattle, belonging to my Master. That the cattle are on Captain Lethbridge's farm, and I reside there also. That yesterday I came home about 12 o'clock, and found that 14 or 15 Blacks had just arrived. They were all armed. There was no one at home at that time, except Mrs. Allcorn (the overseer's wife) and a little boy. This boy was sent for two men who, who were working near the house; a Black followed the boy to see which way he went. The two men came with the boy, and the black with them. Mrs Allcorn desired me to give the Natives some Kangaroo to keep them quiet, which I did; and they roasted it at the fire and eat it. They then wanted bread and maize, and we told them we had not any. A few only came into the house; the others were at a fire they had made to roast the Kangaroo. The Natives stayed about the place without offering any violence in word or deed until about 4 o'clock when the overseer Allcorn came home.

We then consulted together and thought it would be dangerous to allow so many armed Blacks to remain about the place, and accordingly ordered them to go away to the Bush, and not to remain about the Hut; this was told to two or three, who were in the Hut with us at the time. (what made us more anxious to get the Natives away was that there were three among them, who had been concerned in robbing Chilcott's hut some time before.). The Natives, who we desired to go away, immediately cried out to the others, who began to talk loudly among themselves; and the little boy, who was looking out of the door, cried out the Blacks were coming...

...Soon after the Blacks had gone, Allcorn got up and was quite bewildered and talked nonsense. I know some of the Natives. Ball, Murray, Togy: - these three men were concerned in robbing Chilcott's hut; Brandy and a lad; who was once taken by the Soldiers and let go again on Mr Glennies farm; And a man who kept one of his eyes almost closed; And another short stiff fellow, whom I should know well. The others I don't recollect particularly.'

John Woodbury, assigned servant to Mr. Thomas Cullen, Pitt Town sworn before Robert Scott, J.P. 29 August 1826.

(*Historical Records of Australia*, Vol. X11, pp. 613-614.).

Likewise Captain Foley in writing to Lieutenant De La Condamine, the Military Secretary of the Colony, of his observations and actions in the immediate days after the attack, stated for example that:

¹³ "about eighteen" was the number of 'natives' reported dead after this 'hot conflict' in '*The Australian*', Saturday September 23, 1826, p.3.

"It may be necessary to observe that all the acts of outrage have been committed without exception by Natives who are domesticated on the very Estates, where that have occurred, and not by the incursions of unknown or wild tribes; every one of those is perfectly and intimately known by names, they have received amongst the Settlers, near whom they have dwelt."

Captain Foley to Lieutenant De La Condamine, Newcastle 22 September 1826

(Historical Records of Australia, Vol. XII, p.619).

As already outlined (in Section 2.1.1a) a contemporary media report of the attack on Lethbridge's Station in 1826 concluded that the Aboriginal group involved was a 'mountain tribe' that lived in the neighbourhood of Glennie's [sic] Creek. After providing a description of the attack - that both parallels and embellishes the direct eye witness account of John Woodbury - this report also noted that:

'The black monsters made away towards the mountains and a speedy alarm was given. The most active and determined measures are said to be set on foot, but it is much to be feared that this mountain tribe will be very difficult to capture or subdue. Some friendly natives have joined in.'

(The Sydney Gazette and New South Wales Advertiser, Saturday 9 September 1826).

It is through Mary 'Aborigine', the mother of Matilda Hughes, that members of the PCWP claim their Wonnarua identity and ancestral association with this event. Likewise the current PCWP membership consider that the entire course of Glennies Creek - from its headwaters near Carrowbrook and Mt Royal to its junction with the Hunter River - is part of the traditional home base and resource range of their ancestors. Moreover in their view Glennies Creek is one of the logical pathways that this Aboriginal party would have used to make their escape into the hills. This is especially important in the context of descriptions of where this Aboriginal party was apprehended by the Mounted Police. As Captain Foley later reported:

'On my arrival at Mr. Glennie's estate, I found the Detachment of a Corporal and six, despatched on Captain Allman's requisition, who, as well as the party under my own immediate orders, had been anticipated by the activity of Mr. Scott of Glendon, who with some of his people and some volunteers, with three soldiers of the Mounted police, pursued the murderers the second day after the outrage at Mr Lethbridge's farm, and succeeded by the aid of one of his own Blacks in coming up with them at a distance of 20 miles or more from the scene of the murder. Two of the most active in the attack on Mr Lethbridge's were shot; and from the report of their women, several others were wounded...The remainder of the tribe had fled far into the interior and for several days, previous to my coming up, no appearance of their return to the vicinity had been observed.'

Captain Foley to Lieutenant De La Condamine, Newcastle 22 September 1826

(Historical Records of Australia, Vol. XII, p.617).

The PCWP acknowledge that the above described distance of 20 miles or more from Alcorn's hut is well beyond the Mt Owen Project area and it is unlikely that the immediate area nor its surrounds constitute an Aboriginal massacre site that could be associated with this event. Whilst others (e.g. Gollan, 1987) have intimated that the reprisal shootings undertaken by Scott and his party of Mounted Police are associated with Mt Arthur to the west, the ready and accessible route into the mountains provided by Glennies Creek makes it equally probable that the deaths of the Aboriginals who attacked Alcorn's hut occurred somewhere in the mountainous terrain bordering Mt Royal. Notwithstanding this the PCWP consider the events at Alcorn's hut to form part of a wider armed resistance by their Wonnarua antecedents in the period 1825-1827, a focal point of which was the lands associated with

Ravensworth and its neighbouring estates. To this extent, and as is explained a little more fully below, Mt Owen is perceived to lie in an area of extreme importance to contemporary members of the PCWP. In effect for the PCWP it is these lands that comprise the last great battleground of their fully traditional ancestors.

5.2.1d Contested colonial terrain

In September 1826 eleven men with landholdings in the Upper Hunter, including James Bowman of 'Ravensworth', William Ogilvie of 'Merton' and John Gaggin of 'Sydenham', wrote to Governor Darling highlighting their view of the 'very disturbed state of the Country by the incursions of numerous Tribes of Black Natives'; and seeking the continued protection of the Mounted Police:

...or by suspending the order of their recall to Newcastle until the threats and murderous designs of the Natives shall have subsided; for, in the event of our losing the protection of the Troops, our property will be exposed to the revenge and depredation of these infuriated and savage people. The Natives lately burnt all the grass on several farms, killed some Men have speared several Cattle and threatened to destroy the Wheat at the ensuing harvest"

Landowners to Governor Darling, Sydney 4 September, 1826.

(Historical Records of Australia, Vol. XII, p.576).

It is clear that these landholders perceived that they held contested terrain. Later that same month matters relating to this contested terrain were conveyed to the British Government by Governor Darling. In a letter written from Government House at Parramatta to the British Undersecretary for the Colonies, Robert Hay, Darling commenced by stating that:

My dear Sir,

I think it right to apprise you that the Natives have lately Committed some acts of outrage on Hunter's River, and that I have in consequence ordered a detachment of Troops to proceed and punish their aggressions. They have put two Stock keepers of Mr. Lethbridge's to death, and speared two others, and not long since murdered an overseer of Mr. Bowman's, and also speared one or two of his stockmen. The latter event appears to have been occasioned by the circumstance of one of their Tribe, who had been taken up for some offence, having been confined for a day or two on Mr. Bowman's Farm, which it is supposed had induced them to think that Mr. Bowman's People had been concerned in Apprehending their Comrade. Previously to Committing the outrage at Mr. Lethbridge's, they had been at Mr Ogilvie's who lives in that neighbourhood, but was absent from home at the time"

Governor Darling to Under Secretary Hay, 11 September 1826

(Historical Records of Australia, Vol. XII, p.574)

It seems without question that a focal point of this contest was the land within and bordering the 'Ravensworth' Estate of James Bowman (Milliss, 1993, p55). In a report on the 'hostilities' by District Magistrates Robert Scott and Alex Macleod written on October 3 1826 to Colonial Secretary McLeay

(cited in Historical Records of Australia. Vol XII, pp.610-612) several incidents relating specifically to Ravensworth and its surrounds were articulated, including:

- a. "Several petty robberies on single individuals while travelling the long and lonely road from Dr. Bowman's upwards, such as stripping them of clothes and provisions" (*Historical Records of Australia*, Vol. XII, p610, para 4);
- b. "Dr. Bowman's Stockman was attacked, and stript quite naked in the Bush; and a day or two later the same gentleman's watchman was murdered in his hut bout 3 o'clock of the day..." (*Historical Records of Australia*. Vol. X11, p611, para 9);
- c. "Two of Dr. Bowman's Fencer's were attacked, while at work in the bush by a Body of Blacks; and altho' they escaped with their lives, they were severely wounded; (*Historical Records of Australia* Vol, X11, p. 611, para. 11); and
- d. "The party of Mounted Police were reinforced and succeeded in taking one of the Natives, who murdered Dr. Bowman's Watchman, who was shot" (*Historical Records of Australia*, Vol. Xii, p611, para 12).

In reprisal for the events described at 'c' at least one 'Black' referred to as 'Cato' was killed and strung up on the Ravensworth Estate. In a sworn statement made at an enquiry to investigate this killing a witness described the incident in the following manner:

"...All this took place, whilst the party were looking over the spot, where the fencers had been speared. The black seemed to be well aware of the spearing and the impression in the Deponent's mind was that he was a part concerned. This Black had been identified as one of the spearkers at Dr. Bowman's.

This Black was a very singularly formed man, and the soldiers had taken him from the description, that was given by the Fencers before he was brought to Dr. Bowman's to be identified.

The body of this Black was hung up by the Men on the Farm as a terror to other Blacks."

(Deposition of Mr John Larnach sworn before Magistrates Allman, Scott & Close at Glendon 13 September 1826)

Historical Records of Australia, Vol X11 p.625-626)

Likewise, the incident cited at 'd' though only summarily mentioned by Magistrates Scott and MacCleod links Ravensworth to an historical event more infamously known to the PCWP as the murder of the Aboriginal "Jackey Jackey" whilst he was in the custody of the Mounted Police. A more detailed description of the incident was provided by the Reverend Lancelot Threlkeld in an appeal for intervention that he penned to the Attorney General in July 1826. Threlkeld wrote as follows:

"The Black who is supposed to have committed the murder was taken at or near Mr. Bowman's farm and brought down at night to the new jail at Wallis's Plains a distance of upwards of 40 miles. The next morning he was brought out, tied to two saplings and the Officer commanded the Soldiers to shoot him – One fired at him, the ball hit him on the back of the neck the black turned round his head and looked at him, the next fired, and the bullet cut along the jaw, and broke the bone; the black turned his head round again, another soldier stepped up and blew his head to pieces. – They then buried him by the privy belonging to Government House. The officer mounted his horse and went in pursuit of two other Blacks."

Threlkeld to Bannister, July 25 1826 (cited in Milliss, 1993: 57).

On Friday May 18 1827 after Threlkeld's description of events was finally corroborated by the constable charged with delivering "Jackey Jackey to Wallis Plains from Ravensworth, Lieutenant Natahniel Lowe was charged in the Supreme Court with his wilful murder (Milliss, 1993:66). As Milliss (1993:66) affirms this was a unique event being the first time in the then 40 year history of the colony that an officer and gentleman had ever been tried for having 'feloniously slain' an Aborigine¹⁴. Viewed in this light, the landscape about Ravensworth is a landscape of immense historical importance not only to the PCWP, but also to the State of NSW and Australia being a place of armed resistance and contestation in the early Australian colonial frontier that is well documented in the historic records; and which led to legal precedent at the time. For the PCWP it is an ennobled landscape mixed with the blood and sacrifice of their warrior antecedents. As Scott Franks has described it...

"I liken it to how we as Australians now understand the Battle of Long Tan in the Vietnam War. It is not one place or piece of ground that is of absolute importance but there was fighting across a whole battlefield".
The whole of that area was a battleground.

Scott Franks, August, 2013

In addition to this the PCWP see their current involvement in matters relating to Native Title, recent Land and Environment Court Proceedings (e.g. Lester vs. ACOL and Anors., 2011) and their more general and persistent involvement in Aboriginal cultural heritage survey and assessment such as being a continuation of the obligations to their cultural heritage - and an honouring of the legacy - placed upon those who with armed resistance sought to protect and maintain their culture and its special places, particularly in and around Glennies and Bowman's Creek, in the colonial period.