



LEGISLATIVE COUNCIL

PORTFOLIO COMMITTEE NO. 2

Current and potential impacts of gold, silver, lead and zinc mining on human health, land, air and water quality in New South Wales

Report 63

December 2023

2



www.parliament.nsw.gov.au

Portfolio Committee No. 2 - Health

Current and potential impacts of gold, silver, lead and zinc mining on human health, land, air and water quality in New South Wales

Published on 15 December 2023 according to Standing Order
238

New South Wales. Parliament. Legislative Council. Portfolio Committee No. 2 - Health. Report no. 63.

Current and potential impacts of gold, silver, lead and zinc mining on human health, land, air and water quality in New South Wales

"December 2023"

Chair: Dr Amanda Cohn MLC



A catalogue record for this book is available from the National Library of Australia

ISBN: 978-1-922960-33-7

Table of contents

	Terms of reference	vi
	Committee details	vii
	Chair’s foreword	viii
	Findings	ix
	Recommendations	x
	Conduct of inquiry	xii
	Procedural issues	xii
Chapter 1	Background: gold, silver, lead and zinc mining in New South Wales	1
	Overview of gold, silver, lead and zinc mining in New South Wales	1
	Key statistical information	1
	New South Wales Critical Minerals and High-Tech Metals Strategy and the clean energy transition	2
	Uses of gold, silver, lead and zinc	3
	The regulatory framework for mining in New South Wales	5
	Assessment process for development of a mine and pre-approvals	5
	Regulation, monitoring, compliance and enforcement for mining operations	11
	Key mines, mining projects and non-operational mines examined during the inquiry	15
	Cadia Mine	15
	Bowdens Silver Project	17
	McPhillamys Gold Project	18
	Non-operational mines	19
	Committee comment	20
Chapter 2	Cadia Mine	23
	Cadia Mine	23
	Gold and copper production at Cadia Mine	23
	The importance of Cadia Mine to the local economy and community	24
	Pollution incidents at Cadia Mine	25
	Concerns of local residents linked to dust emissions and dust lift-off events at Cadia Mine	26
	Water, blood and hair tests showing heavy metal exceedances	26
	Concerns that Newcrest and Cadia Mine did not take residents' complaints seriously	28
	Newcrest evidence around pollution concerns	29

	Government agencies' response to residents' complaints	31
	Agency action to address concerns about pollution from Cadia Mine and related health impacts	35
	EPA Action	35
	NSW Health action	39
	Suggestions for regulatory change arising from the Cadia Mine case	41
	Committee comment	42
	Concerns about water usage by Cadia Mine	46
	Committee comment	47
	Workplace health and safety and Cadia Mine	48
	Committee comment	51
Chapter 3	Bowdens Silver Project and McPhillamys Gold Project	53
	Background information concerning Bowdens Silver Project	53
	Background information concerning McPhillamys Gold Project	55
	Assessment process for the development of a mine and pre-approvals	56
	Timeline for the assessment of the Bowdens Silver Project by the Independent Planning Commission	61
	Timeline for the assessment of the McPhillamys Gold Project by the Independent Planning Commission	62
	Complaints about the framework for assessment and approval of mines in New South Wales – the Bowdens Silver Project	63
	Air quality and lead exposure	64
	Water impacts	66
	Potential concerns about the site's tailings storage facility	67
	Biodiversity impacts	68
	Aboriginal Heritage Impacts	68
	The local economy	69
	Property values in the Mudgee region	70
	Bowdens' response to concerns surrounding the Bowdens Silver Project	71
	Air quality and lead exposure	71
	Water impacts	72
	Tailings Storage Facility	74
	The local economy	74
	Complaints about the framework for assessment and approval of mines in New South Wales – the McPhillamys Gold Project	75
	Potential risks to the Belubula River	76
	Aboriginal cultural heritage	77

	Potential impacts on agriculture	78
	Regis' response to potential concerns surrounding McPhillamys Gold Project	79
	General concerns	79
	Potential risks to the Belubula River	79
	Aboriginal cultural heritage	80
	Evidence from the Department of Planning and Environment	81
	Evidence from the Independent Planning Commission	83
	Committee comment	85
Chapter 4	Mine rehabilitation	89
	Resources Regulator	89
	Rehabilitation security deposits	90
	Legacy Mines Program	91
	Rehabilitation and management of land disturbed by mining	92
	Committee comment	92
Appendix 1	Submissions	95
Appendix 2	Witnesses at hearings	103
Appendix 3	Minutes	107
Appendix 4	Dissenting statements	185

Terms of reference

1. That Portfolio Committee No. 2 inquire into and report on current and potential impacts of gold, silver, lead and zinc mining on human health, land, air and water quality in New South Wales, in particular:
 - (a) the impact on the health of local residents and mine workers, including through biomagnification and bioaccumulation
 - (b) the impact on catchments and waterways, affecting both surface and groundwater destined for, local and town water supplies, including rainwater tanks, and on aquatic biodiversity
 - (c) the impact on land and soil, crops and livestock, including through biomagnification and bioaccumulation
 - (d) the adequacy of the response and any compliance action taken by the regulatory authorities in response to complaints and concerns from communities affected by mining activities
 - (e) the effectiveness of the current regulatory framework in terms of monitoring, compliance, risk management and harm reduction from mining activities
 - (f) the effectiveness of current decommissioning and rehabilitation practices in safeguarding human health and the environment,
 - (g) the effectiveness of New South Wales Government agencies to regulate and improve outcomes including:
 - (i) the measurement, reporting and public awareness
 - (ii) the provision of various protective materials
 - (iii) the ability to ensure the health of at-risk groups
 - (iv) the suitability of work health and safety regulations, and
 - (v) the capacity to respond within existing resources
 - (vi) the adequacy of existing work, health and safety standards for workers
 - (h) whether the regulatory framework for heavy metals and critical minerals mining is fit for purpose and able to ensure that the positive and negative impacts of heavy metals and critical minerals mining on local communities, economies (including job creation) and the environment are appropriately balanced
 - (i) any other related matters.
2. The committee reports on its findings by 15 December 2023.¹

The terms of reference were self-referred by the committee on 25 July 2023.²

¹ The original reporting date was 21 November 2023 (*Minutes*, NSW Legislative Council, 1 August 2023, p 295). The reporting date was later extended to 15 December 2023 (*Minutes*, NSW Legislative Council, 10 October 2023, p 548).

² *Minutes*, NSW Legislative Council, 1 August 2023, p 295.

Committee details

Committee members

Dr Amanda Cohn MLC	The Greens	<i>Chair</i>
Hon Susan Carter MLC	Liberal Party	<i>Deputy Chair</i>
Hon Mark Buttigieg MLC	Australian Labor Party	
Hon Greg Donnelly MLC	Australian Labor Party	
Ms Cate Faehrmann MLC	The Greens	
Hon Emily Suvaal MLC	Australian Labor Party	
Hon Bronnie Taylor MLC	The Nationals	

Contact details

Website	www.parliament.nsw.gov.au
Email	portfoliocommittee2@parliament.nsw.gov.au
Telephone	(02) 9230 2214

Secretariat

Elspeth Dyer, Principal Council Officer
 Margaret Pollard, Senior Council Officer
 Angeline Chung, Council Officer
 Tina Mrozowska, Council Officer
 Alex Stedman, Director

Chair's foreword

This inquiry was established to inquire into and report on the current and potential impacts of gold, silver, lead and zinc mining on human health, land, air and water quality in New South Wales.

As metals mining expands in New South Wales, communities deserve confidence that the sector is regulated appropriately to protect human health and the environment.

I acknowledge that this inquiry received a high level of engagement from the Orange, Blayney and Mudgee regions. The perspective of directly impacted communities is important.

This inquiry received 230 submissions and 11 supplementary submissions. Four public hearings were held – two at Parliament House, one in Orange and one in Mudgee. The committee also conducted site visits to the Cadia Mine; to a private property to the south of the Cadia Mine; and to the town of Lue where the Bowdens mine site is located.

The findings and recommendations of this report reflect the view of a majority of committee members. I do not support this report in the form it has been presented. The views of minority members, including myself, are outlined in the dissenting statements appended to this report.

I would like to thank the many participants in this inquiry who provided a submission, appeared before the committee or hosted a site visit. I also extend my thanks to the committee secretariat and Hansard for their professional support during this inquiry.



Dr Amanda Cohn MLC
Committee Chair

Findings

- Finding 1** **20**
 That mining is a significant industry for the New South Wales economy, employing 4,000 workers contributing \$28.8 billion in Gross State Product and providing \$4.65 billion in government revenue from royalties. Mining plays a significant role in regional economies in local employment, and supporting local community groups.
- Finding 2** **21**
 That metals and minerals mining is of particular importance for the transition to net zero and for Australia's sovereign capability. Metals and minerals mined in New South Wales are necessary for key components in electronics, electric vehicles, solar panels, batteries, solder, wind turbines and galvanized steel. Use of New South Wales' mineral resources provides significant export opportunities as well as the potential to develop and expand domestic processing and manufacturing of these minerals.
- Finding 3** **43**
 The Environment Protection Authority operates under a regulatory framework which generally includes a strong toolkit with which to regulate pollution incidents. The Environment Protection Authority has worked for many years with the Cadia mine site. A range of ongoing issues has been problematic for the environment and community and provide important information which can assist regulation into the future. The Environment Protection Authority has issued maximum infringement notices a number of times as well as court proceedings.
- Finding 4** **43**
 The maximum penalty of \$15,000 for Tier 3 offences under the *Protection of the Environment Operations Act 1997* is often inadequate and can fail to act as a deterrent to large or multinational companies.
- Finding 5** **44**
 That water metal level testing conducted by the Environment Protection Authority concludes drinking water near the Cadia mine is within the National Safe Water Guidelines.
- Finding 6** **44**
 That there may be a concern for the quality of water within tanks throughout the state.
- Finding 7** **44**
 That recent soil testing conducted by the EPA drew the same results as soil testing conducted prior to Cadia's construction.
- Finding 8** **86**
 That a number of regulatory bodies work across the mining sector – including the Department of Planning and Environment, the Independent Planning Commission, the Environment Protection Authority, the Resources Regulator and NSW Health. These regulatory bodies, and the detailed frameworks they administer, are fundamentally sound.

Recommendations

- Recommendation 1** 43
That the Environment Protection Authority reviews and continues to strengthen its culture of engagement and communication with communities throughout New South Wales, especially regional communities, and ensures that trust is rebuilt and a culture of accountability to the community is in place.
- Recommendation 2** 43
That the Government consider increasing the maximum penalty for Tier 3 offences under the *Protection of the Environment Operations Act 1997*.
- Recommendation 3** 45
That the Government consider amending the *Protection of the Environment Operations Act 1997* to require publicly accessible air quality monitoring at all mining operations in New South Wales, using best available technology as determined by the Environment Protection Authority. This condition should be additional to any planning approval conditions.
- Recommendation 4** 45
That the Minister for Health use the results of the upcoming ‘deep dive’ on the hair and blood of willing residents currently being conducted with residents surrounding the Cadia Mine to inform any consideration of a need for larger, wide-scale testing and related public health responses.
- Recommendation 5** 45
That the Government run a statewide education campaign on care and maintenance of rainwater tanks and safe use of water.
- Recommendation 6** 46
That the Minister for Climate Change instruct the Environment Protection Authority to institute a review of the clean air regulations made under the *Protection of the Environment Operations Act 1997*. This review should consider a range of issues and should include an examination of whether licence conditions are best placed for individual mine limits or cumulative mine limits.
- Recommendation 7** 46
That the Government amend the *Environmental Planning and Assessment Act 1979* and associated regulations as required to mandate that any environmental impact assessment for the proposed development of a mine include baseline data of heavy metals in water tanks, creeks, farm dams and groundwater surrounding the proposed mine.
- Recommendation 8** 52
That the Government consider expanding the role of industry safety and health representatives outlined in the *Workplace Health and Safety (Mines and Petroleum Sites) Act 2013* to metalliferous mine sites.
- Recommendation 9** 52
That the Government review the resourcing of the NSW Resources Regulator with a view to ensuring that there are enough staff, including workplace inspectors, to service regional areas where mining operations are taking place.

Recommendation 10

86

That the Environment Protection Authority should be funded to have additional environmental health experts as part of their team who are able to participate in community outreach and link up with the Environmental Protection Branch of NSW Health to ensure health and safety issues are addressed effectively and that community concerns are addressed earlier.

Recommendation 11

93

That the NSW Resources Regulator continue to observe the Broula King Gold Mine site and collaborate with the Environment Protection Authority to work to rectify the issues experienced by Mr Craig Day and Ms Catherine Sullivan.

Conduct of inquiry

The terms of reference for the inquiry were self-referred by the committee on 25 July 2023.

The committee received 230 submissions and 11 supplementary submissions.

The committee resolved not to accept proformas.

The committee held four public hearings: two at Parliament House in Sydney, one in Orange and one in Mudgee.

The committee also conducted three site visits, one to Cadia Mine just outside Orange, one to the property of private landholders to the south of the Cadia Mine site, and one to Lue to view country surrounding the Bowdens Silver Project with local residents.

Inquiry related documents are available on the committee's website, including submissions, hearing transcripts, tabled documents and answers to questions on notice.

Procedural issues

On 6 December 2023, the committee received the following correspondence:

- [correspondence from Regis Resources Ltd containing responses to certain content in transcripts of evidence for the inquiry](#)
- [correspondence from Regis Resources Ltd containing responses to certain content in submissions to the inquiry.](#)

On 7 December 2023, the committee resolved to publish the correspondence on the inquiry webpage.

Chapter 1 **Background: gold, silver, lead and zinc mining in New South Wales**

This chapter provides an overview of gold, silver, lead and zinc mining in New South Wales. It covers key statistical information; the NSW Critical Minerals and High-Tech Metals Strategy; the role of metals mining in the clean energy transition; and considers the main uses of gold, silver, lead and zinc. The chapter then outlines the regulatory framework that applies to mining in New South Wales before discussing the key mines, mining projects and non-operational mines examined during the inquiry.

Overview of gold, silver, lead and zinc mining in New South Wales

Key statistical information

- 1.1** The focus of the inquiry is gold, silver, lead and zinc mining in New South Wales, which forms part of the State's broader metals and minerals industry. The metals and minerals industry is an expanding industry and New South Wales currently hosts many metals and minerals projects. Numbers have risen from six projects in 2018 to 19 projects in 2023. Of the new projects 17 are new or 'greenfield' projects.³ Regarding active gold, silver, lead and zinc mines, New South Wales currently has 13 and these are located in the Central West, Far West, Riverina and South East Tablelands regions.⁴
- 1.2** The variety of metals and minerals that are proposed to be mined in New South Wales is also expanding with new proposals to mine scandium, cobalt, zinc and lithium and proposals to broaden existing gold, copper and silver mining projects.⁵
- 1.3** Mining is a significant industry for the New South Wales economy, as noted below:
- The Government stated that the mining industry directly employs approximately 29,500 workers, and that operating minerals and metals mines directly employ approximately 4,000 workers.⁶
 - The Australian Bureau of Statistics estimates that in 2021/22 mining directly contributed \$28.8 billion to Gross State Product.⁷
 - The Government reported that it expects to receive about \$4.65 billion in royalties from mining in 2022/23.⁸
 - The New South Wales mining industry provides minerals critical to emerging industries including renewable energy, electric vehicles, advanced manufacturing, battery

³ Submission 75, NSW Minerals Council, p 4.

⁴ Submission 106, NSW Government, p 2.

⁵ Submission 75, NSW Minerals Council, p 5.

⁶ Submission 106, NSW Government, p 2.

⁷ Submission 106, NSW Government, p 2.

⁸ Submission 106, NSW Government, p 2.

manufacturing, defence, aerospace, and agriculture technology (this is discussed further below).⁹

- The mining industry is New South Wales' largest export industry with coal, copper ore and concentrates and gold exports having a combined value of over \$46 billion in 2020/21.¹⁰

New South Wales Critical Minerals and High-Tech Metals Strategy and the clean energy transition

- 1.4** Minerals are critical to various emerging industries in New South Wales. In this context, the Critical Minerals and High-Tech Metals Strategy (the Strategy), introduced by the former Government, aims to 'position NSW as a major global supplier and processor of critical minerals and high-tech metals well into the future'.¹¹
- 1.5** According to the Department of Regional NSW, demand for critical minerals is already outstripping supply expansions and the Government is investing in exploration, mining, processing, downstream industries and recycling to support growth of the sector. The Department has indicated that under the Strategy the Government will:
- establish Australia's first Critical Minerals Hub in the Central West
 - promote exploration for critical minerals resources
 - activate the industry through proactive development of supply chains
 - attract investment for critical minerals resources, downstream processing and recycling.¹²
- 1.6** On 4 September 2023, the Government announced that consultation would begin on a new critical minerals strategy to 'provide certainty and direction for the industry as it continues to grow'.¹³ The Government also stressed that ensuring a stable supply of critical minerals and high-tech metals is necessary for economic growth, regional employment and safeguarding the clean energy supply chain.¹⁴
- 1.7** In Australia, all states and territories have committed to meeting the target of net zero emissions by 2050.¹⁵ The NSW Minerals Council stated that the increased demand for minerals and metals

⁹ Submission 106, NSW Government, p 2; and Submission 75, NSW Minerals Council, p 3.

¹⁰ Submission 75, NSW Minerals Council, p 3.

¹¹ Department of Regional NSW, *Critical Minerals and High-Tech Metals Strategy*, Department of Regional NSW website, <https://www.nsw.gov.au/critical-minerals-and-high-tech-metals-strategy>.

¹² Department of Regional NSW, *Critical Minerals and High-Tech Metals Strategy*, Department of Regional NSW website, <https://www.nsw.gov.au/critical-minerals-and-high-tech-metals-strategy>.

¹³ Media release, Hon Courtney Houssos MLC, Minister for Natural Resources, 'New critical minerals strategy to promote domestic manufacturing, investment and net zero opportunities' 8 September 2023.

¹⁴ Media release, Hon Courtney Houssos MLC, Minister for Natural Resources, 'New critical minerals strategy to promote domestic manufacturing, investment and net zero opportunities' 8 September 2023.

¹⁵ See ClimateWorks Australia, *State and Territory Climate Action: Leading Policies and Programs in Australia* (October 2021) p 6.

arising from the inevitable transition to clean energy technology 'will need to be met by growing supply from new and expanded mining operations, including in NSW'.¹⁶ It also quoted the following from the World Bank's *Minerals for Climate Action: The Mineral Intensity of the Clean Energy Transition* which noted:

A low carbon future will be very mineral intensive because clean energy technologies need more material than fossil-fuel based electricity generation technologies. Greater ambition on climate change goals (1.5°-2°C or below), as outlined in the Paris Agreement, requires installing more of these technologies and will therefore lead to a larger material footprint.¹⁷

- 1.8** On the Australian Critical Minerals List, 26 minerals or groups of minerals are classified as critical but gold, silver, lead and zinc are not listed.¹⁸ The Government has noted that New South Wales has a plentiful supply of critical minerals and high-tech metals including 17 of these 26 nationally identified critical minerals.¹⁹
- 1.9** In announcing consultations for a renewed New South Wales Critical Minerals and High-Tech Metals Strategy, the Government also stressed that resources like silver, copper and scandium are plentiful in New South Wales 'and are crucial components in the products that will ensure New South Wales realises its goal of net zero emissions by 2050'.²⁰ The New South Wales Critical Minerals and High-Tech Metals Priority List includes silver (and copper) although gold, zinc and lead are not listed.²¹

Uses of gold, silver, lead and zinc

- 1.10** The following sections detail the current primary uses of gold, silver, lead and zinc.

Gold

- 1.11** The NSW Minerals Council advised that the primary demand for gold comes from jewellery and other decorative applications and that these uses generate approximately 50 per cent of overall global demand, with a further 40 per cent of demand being for investment purposes as gold is central to global financial markets. Technologies and medicines account for about 10 per

¹⁶ Submission 75, NSW Minerals Council, p 6.

¹⁷ See Submission 75, NSW Minerals Council, p 6.

¹⁸ Department of Industry, Science and Resources, *Australia's Critical Minerals List*, Department of Industry, Science and Resources website, <https://www.industry.gov.au/publications/australias-critical-minerals-list>.

¹⁹ Media release, Hon Courtney Houssos MLC, Minister for Natural Resources, 'New critical minerals strategy to promote domestic manufacturing, investment and net zero opportunities' 8 September 2023.

²⁰ Media release, Hon Courtney Houssos MLC, Minister for Natural Resources, 'New critical minerals strategy to promote domestic manufacturing, investment and net zero opportunities' 8 September 2023.

²¹ Mining Exploration and Geoscience, Department of Regional NSW, *Critical Minerals and High-Tech Metals Priority List*, NSW Government website, <https://www.nsw.gov.au/sites/default/files/2022-08>.

cent of the demand for gold with 'gold's conductivity and corrosion resistance making it ideal for use in certain electronics applications'.²²

Silver

- 1.12** The NSW Minerals Council advised that of all the metals, silver is the best conductor of electricity and that the main source of demand for this metal (51 per cent) is in industrial applications primarily relating to electronics (including computers, mobile phones and televisions). Silver is an important part in electric vehicles and is widely used in the space and aviation industries.
- 1.13** One of the fastest growing uses for silver is in solar panels for which it is used as a conductive layer on silicon solar cells. In particular, the NSW Minerals Council noted that demand for silver in solar panels has tripled over the last decade and now contributes approximately 14 per cent of global demand.
- 1.14** A range of other uses of silver were identified across industrial and medical applications, water purification, jewellery (21 per cent), investment (18 per cent), silverware (7 per cent) and photography (3 per cent).²³

Lead

- 1.15** According to Geoscience Australia, vehicle batteries currently account for 80 per cent of lead usage and the remaining 20 per cent of uses include underwater cable sheathing, solder, casting alloys, chemical compounds, ammunition, soundproofing material in the construction industry, weighting, glassware and radiation protection.²⁴

Zinc

- 1.16** The NSW Minerals Council advised that the main global use of zinc is for galvanising steel – a zinc coating is applied to the steel to prevent corrosion and it is important to the construction and automobile sectors:

Commodity Insights forecasts world zinc consumption to grow around 12% from 13.7 million tonnes (Mt) in 2019 to 15.3 Mt in 2030, driven by growing urbanisation and transport infrastructure, partially offset by reductions in the automotive sector as a result of the switch to EVs which require less zinc.²⁵

- 1.17** Zinc is also combined with other metals to create alloys – for example, with copper to create brass. 16 per cent of zinc is used for brass and casting and 15 per cent is used for die-casting alloys. Zinc oxides are also used in a number of applications including sun cream with oxides and chemicals accounting for 8 per cent of zinc usage, and all other applications accounting for 3 per cent of usage.

²² Submission 75, NSW Minerals Council, p 8.

²³ Submission 75, NSW Minerals Council, p 9.

²⁴ Submission 75, NSW Minerals Council, p 10.

²⁵ Submission 75, NSW Minerals Council, p 10.

- 1.18** With regard to renewable energy, the NSW Minerals Council also noted that wind turbines and solar panel structures rely heavily on zinc for corrosion protection stating that 'The World Bank is estimating about 98% of renewable energy's demand for zinc will be driven by its use in wind turbines'.²⁶ Further, the zinc-ion battery could be used as a possible replacement for the lithium-ion battery.²⁷

The regulatory framework for mining in New South Wales

- 1.19** The regulatory framework for mining in New South Wales is extensive, involving a number of agencies and pieces of legislation. The Government stated that it 'takes an integrated approach to regulate mining in NSW' and the core purpose of the regulatory framework is 'to protect human health and the environment from the adverse impacts of mining'.²⁸
- 1.20** The following sections cover the assessment process for the development of a mine and the necessary pre-approvals. They also cover regulation, monitoring, compliance and enforcement for mining operations.

Assessment process for development of a mine and pre-approvals

- 1.21** Large-scale mineral ore extraction developments are State Significant Development (SSD) under the *Environmental Planning and Assessment Act 1979* (EP&A Act). The Government advised that the SSD assessment process is an integrated, whole-of-government process which is coordinated by the Department of Planning and Environment (DPE). The process recognises that mining projects require consent under the EP&A Act and approvals under the following:
- *Mining Act 1992* (Mining Act)
 - *Protection of the Environment Operations Act 1997* (POEO Act)
 - *Water Act 1912*
 - *Water Management Act 2000*
 - *Work Health and Safety (Mines and Petroleum Sites) Act 2013* (WHS (MPS) Act)
 - associated regulations.²⁹
- 1.22** Throughout the assessment process, DPE seeks advice from a range of government agencies and local councils. Agencies that may be consulted include Crown Lands, Dams Safety NSW, the Department of Regional NSW (including the Department of Primary Industries, Mining Exploration and Geoscience/the Resources Regulator), DPE Biodiversity Conservation and Science Directorate, DPE Water Group, the Environment Protection Authority (EPA), Fire and Rescue NSW, Heritage NSW, NSW Health, the NSW Rural Fire Service, Transport for NSW and Water NSW.³⁰

²⁶ Submission 75, NSW Minerals Council, pp 9-10.

²⁷ Submission 75, NSW Minerals Council, p 10.

²⁸ Submission 106, NSW Government, p 2.

²⁹ Submission 106, NSW Government, p 2.

³⁰ Submission 106, NSW Government, p 3.

- 1.23** All advice is posted to the DPE website and made available to the applicant. This includes advice on the Secretary's Environmental Assessment Requirements, the Environmental Impact Statement (EIS), draft conditions of development consent, and responses to requests for additional information.³¹
- 1.24** SSD projects need development consent from the Minister, or the Minister's delegate, or from the Independent Planning Commission (IPC). The Government advised that 'All SSD projects are determined on their merits, having regard to economic, environmental and social impacts and the principles of ecologically sustainable development'.³²
- 1.25** SSD applications and documents, including the relevant EIS, are publicly exhibited for a minimum of 28 days. Submissions can be made including by government agencies, interest groups and members of the public. Any government agency can ask for additional information and/or studies from the applicant, and applicants must provide a response to submissions to address all matters raised.³³
- 1.26** Regarding the IPC, its key role is to make decisions on large and contentious development applications.³⁴ It is a standalone decision-making body that operates independently of DPE and other government departments. It is not subject to the direction or control of the Minister for Planning and Public Spaces except in regard to procedural matters.³⁵ If an SSD application goes to the IPC for determination this can only happen after it has been publicly exhibited and assessed by DPE. An SSD application meeting one or more of the following criteria will go to the IPC for determination:
- There are 50 or more unique public objections to the SSD application.
 - The applicant has made a reportable political donations disclosure.
 - The local council has objected to the SSD application and has not withdrawn its objection following the exhibition of the application. Where the council has withdrawn its objection following exhibition, and the council's objection was the only reason for the matter to go to the IPC for determination, the SSD application will instead go to the Minister or the Minister's delegate for determination.³⁶
- 1.27** When an SSD application comes to the IPC, DPE provides the IPC with a whole-of-government assessment report, which is published on both agencies' websites, along with any recommended conditions of consent.
- 1.28** The Chair of the IPC will then appoint a panel of commissioners to consider the SSD application and make a determination.

³¹ Submission 106, NSW Government, p 3.

³² Submission 106, NSW Government, p 3.

³³ Submission 106, NSW Government, p 3.

³⁴ Independent Planning Commission website, <https://www.ipcn.nsw.gov.au/about-us/what-we-do>.

³⁵ Independent Planning Commission website, <https://www.ipcn.nsw.gov.au/about-us/about-our-agency>.

³⁶ Independent Planning Commission website, <https://www.ipcn.nsw.gov.au/about-us/our-role-in-the-nsw-planning-system>.

- 1.29** The IPC then invites interested individuals and groups to make any submission they consider appropriate; however, the IPC states that it is particularly assisted by submissions that are responsive to the DPE whole-of-government assessment report and recommended conditions of consent. The IPC also has available to it all submissions previously made to DPE during its exhibition of the EIS.³⁷
- 1.30** After that, the IPC may decide to meet with various stakeholders, including an applicant or proponent, DPE, other government agencies, local councils, and community and interest groups to hear their views, seek additional information or to provide advice on a planning matter. Records of such meetings are kept in accordance with the IPC's Transparency Policy. The IPC often also requests additional information in writing from DPE or the applicant to help with its determinations. The IPC can also undertake a physical and/or virtual site inspection and/or locality tour to understand the physical attributes of the project site in question and its locality.³⁸
- 1.31** A public meeting can then be held, providing an opportunity for the IPC to hear the community's views on the DPE assessment report for the SSD application. There is no statutory requirement for the IPC to hold a public meeting before determining an application. The considerations that will guide the IPC deciding whether to hold a public meeting are set out in its Public Meeting Guidelines.³⁹
- 1.32** In deciding whether to hold a public meeting, the IPC will generally take the following considerations into account:
- Where an application has received fewer than 50 unique objections from the public when it was exhibited by DPE:
 - If the relevant council and government agencies do not oppose the proposed development and the IPC considers the assessment report has addressed the issues raised in agency and public submissions adequately, the IPC is generally not likely to hold a public meeting.
 - If a relevant council or government agency does oppose the proposal the IPC may still decide it is not necessary to hold a public meeting and may instead consider holding stakeholder meetings with relevant people before determining the application.
 - Where an application has received 50 or more unique objections from the public when it was exhibited by DPE:
 - The IPC will generally hold a public meeting to hear community views on the assessment report and any recommended conditions of consent.
 - However, in some circumstances the IPC may decide not to hold a public meeting and instead consider holding stakeholder meetings with relevant groups or individuals.

³⁷ Independent Planning Commission website, <https://www.ipcn.nsw.gov.au/engage-with-us/our-processes>.

³⁸ Independent Planning Commission website, <https://www.ipcn.nsw.gov.au/engage-with-us/our-processes>.

³⁹ Independent Planning Commission website, <https://www.ipcn.nsw.gov.au/engage-with-us/our-processes>.

- In addition, when there has been a request for a public hearing regarding the application (see below) the IPC will generally not hold a public meeting – the public hearing will be the forum in which to hear the community's views.⁴⁰

1.33 If a public meeting is held it does not affect people's merit appeal rights to the NSW Land and Environment Court concerning the IPC's determination of the application.⁴¹

1.34 Alternatively, a public hearing must be held by the IPC if it receives a formal request to do so from the Minister for Planning and Public Spaces. Anyone can submit an application to speak at a public hearing, which may run for several days. At the hearing, the developer and DPE will give their presentations and answer questions from the panel and/or counsel assisting on the issues. The panel will also hear presentations from the community and other stakeholders. The IPC also has powers to require certain people to attend and give evidence at the hearing.

1.35 When the IPC holds a public hearing in relation to a development application for which it is the consent authority. This public hearing takes the place of the merit based appeals process.⁴²

1.36 Upon determining an SSD application, the IPC will issue any development consent or notice of refusal and publish this with a Statement of Reasons for Decision on its website. The IPC website advises that the Statement of Reasons will include:

- the Commission's decision
- date of the decision
- the reasons for the decision (having regard to any statutory requirements applying to the decision)
- how community views were taken into account.⁴³

1.37 If development consent is granted to an SSD it may be granted with conditions. DPE consults with other government agencies in drafting consent conditions. These consent conditions can include:

- limit conditions: specific requirements applicants must meet e.g. noise and air quality criteria, disturbance area or project life
- operating conditions: actions the applicant must take whilst undertaking the development

⁴⁰ Independent Planning Commission, *Public Meeting Guidelines* (13 September 2023), Independent Planning Commission website, https://ipcn.nsw.gov.au/resources/pac/media/files/pac/general/2023-policy-and-guidelines-documents/public-meeting-guidelines_230913.pdf?la=en&hash=D3FC91D730C512FD0106301D9EEC4A5B, p 2.

⁴¹ Independent Planning Commission, *Public Meeting Guidelines* (13 September 2023), Independent Planning Commission website, https://ipcn.nsw.gov.au/resources/pac/media/files/pac/general/2023-policy-and-guidelines-documents/public-meeting-guidelines_230913.pdf?la=en&hash=D3FC91D730C512FD0106301D9EEC4A5B, p 2.

⁴² Independent Planning Commission website, <https://www.ipcn.nsw.gov.au/engage-with-us/our-processes>.

⁴³ Independent Planning Commission website, <https://www.ipcn.nsw.gov.au/engage-with-us/our-processes>.

- environmental performance measures the applicant must meet during or after the operation e.g. measures around water, rehabilitation or subsidence-related impact
- requirements to undertake various monitoring regarding the development's environmental impacts e.g. monitoring programs regarding noise, blasting, air quality, surface water, groundwater, biodiversity and social impact
- requirements to undertake further investigation of matters raised during assessment of the project
- review and reporting conditions requiring the applicant to report any incidents or non-compliance with the development consent or to provide an annual review of the development reporting on progress of the development, reviewing monitoring data and reporting on compliance with the development consent.⁴⁴

1.38 If development consent is granted to an SSD project certain regulatory instruments necessary to carry out the project, such as environment protection licences (EPLs) and new mining leases, cannot be refused. These instruments must also be substantially consistent with the development consent⁴⁵ and are discussed in detail below.

Environment Protection Licences

1.39 EPLs are issued by the EPA under the POEO Act.⁴⁶ The Government stated that the EPA performs risk assessments on all licensed premises in New South Wales in consultation with each licensee 'to identify any environmental issues that a licensee needs to address and where the EPA needs to focus its regulatory attention'.⁴⁷

1.40 Further, the Government stated:

Based on the results from the risk assessments licensees are allocated an overall environmental risk level (1, 2 or 3 - with 3 being the highest risk). These risk levels inform the level of regulatory and compliance oversight. The risk levels for each licence are published on the EPA's public register. Further information on the EPA's risk-based licensing approach is set out in the EPA licensing guideline.⁴⁸

1.41 The EPA may also impose conditions as part of an EPL and these conditions mainly relate to pollution prevention and monitoring.⁴⁹ The Government stated:

An EPL may include conditions regulating all forms of pollution from the scheduled activities to which it applies (such as mining for minerals) and may also regulate pollution from any other activity carried on at the licensed premises, including noise, air, water and land pollution.⁵⁰

⁴⁴ Submission 106, NSW Government, p 12.

⁴⁵ Submission 106, NSW Government, p 3.

⁴⁶ Submission 106, NSW Government, p 3.

⁴⁷ Submission 106, NSW Government, p 12.

⁴⁸ Submission 106, NSW Government, p 13.

⁴⁹ Submission 106, NSW Government, p 3.

⁵⁰ Submission 106, NSW Government, p 13.

1.42 The POEO Act provides examples of the types of conditions the EPA may impose. For mining projects, EPLs usually include conditions around:

- dust monitoring
- discharge to waters (volume and quality monitoring)
- ambient water quality monitoring
- groundwater monitoring
- concentration limits for a variety of pollutants
- testing methods
- weather monitoring
- recording of complaints
- notification of environmental harm.⁵¹

Mining leases

1.43 A mining lease, issued under the Mining Act, is also required before a mining operation begins. A mining lease provides its holder with the exclusive right to mine for minerals over a specified area of land. Before the grant of a mining lease, applicants must show:

- there is an economically mineable mineral deposit within the area of the proposed lease and
- they possess the money and technical resources to mine in a responsible manner.⁵²

1.44 Mining leases also include conditions relating to matters such as the protection of the environment and rehabilitation.⁵³ The Resources Regulator, a division of Mining Exploration and Geoscience within the Department of Regional NSW regulates the conditions of mining leases and the rehabilitation of mine sites.⁵⁴ The Government advised that rehabilitation requirements were updated in 2021 to promote greater clarity, enforceability and more progressive rehabilitation:

Rehabilitation requirements were strengthened in 2021 to prescribe new mining lease conditions in the Mining Regulation 2016 and set clear, achievable and enforceable requirements for rehabilitation. All mines in NSW have now transitioned to these new conditions. The new conditions require lease holder to develop, implement and achieve rehabilitation outcomes and implement a forward program to ensure progressive rehabilitation across mines in NSW.⁵⁵

⁵¹ Submission 106, NSW Government, p 13.

⁵² Submission 106, NSW Government, p 15.

⁵³ Submission 106, NSW Government, p 3.

⁵⁴ Submission 106, NSW Government, pp 3 and 9.

⁵⁵ Submission 106, NSW Government, p 16.

- 1.45 A number of submissions raised the issue of the number of poorly rehabilitated legacy mines across the state as well as the very low number of successful mine rehabilitations.⁵⁶ This will be explored further in Chapter 4.
- 1.46 Under the Mining Act, an exploration licence is also needed to explore for minerals.⁵⁷ The purpose of exploration is to locate areas where minerals might be present, to establish the quality and quantity and to investigate the viability of extraction.⁵⁸

Regulation, monitoring, compliance and enforcement for mining operations

- 1.47 The three main agencies of interest regarding regulation, monitoring, compliance and enforcement for approved mining operations are DPE, the EPA and the Resources Regulator as outlined below. Dams Safety NSW also has a role to play and, although NSW Health does not have any responsibility for the regulation of mining, it can become involved in responding to a pollution incident from a mine where this has raised public health concerns.⁵⁹ The Government stated that 'Where multiple agencies have a role, they work collaboratively to achieve outcomes with stakeholder engagement at the centre of regulatory responses'.⁶⁰

Department of Planning and Environment

- 1.48 DPE has compliance teams that monitor projects to establish whether mine operators are complying with conditions of approval and to investigate and enforce compliance. Development consents for mines require an Environmental Management Strategy to be created that sets out procedures about matters including receiving, recording, handling and responding to complaints; resolving disputes; and responding to non-compliance and incidents. Complaints are investigated by DPE compliance officers or referred to the EPA if appropriate.⁶¹

Environment Protection Authority

- 1.49 The POEO Act regulates a range of matters relevant to mining operations including water pollution – of surface water and groundwater – land pollution, noise pollution and air pollution. It also contains various regulatory tools that enable the EPA to manage risks to the environment and to human health.⁶²

⁵⁶ See for example Submission 68, Dr Ian Wright, pp 1-6; and Submission 157, Captains Flat Community Association Inc.

⁵⁷ Submission 106, NSW Government, p 15.

⁵⁸ Mining, Exploration and Geoscience, *Exploration and Mining Titles and Process*, Mining Exploration and Geoscience website, <https://meg.resourcesregulator.nsw.gov.au/mining-and-exploration//and-access/exploration-and-mining-titles-and-process>.

⁵⁹ See Evidence, Dr Jeremy McNulty, Executive Director, Health Protection NSW, NSW Health; Professor Andrew Dawson, Clinical Toxicologist and Pharmacologist, Director National Poisons Register and Clinical Toxicology, Royal Prince Alfred Hospital, Sydney and Senior Visiting Medical Officer, NSW Poisons Information Centre, Sydney Childrens Hospital Network; and Dr Thanjira Jiranantakan, Medical Advisor, Centre for Alcohol and Other Drugs, NSW Ministry of Health, 27 October 2023, pp 51-58.

⁶⁰ Submission 106, NSW Government, p 7.

⁶¹ Submission 106, NSW Government, pp 7 and 8.

⁶² Submission 106, NSW Government, 12.

1.50 In regulating mining operations, the EPA can take a variety of actions including:

- reviews of EPLs
- compliance audits
- varying EPLs e.g. to impose licensing conditions requiring pollution studies or pollution reduction or to impose more monitoring requirements
- issuing clean-up notices or prevention notices
- investigating the need for an environmental monitoring program and developing and implementing such programs if needed
- issuing a warning letter, official caution or penalty notice
- recommending that the Minister issue a prohibition notice
- entering into enforceable undertakings
- exercising investigation powers under Chapter 7 of the POEO Act
- civil proceedings to remedy or restrain POEO Act breaches
- prosecutions including seeking a variety of court orders as set out in Chapter 8 of the POEO Act.⁶³

1.51 The Government advised that the EPA has discretion to select the most appropriate tool/s to achieve the desired environmental or human health outcome; and that the EPA considers relevant policies when determining what action to take which may include the EPA Regulatory Strategy 2021-24, the EPA Regulatory and Compliance Priorities Statement and the EPA Prosecution Guidelines.⁶⁴ The Government also noted:

- the EPA can establish advisory committees to provide it with advice on environmental issues
- there is an Environment Line that is 'a one-stop pollution and environmental incident reporting service...available 24 hours a day, seven days a week'
- the EPA can develop a tailored engagement strategy to meet with key stakeholders, listen to concerns and update the community about an ongoing investigation and monitoring programs
- the EPA may conduct its own water, soil and air monitoring programs to understand how pollutants may make their way into the community in a particular case.⁶⁵

1.52 The EPA's role is discussed in further detail throughout the report.

⁶³ Submission 106, NSW Government, p 8.

⁶⁴ Submission 106, NSW Government, pp 8-9.

⁶⁵ Submission 106, NSW Government, p 9.

Resources Regulator

- 1.53** As noted above, the Resources Regulator regulates the rehabilitation of mine sites and the conditions of mining leases in New South Wales pursuant to the Mining Act. In particular, the Resources Regulator must:
- Ensure rehabilitation is considered at the outset as part of mine design.
 - Ensure rehabilitation objectives and completion criteria are consistent for each domain with a focus on achieving the final land use.
 - Ensure rehabilitation is carried out progressively – as soon as practicable after disturbance.
 - Require Rehabilitation Security Deposits so that a bond must be provided before mining starts. The bond covers all rehabilitation costs and is reviewed annually to maintain currency.
 - Ensure mines are operating in accordance with the conditions of their mining titles, including by responding to notifications of breaches.⁶⁶
- 1.54** Further information about the Resources Regulator's role regulating the rehabilitation of mine sites in New South Wales is contained in chapter 4.
- 1.55** The Resources Regulator also regulates work health and safety at mines pursuant to the WHS(MPS) Act and the Work Health and Safety (Mines and Petroleum Sites) Regulation 2022 (WHS (MPS) Regulation). The Government advised that the WHS (MPS) regulatory framework builds on the generic *Work Health and Safety Act 2011* (WHS Act) to deal with the particular hazards and risks of the mining industry.⁶⁷
- 1.56** As with the EPA, the Resources Regulator has a number of compliance and enforcement tools at its disposal to facilitate sustainable rehabilitation and to deal with work health and safety matters. These include:
- inspections and audits
 - advisory and warning letters
 - cautions for low-level non-compliances
 - penalty notices for less serious breaches of the legislation
 - statutory notices and directions issued under the Mining Act and WHS legislation to direct a party to do or not to do something, including stop work orders
 - imposing additional controls or restrictions on an authority, licence or permit
 - suspension or cancellations of an authority
 - enforceable undertakings
 - prosecutions for serious, ongoing or repeated breaches of legislation.⁶⁸

⁶⁶ Submission 106, NSW Government, p 15.

⁶⁷ Submission 106, NSW Government, p 19.

⁶⁸ Submission 106, NSW Government, pp 10-11.

1.57 As the WHS (MPS) framework seeks to build on the WHS Act to address the particular risks and hazards of the mining industry, this framework allows for stop work orders and improvement and prohibition notices to be issued in a wider range of circumstances than the WHS Act alone.⁶⁹

1.58 The Government also stated that the Resources Regulator applies a risk-based approach to compliance and enforcement:

Low risk non-compliances are addressed through a collaborative process with industry, involving education through advisory services and publication. Moderate and higher risk non-compliances will be dealt with in an escalating manner with increasingly severe enforcement action taken based on the level of risk and potential for harm.⁷⁰

Dams Safety NSW

1.59 Dams Safety NSW regulates matters relating to the failure of declared dams. Dams Safety NSW declares dams which have the potential to threaten downstream life or cause major damage to property, the environment or public welfare and this includes tailings dams at mine sites.⁷¹ Tailings dams are embankments near mines used to store mining waste ('tailings').⁷²

1.60 The Government noted that Dams Safety NSW makes recommendations regarding the impact of mining on dams in two ways:

- Submission to DPE following review of major projects.
- Reviewing mining applications and making recommendations to the Resources Regulator for mining operations falling within notification areas. A notification area is an area that underlies or surrounds the wall of a declared dam.

1.61 Dams Safety NSW has published the *Guideline – Mining Near Declared Dams* that describes how the legislative provisions for mining near a declared dam are administered and suggests methods to reduce risks to declared dams from mining activities.⁷³

NSW Health

1.62 As noted above, NSW Health does not have responsibility for regulation of mining. However, Dr Jeremy McAulity, Executive Director, Health Protection NSW, NSW Health, told the committee that NSW Health does have particular environmental health regulatory responsibilities:

Under the Public Health Act, NSW Health has specific environmental health regulatory responsibilities including in relation to the safety of public drinking water supplies, legionella control, public swimming pools and skin penetration businesses. Although

⁶⁹ Submission 106, NSW Government, p 19.

⁷⁰ Submission 106, NSW Government, p 9.

⁷¹ Submission 106, NSW Government, p 23.

⁷² Moira Warburton, Sam Hart, Julia Ledur, *The Looming Risk of Tailings Dams* (3 January 2020), Reuters website, <http://www.reuters.com/graphics/MINING-TAILINGS1/0100B4S72K1/index.html>.

⁷³ Submission 106, NSW Government, p 23.

NSW Health does not have legislative responsibility for other environmental hazards it does work with other agencies in addressing these.⁷⁴

- 1.63** With regard to mines, NSW Health can play an important role where a pollution incident from a mine has raised public health concerns. For example, Dr McAnulty advised that earlier in the year, NSW Health formed an expert panel in response to advice from the EPA regarding concerns that pollution from the Cadia Mine near Orange had resulted in heavy metal exposure to nearby residents (see further detail concerning Cadia Mine directly below)⁷⁵.

Key mines, mining projects and non-operational mines examined during the inquiry

- 1.64** During the inquiry the main evidence received related to Cadia Mine, Bowdens Silver Project and McPhillamys Gold Project. The inquiry also received evidence concerning some mines that are no longer operational. These were Broula King Gold Mine, the Sunny Corner Mines and Lake George Mine as well as two in the Clarence region. The below sections summarise the evidence received.

Cadia Mine

- 1.65** Cadia Mine, or Cadia Valley Operations, is a large gold and copper mine located 25 kilometres from Orange, New South Wales, which has been owned by Newcrest Mining Limited since the 1990s.⁷⁶ During the course of this inquiry, global mining company Newmont succeeded in a takeover bid of Newcrest, which became effective on 6 November 2023.⁷⁷
- 1.66** In 2018, a tailings dam wall failed at the mine 'leading to dust lift-off events in the area'.⁷⁸ The EPA issued two penalty notices in relation to this dam wall failure.⁷⁹
- 1.67** The Environmental Defenders Office noted that from 2020 to 2022, three penalty infringement notices were issued for \$15,000, the largest on-the-spot penalty amount available to the EPA. Two of these were for failure to monitor air quality as required by its EPL. The other, issued in August 2022, related to air pollution from tailings dam dust on 19 April 2022.⁸⁰ The media release for this penalty notice stated that this dust pollution event 'wasn't the first time... the

⁷⁴ Evidence, Dr McAnulty, 27 October 2023, p 51.

⁷⁵ Evidence, Dr McAnulty, 27 October 2023, p 51.

⁷⁶ Submission 76, Newcrest Mining Limited, p 5.

⁷⁷ Media release, Newmont, 'Newmont Acquires Newcrest, Successfully Creating World's Leading Gold Mining Business' 6 November 2023.

⁷⁸ Submission 76, Newcrest Mining Limited, p 6.

⁷⁹ See Media release, Environment Protection Authority 'EPA commences four additional prosecutions against Cadia gold mine for air pollution', 13 October 2023; and Answers to questions on notice, Newcrest Mining Limited, 19 October 2023, p 1.

⁸⁰ Submission 88, Environmental Defenders Office, p 18.

failure to maintain the dust suppressant on the tailings storage facilities was a serious matter and had resulted in ongoing dust lifts from the Cadia mine site'.⁸¹

1.68 On 21 August 2023, the EPA commenced proceedings in the NSW Land and Environment Court against Newcrest's Cadia Holdings Pty Ltd. The EPA alleged that, in March 2022, the mine had exceeded the standard of concentration for solid particles (total) under the Protection of the Environment (Clean Air) Regulation 2021, as a result of operating surface exhaust fans attached to Cadia Mine's Ventilation Rise 8. On 29 September 2023, Newcrest's Cadia Holdings Pty Ltd pleaded guilty and a sentencing hearing has been set for 28 March 2024.⁸²

1.69 On 13 October 2023, the EPA launched additional prosecutions against Newcrest's Cadia Holdings Pty Ltd alleging four breaches of the POEO Act, including:

- two offences relating to an exceedance of the standard concentration for solid particles (total) as a result of operating mine surface exhaust fans attached to Cadia Mine's Ventilation Rise 8 in November 2021 and May 2023; and
- two offences relating to air pollution incidents in October 2022 from the surface of Cadia Mine's tailings storage facilities.⁸³

1.70 Dr Ian Wright, Associate Professor, Environmental Science, Western Sydney University stated that in recent times residents living within close proximity to the mine – within a 20 to 25 kilometre radius – have raised concerns about the safety of their drinking water:

Their concerns were due to frequent dust emissions observed from Cadia mine and subsequent observation of fine particulate material settling on cars, garden furniture, verandas etc...Since their water supplies are fed from water harvested from building roofs, they had justifiable concerns that their water tank supplies were enriched with dust containing metals that has dropped out in dust from the mine or other sources.⁸⁴

1.71 Testing of water tanks has been conducted by both the EPA and Cadia Mine which indicate that contaminants present in these tanks may be from other sources or poor tank maintenance⁸⁵ which raises a possible state-wide health risk.

1.72 We acknowledge however that studies carried out as recently as a few months ago by the EPA have consistently shown that the water in tanks and the town water supply have met safe

⁸¹ Media Release, Environment Protection Authority, 'Cadia gold mine fined \$15,000 for dust pollution' 25 August 2022.

⁸² Media release, Environment Protection Authority, 'EPA commences proceedings against Cadia gold mine', 21 August 2023; and Media release, Environment Protection Authority, 'Cadia pleads guilty in Land and Environment Court' 29 September 2023.

⁸³ Media release, Environment Protection Authority, 'EPA commences four additional prosecutions against Cadia gold mine for air pollution' 13 October 2023.

⁸⁴ Submission 68, Dr Ian Wright, p 6.

⁸⁵ See Environment Protection Authority, *An investigation into metals in domestic tank water around the Newmont gold mine in Cadia* (2023) p 9; see also Newcrest Mining Limited, 'Isotope Report Fact Sheet' (19 July 2023), Newcrest Mining Limited website, <https://media.caapp.com.au/pdf/3tit2x/a3821a62-91e8-4b46-821b-56541f40f79a/Isotope%20Report%20Fact%20sheet.pdf>.

drinking levels and is safe to consume. Recent EPA point of use testing has met the current National Safe Water Guidelines.⁸⁶

- 1.73** On 3 October 2023, the committee undertook a conducted tour of Cadia Mine, consulted with residents at a private property near the mine, and held a public hearing in Orange. Cadia Mine is considered in detail in Chapter 2.

Bowdens Silver Project

- 1.74** This project is owned by Bowdens Silver Pty Ltd (Bowdens Silver) who supplied the following information:

The Project is the largest undeveloped silver deposit in Australia and is located in central New South Wales, approximately 26 kilometres east of Mudgee. The silver mine development with by-products of zinc and lead comprises an open-cut mine feeding a new processing plant with a conventional milling circuit and differential flotation to produce two concentrates that will be sold for smelting off site.⁸⁷

- 1.75** The estimated ore volumes over the 23-year lifespan of the project are 130,000 tonnes of lead, 190,000 tonnes of zinc and 1,417 tonnes of silver.⁸⁸
- 1.76** In May 2020, Bowdens Silver submitted a development application and EIS to DPE in respect of the project, and in March 2021 Bowdens Silver announced the submission of its mining lease application.⁸⁹
- 1.77** Bowdens Silver has other Exploration Licences in the region and has been undertaking seismic surveys closer to Kandos, Rylstone and Mudgee, as part of ongoing exploration for Bowdens Silver Project.⁹⁰ In its submission, Bowdens Silver stated 'Our exploration activities have continued throughout the development assessment process for the Project, and we expect a long future beyond the currently approved Project in this location.'⁹¹
- 1.78** In December 2022, DPE announced that it had assessed the project as being in the public interest subject to conditions of consent and that it had referred the project to the IPC for final determination. In April 2023, the IPC approved the project so that it could proceed to development subject to conditions of consent.⁹²
- 1.79** However, there is vocal opposition within the local community surrounding the Bowdens Silver Project with residents believing that health, environmental and economic concerns were not

⁸⁶ Environment Protection Authority, *An investigation into metals in domestic tank water around the Newmont gold mine in Cadia* (2023) p 9.

⁸⁷ Submission 77, Bowdens Silver, p 1.

⁸⁸ Submission 72, Mudgee Region Action Group, p 16.

⁸⁹ Submission 77, Bowdens Silver, p 1.

⁹⁰ Bowdens Silver, *15/8/23 – Upcoming Exploration Activities*, Bowdens Silver website, <https://bowdenssilver.com.au/2023/>.

⁹¹ Submission 77, Bowdens Silver, p 2.

⁹² Submission 77, Bowdens Silver, p 1; and Media release, Bowdens Silver, 'Bowdens Silver Project Achieves Final Development Approval' 5 April 2023.

adequately considered in the approval process. Particular concern related to the fact that lead is to be mined at the project site which is two kilometres from Lue village, including the Lue primary school.⁹³ According to the World Health Organisation there is little information on base lead levels across communities.⁹⁴

1.80 On 4 October 2023, the committee undertook a site visit to Lue, organised by the Mudgee Region Action Group, a volunteer-run group comprised of residents of the Lue, Mudgee, Rylstone and Kandos areas of the Central West of New South Wales.⁹⁵ The committee viewed country surrounding the Bowdens Silver Project, accompanied by local residents. The committee also held a public hearing in Mudgee. Bowdens Silver Project is considered in detail in chapter 3.

McPhillamys Gold Project

1.81 McPhillamys Gold Project is owned by Regis Resources Ltd (Regis) and is located approximately 250 kilometres west of Sydney and 8 kilometres from Blayney, New South Wales. Regis stated that this project is one of Australia's larger undeveloped open-pittable gold resources. Regis further stated that over the life of the mine, expected to be 15 years, 'an ore reserve of 60.8 million tonnes at 1.04g/t containing 2.02 million ounces of gold will be mined and processed'.⁹⁶

1.82 Regis informed the committee of the following key milestones in obtaining approval for the project:

- December 2018: Environmental Assessment Requirements were issued by DPE and a Community Consultative Committee was formed and has met quarterly since
- August 2019: The EIS for the project provided responses to the Environmental Assessment Requirements
- September 2020 – October 2022: A submissions report seeking to address issues raised in 671 stakeholder submissions to DPE during the EIS exhibition period was lodged, followed by three amendment reports that sought to respond to various issues
- November 2022: DPE announced that it had assessed the project as being in the public interest subject to strict conditions of consent
- March 2023: The IPC approved the project so that it could proceed to development subject to 162 conditions of consent.⁹⁷

⁹³ See for example Evidence, Ms Susannah White, Angus seedstock producer, Mudgee Region Action Group, 18 September 2023, p 26.

⁹⁴ See World Health Organisation, 'Lead Poisoning' (11 August 2023), World Health Organisation website: <https://www.who.int/news-room/fact-sheets/detail/lead-poisoning-and-health#:~:text=WHO%20has%20developed%20guidelines%20on,to%20reduce%20and%20terminate%20exposure>.

⁹⁵ See Submission 72, Mudgee Region Action Group, p 4.

⁹⁶ Submission 69, Regis Resources Ltd, p 2.

⁹⁷ Submission 69, Regis Resources Ltd, p 3.

- 1.83** However, similar to the Bowdens Silver Project, there is opposition within the local community surrounding the McPhillamys Gold Project, with residents again believing that health, environmental and economic concerns were not adequately considered in the approval process.⁹⁸
- 1.84** McPhillamys Gold Project is considered in detail in chapter 3.

Non-operational mines

- 1.85** Non-operational mines and mine rehabilitation are discussed in chapter 4. Broula King Gold Mine is located 230 kilometres west of Sydney near the town of Bumbaldry, New South Wales, between Cowra and Grenfell.⁹⁹ In 2014, the mine entered into 'care and maintenance'.¹⁰⁰ Mr Peter Day, Executive Director, NSW Resources Regulator explained when a mine enters care and maintenance it 'shuts down as dormant but still has a mining lease and has an authority to operate'.¹⁰¹ The committee heard concerns that a tailings storage facility the mine had built on a neighbouring property has caused contamination to that land.¹⁰²
- 1.86** The Sunny Corner mining area is a derelict mining area located between Bathurst and Lithgow, New South Wales. Dr Ian Wright stated that gold and silver were the main metals mined at Sunny Corner and that most mines in the area closed more than a century ago.¹⁰³ This was before there were any laws requiring mine sites to be rehabilitated post-mining¹⁰⁴ and there is extensive environmental damage to the Sunny Corner mining area including water pollution.¹⁰⁵
- 1.87** The Lake George Mine is located at Captains Flat, New South Wales which is approximately 50 kilometres southeast of Canberra. The mine operated from 1892 to 1962 producing lead, zinc, copper, pyrite, silver and gold.¹⁰⁶ According to the Resources Regulator website, extensive rehabilitation works have been carried out since the mine closed but there are ongoing

⁹⁸ See for example Evidence, Mr Dan Sutton, President, Belubula Headwaters Protection Group, 18 September 2023, pp 26-27 and 30-33; Evidence, Ms Lisa Paton and Mr Tony Newman, local residents, 3 October 2023, pp 8-13; Submission 57, Inland Rivers Network, p 3; Evidence, Ms Beverley Smiles, President, Inland Rivers Network, 18 September 2023, p 2; Submission 7, Goldfields Honey Aust Pty Ltd; and Mrs Claire Bennett, Operations Manager, Goldfields Honey Group, 3 October 2023, pp 2-7.

⁹⁹ Mining Link, *Broula King*, Mining Link website, <https://www.mininglink.com.au/mine-details/broula-king>.

¹⁰⁰ Evidence, Ms Catherine Sullivan, local resident, 3 October 2023, p 20.

¹⁰¹ Evidence, Mr Peter Day, Executive Director, NSW Resources Regulator, p 52.

¹⁰² Evidence, Ms Sullivan and Mr Craig Day, local residents, 3 October 2023, pp 20-29; and Submission 95, Ms Catherine Sullivan and Mr Craig Day. See also Submission 183, Broula King Enterprises Pty Ltd.

¹⁰³ Submission 68, Dr Ian Wright, pp 1-2.

¹⁰⁴ See Evidence, Dr Ian Wright, Associate Professor, Environmental Science, Western Sydney University, 18 September 2023, p 21.

¹⁰⁵ See Submission 68, Dr Ian Wright, pp 1-6; and Evidence, Dr Wright, 18 September 2023, pp 17 and 20-21.

¹⁰⁶ Resources Regulator, *Captains Flat (Lake George) Mine*, Resources Regulator website, <https://www.resourcesregulator.nsw.gov.au/rehabilitation/legacy-mines-program/case-studies/captains-flat-lake-george-mine>.

contamination concerns.¹⁰⁷ Captains Flat Community Association Inc. provided a submission to the inquiry raising concerns that the Government response to contamination in the area has been inadequate.¹⁰⁸

- 1.88** Two historical gold mines in the Clarence region were also raised by the Clarence Environment Centre Inc in its submission, which the organisation claims are polluting the Clarence River – Mount Carrington Mine and the Tooloom Creek Gold Mine. The committee was not able to visit the Clarence region or examine this issue in detail given time and scope restrictions, however notes these two examples and that there are exploration licences held on more than 40 mineral leases in the catchment.¹⁰⁹

Committee comment

- 1.89** The committee acknowledges the important role of metals mining to the clean energy transition. It is clear that mining makes an economic and social contribution to the state and the committee notes the Government intends to further expand the mining industry in New South Wales.
- 1.90** While a robust regulatory framework exists for mining in New South Wales, steps should be taken to continually improve the framework to ensure best practice outcomes.
- 1.91** The committee also notes the apprehension held within sections of communities that continual improvement and innovation should be front of mind to ensure mining projects are conducted – and proposed mining projects are assessed – in a manner that is environmentally, socially and economically responsible. The remaining chapters of this report will give further consideration as to how this balance may be achieved.

Finding 1

That mining is a significant industry for the New South Wales economy, employing 4,000 workers contributing \$28.8 billion in Gross State Product and providing \$4.65 billion in government revenue from royalties. Mining plays a significant role in regional economies, in local employment and supporting local community groups.

¹⁰⁷ Resources Regulator, *Captains Flat (Lake George) Mine*, Resources Regulator website, <https://www.resourcesregulator.nsw.gov.au/rehabilitation/legacy-mines-program/case-studies/captains-flat-lake-george-mine>.

¹⁰⁸ Submission 157, Captains Flat Community Association Inc.

¹⁰⁹ Submission 3, Clarence Environment Centre Inc, pp 1-3.

Finding 2

That metals and minerals mining is of particular importance for the transition to net zero and for Australia's sovereign capability. Metals and minerals mined in New South Wales are necessary for key components in electronics, electric vehicles, solar panels, batteries, solder, wind turbines and galvanized steel. Use of New South Wales' mineral resources provides significant export opportunities as well as the potential to develop and expand domestic processing and manufacturing of these minerals.

Chapter 2 Cadia Mine

This chapter explores the Cadia Mine, located outside Orange, New South Wales which has attracted noteworthy public attention in recent years relating to air pollution and emissions incidents. These issues have given rise to health and environmental concerns, particularly amongst residents nearby to the mine. The chapter considers improvements that could be made to the way in which regulators respond to such incidents and where changes to regulatory requirements may be needed. It also explores water usage and work health and safety at Cadia Mine and where improvements could be made in these areas.

Cadia Mine

2.1 Cadia Mine, or Cadia Valley Operations, is a large gold and copper mine located 25 kilometres from Orange, New South Wales, which has been owned by Newcrest Mining Limited since the 1990s.¹¹⁰ During the course of this inquiry, global mining company Newmont succeeded in a takeover bid of Newcrest, which became effective on 6 November 2023.¹¹¹

Gold and copper production at Cadia Mine

2.2 As a large copper producer, Newcrest Mining Limited posited that Cadia Mine is important to the clean energy transition. In Australia, all states and territories have committed to meeting the target of net zero emissions by 2050.¹¹² According to Newcrest, 'the copper produced at Cadia last year alone is enough to contribute to producing nearly 21,000 three-megawatt wind turbines, including for cabling and wiring, turbine/power generation and transformers'.¹¹³ It is noted that the New South Wales Critical Minerals and High-Tech Metals Strategy is currently under review. The current Priority List includes copper although gold is not listed.¹¹⁴ It is also worth noting neither gold nor copper are currently included on the Australian Critical Minerals List.¹¹⁵

2.3 Ms Sherry Duhe, Interim CEO, Newcrest Mining Limited, stressed the importance of copper, and thus Cadia Mine, to the clean energy transition:

If you think about the amount of copper that the world is going to require under any reasonable scenario that says that we're going to achieve net zero by 2050, we collectively as a global society need to produce as much copper in the next 27 years – between now and 2050 – as we have in the last 125 years...Cadia has an essential role to play in that because the copper quality and grade will remain very stable going

¹¹⁰ Submission 76, Newcrest Mining Limited, p 5.

¹¹¹ Media release, Newmont, 'Newmont Acquires Newcrest, Successfully Creating World's Leading Gold Mining Business', 6 November 2023.

¹¹² See ClimateWorks Australia, *State and Territory Climate Action: Leading Policies and Programs in Australia* (October 2021) p 6.

¹¹³ Submission 76, Newcrest Mining Limited, p 5.

¹¹⁴ Mining Exploration and Geoscience, Department of Regional NSW, *Critical Minerals and High-Tech Metals Priority List*, NSW Government website, <https://www.nsw.gov.au/sites/default/files/2022-08>.

¹¹⁵ Department of Industry, Science and Resources, *Australia's Critical Minerals List*, Department of Industry, Science and Resources website, <https://www.industry.gov.au/publications/australias-critical-minerals-list>.

forward for at least 25 years according to our current projections...It is the second largest copper producer in New South Wales.¹¹⁶

- 2.4** Following its appearance at the hearing, Newcrest provided additional information outlining that the copper mined from Cadia was sold to smelters/refiners in Asian markets that then use it to produce copper cathode which is used in the production of various industrial goods:

Our copper is sold in concentrate form at prevailing market price to copper smelters/refiners mostly in a range of Asian countries who produce copper cathode. In turn this copper cathode is used in the manufacturing of continuous cast copper rods used by the wire, cable and transformer industries and copper tubes for consumer durable goods, alloys and sheets.¹¹⁷

- 2.5** According to Newcrest, nearly 600,000 ounces of gold were also produced at Cadia Mine in the past financial year. After coal, gold was the second most valuable goods export for New South Wales in 2021-22.¹¹⁸
- 2.6** Newcrest stated that in addition to 'being a central part of global financial markets and important to the investment strategies of private investors and central banks... gold is also used in our everyday lives. This includes smartphones, global positioning system units, electronic devices, smoke detectors, hi-tech health care and aerospace technology'.¹¹⁹

The importance of Cadia Mine to the local economy and community

- 2.7** Cadia Mine has been in operating for 25 years. Ms Duhe stated that around 85 per cent of the Cadia Mine workforce lives locally in the Orange region and the mine employs more than 1,800 staff including 31 apprentices. A further 1,400 people are indirectly employed across the region in support businesses such as transport, engineering and construction.¹²⁰ Mr David Waddell, Chief Executive Officer, Orange City Council told the inquiry that Cadia Mine has a community partnerships program with \$1.198 million being donated back to community groups in 2022-2023.¹²¹
- 2.8** In addition, Mr Mitch Colton of Business Orange, a group that represents business in the Orange region of New South Wales, stated that Cadia Mine was of benefit to businesses in Orange and that the positive impact 'far outweighs any detriment, currently'.¹²²

¹¹⁶ Evidence, Ms Sherry Duhe, Interim CEO, Newcrest Mining Ltd, 18 September 2023, p 13.

¹¹⁷ Answers to questions on notice, Newcrest Mining Limited, 19 October 2023, p 3.

¹¹⁸ Submission 76, Newcrest Mining Limited, p 5.

¹¹⁹ Submission 76, Newcrest Mining Limited, p 5.

¹²⁰ Evidence, Ms Duhe, 18 September 2023, p 8.

¹²¹ Evidence, Mr David Waddell, Chief Executive Officer, Orange City Council, 3 October 2023, p 15; and Submission 87, Orange City Council, p 1.

¹²² Evidence, Mr Mitch Colton, Vice-President Business Orange, 27 October 2023, pp 42 and 45.

Pollution incidents at Cadia Mine

- 2.9** Cadia Mine has been subject to significant public attention in recent years. In March 2018, the northern tailings dam wall failed at the mine 'leading to dust lift-off events in the area'.¹²³ The tailings dam wall failure occurred when the area was experiencing a major drought and, as a result, a number of large dust emissions events were experienced.¹²⁴ Nearby residents stated that they began to raise concerns regarding dust originating from the Cadia Mine site in 2018.¹²⁵
- 2.10** Figure 1 shows white dust blowing across agricultural land located near Cadia Mine.

Figure 1 Dust from the Cadia Mine



Thick white dust blowing over agricultural land as described by Mr Haines.

Source: Submission 92, Cadia Community Sustainability Network, Part C, p 2.

- 2.11** The Environment Protection Authority (EPA) issued two penalty notices in relation to this dam wall failure:
- on 31 July 2020, the EPA issued a penalty infringement notice and fine of \$15,000 to Cadia Holdings Pty Ltd under the *Protection of the Environment Operations Act 1997* (POEO Act) for contravention of Condition 03.1 of its environmental protection licence (EPL)

¹²³ Submission 76, Newcrest Mining Limited, p 6.

¹²⁴ Submission 92, Cadia Community Sustainability Network, Part C, p 1. See also Tim Fookes, *Farmers hit hard by driest period in a decade in New South Wales* (11 April 2018), ABC News Website, <https://www.abc.net.au/news/2018-04-11/farmers-hit-hard-by-drought-in-new-south-wales/9640038>.

¹²⁵ Submission 92, Cadia Community Sustainability Network, Part D, p 1.

that 'premises must be maintained in a condition which minimises or prevents the emission of dust from the premises'

- on 4 August 2022, the EPA issued a penalty infringement notice and fine of \$15,000 to Cadia Holdings Pty Ltd under the POEO Act for contravention of Condition U1.1 of Cadia's EPL for its failure to maintain the dust suppression cover of the entire tailings storage facility.¹²⁶

2.12 On 21 August 2023, the EPA also commenced proceedings in the NSW Land and Environment Court against Newcrest's Cadia Holdings Pty Ltd. The EPA alleged that in March 2022, the mine had exceeded the standard of concentration for solid particles (total) under the Protection of the Environment (Clean Air) Regulation 2021 as a result of operating surface exhaust fans attached to Cadia Mine's ventilation rise 8. On 29 September 2023, Newcrest's Cadia Holdings Pty Ltd pleaded guilty and a sentencing hearing has been set for 28 March 2024.¹²⁷

2.13 On 13 October 2023, the EPA launched additional prosecutions against Newcrest's Cadia Holdings Pty Ltd alleging four breaches of the POEO Act including:

- two offences relating to an exceedance of the standard concentration for solid particles (total) as a result of operating mine surface exhaust fans attached to Cadia Mine's ventilation rise 8 in November 2021 and May 2023
- two offences relating to air pollution incidents in October 2022 from the surface of Cadia Mine's tailings storage facilities.¹²⁸

Concerns of local residents linked to dust emissions and dust lift-off events at Cadia Mine

2.14 The sections that follow detail the concerns of local residents regarding dust emissions and 'dust lift-off events' at Cadia Mine.

Water, blood and hair tests showing heavy metal exceedances

2.15 The community in the Cadia Valley has been concerned by the dust from the Cadia mine since 2018. The history of this is explained below. However, in early 2022, Newcrest commissioned an independent air quality audit from Zephyr Environmental, which found one of the mine's main vents, 'vent rise outlet 8' was releasing unfiltered emissions at a rate of 360mg/m³ compared to the licence level of 20mg/m³.¹²⁹

¹²⁶ See Answers to questions on notice, Newcrest Mining Limited, 19 October 2023, p 1; and Media release, Environment Protection Authority 'EPA commences four additional prosecutions against Cadia gold mine for air pollution', 13 October 2023.

¹²⁷ Media release, Environment Protection Authority, 'EPA commences proceedings against Cadia gold mine', 21 August 2023; and Media release, Environment Protection Authority, 'Cadia pleads guilty in Land and Environment Court' 29 September 2023.

¹²⁸ Media release, Environment Protection Authority, 'EPA commences four additional prosecutions against Cadia gold mine for air pollution' 13 October 2023.

¹²⁹ Submission 92, Cadia Community Sustainability Network, Part A, p 1.

- 2.16** After the community received the Zephyr Report, they made contact with Associate Professor Ian Wright, Environmental Science, Western Sydney University and began discussions around a preliminary round of water tank testing. In regard to the testing, the Cadia Community Sustainability Network (CCSN) said:

In summary we identified that although the water tanks at the time were generally relatively full and very settled (after a couple of months of dry weather), there was in the sludge in the bottom of the tanks a significant cocktail of heavy metals which we would not ordinarily expect to be in rainwater.¹³⁰

- 2.17** The CCSN was established by community members 'to work with Newcrest to safeguard, for all, the economic, social and environmental future for [the] region'.¹³¹ After receiving the Zephyr Report, CCSN members collected samples from 47 water tanks in the Cadia area and arranged and funded testing with a commercial analytical laboratory.

- 2.18** In February and March 2023, Dr Wright reviewed the results of these water tests – he did not do so on a consulting basis – and provided advice about potentially hazardous lead levels:

In my opinion, the results indicate that contamination of water tanks by metals, and lead in particular, is likely to be hazardous for people that consume water from the tanks. Most of the water samples (83%) were found to contain lead. According to the EPA there is no safe concentration of lead in drinking water. The Australian Drinking Water Guidelines recommend that drinking water should contain less than 10 µg/L of lead.

Of the 47 water samples collected from water tanks in February and March 2023 using comparable and consistent methods, 32 (68%) exceeded the Australian Drinking Water Guideline (Health) for lead (≤ 10 µg/L). Of greater concern is that 13 samples (27.6%) recorded lead concentrations that exceeded the lead guidelines by more than 10 times (≥ 100 µg/L of lead).¹³²

- 2.19** Dr Wright also found that the water tests recorded other metals at hazardous levels including nickel, arsenic, cadmium and zinc.¹³³

- 2.20** Following the announcement of the inquiry in July 2023, CCSN organised blood and hair testing of local residents, including a control group from the Mudgee region of New South Wales. Ms Gem Green, Chair of CCSN advised that the tests revealed that 47 Cadia residents' blood tests had 19 heavy metal exceedances, compared to 44 residents from the Mudgee region, who had 10 exceedances. Ms Green stated:

Cadia residents' exceedances were primarily copper and molybdenum. Of Cadia's 45 hair tests, 73 per cent identified exceedances, primarily copper and cobalt, and the blood test for a four-year-old living in a house built five years ago approximately 13 kilometres

¹³⁰ Submission 92, Cadia Community Sustainability Network, Part A, p 1.

¹³¹ Evidence, Ms Gem Green, Chair, Cadia Community Sustainability Network, 18 September 2023, p 17.

¹³² Submission 68, Dr Ian Wright, p 7.

¹³³ Submission 68, Dr Ian Wright, pp 7 and 8.

east of the mine had excess copper and molybdenum at more than double the upper reference range.¹³⁴

- 2.21** Ms Green also noted that, owing to concerns about water quality, many in the Cadia community had been drinking bottled, filtered water for up to five months by the time this blood and hair testing took place.¹³⁵

Concerns that Newcrest and Cadia Mine did not take residents' complaints seriously

- 2.22** CCSN also shared concerns that where local residents had raised complaints with Cadia Mine they were not taken seriously. Ms Green told the committee that individual residents and the CCSN had been complaining about excessive dust from the mine for more than 10 years.¹³⁶ In her evidence, Ms Frances Retallack, Vice-Chair of the CCSN, stated that many executives associated with the mine had told them the emissions they were seeing were steam, not dust.¹³⁷
- 2.23** CCSN advised the committee that residents' complaints really gathered pace in December 2020 when fans were installed that were attached to the mine's ventilation rise 8 which was cleaning air out of the mine with inadequate filtration. Ms Green said at this point 'there was a visual change in the way this steam dust – well, we know it's dust – was coming up and out'.¹³⁸
- 2.24** Ms Retallack stated that Cadia Mine took no action about complaints regarding the dust being emitted by the vent shaft, ventilation rise 8, until the EPA became actively involved this year.¹³⁹ She indicated that given the history of the mine receiving a couple of fines for pollution events previously it made sense for the mine to take no action: 'Multiple complaints to the EPA - \$15,000 fines. It is economically rational for the mine to cop the occasional fine and do no remediation'.¹⁴⁰
- 2.25** Mr John Gerathy, Chair of the Cadia District Protection Group Inc., another concerned group of residents, made similar comments about Cadia Mine's lack of response to community dust concerns, stating: 'The Mine and Regulators have failed for 5.5 years despite numerous community complaints with graphic photographs, to take any action to manage dust emanating from the mine's underground crusher vents especially Vent 8'.¹⁴¹ In a similar vein, Mr Gerathy stated that following the tailings dam failure in March 2018 (discussed earlier), Cadia Mine failed to take any action to stop dust lift off for over nine months and then only 'ineffective periodic aerial spraying for over another four...months before more effective but not really satisfactory hydro mulching'.¹⁴²

¹³⁴ Evidence, Ms Green, 18 September 2023, p 17.

¹³⁵ Evidence, Ms Green, 18 September 2023, p 17.

¹³⁶ Evidence, Ms Green, 18 September 2023, p 17.

¹³⁷ Evidence, Ms Frances Retallack, Vice-Chair, Cadia Community Sustainability Network, 18 September 2023, p 18.

¹³⁸ See Evidence, Ms Green and Ms Retallack, 18 September 2023, p 19.

¹³⁹ Evidence, Ms Retallack, 18 September 2023, p 19.

¹⁴⁰ Evidence, Ms Retallack, 18 September 2023 p 19.

¹⁴¹ Submission 91, Cadia District Protection Group Inc, p 2.

¹⁴² Submission 91, Cadia District Protection Group Inc, p 1.

- 2.26** Another inquiry participant also indicated their view that Cadia Mine could not be trusted to respond appropriately to dust emission events without intervention from regulatory bodies, stating 'The self reporting structure around compliance obligations is not working'.¹⁴³
- 2.27** Whilst acknowledging that Cadia Mine is entrenched in the local community with many of its workers, managers and administrators residing in the area surrounding the mine, Ms Green stated that she had observed a culture of reactivity at the mine, rather than proactive action.¹⁴⁴

Newcrest evidence around pollution concerns

- 2.28** Ms Duhe of Newcrest agreed that there had been a breakdown in relationships between Cadia Mine and some surrounding residents, and that Newcrest could have listened more and communicated better.¹⁴⁵ However, she rejected assertions that Newcrest simply saw the \$15,000 fines it had been handed as the cost of doing business¹⁴⁶ and indicated that action has been taken and is continuing to be taken by Newcrest to resolve residents' concerns around dust emissions.
- 2.29** Concerning the dust lift-off events caused by the tailings dam wall failure in 2018, Ms Duhe advised that works to repair this issue are ongoing, that they are complex, and that they are taking longer than expected for which Newcrest apologises.¹⁴⁷
- 2.30** Mr Mick Dewar, General Manager, Cadia Valley Operations provided further detail, indicating that the tailings dam repairs would not be fully completed until 2025 or later:

...we currently are doing buttressing work on the western side of the NTSF [northern tailings storage facility]. We've got a large haul road nearing completion around the east and that's going to open up access to the southern embankment of the NTSF, the other side of the embankment repairs...The southern dam is expected to come into service around the end of 2025...and the northern dam will have its embankments repaired shortly thereafter.¹⁴⁸

- 2.31** However, the CCSN stated in its submission that 'Newcrest has indicated that it cannot repair this tailings dam wall failure and will entomb the failure by 2050, if an extension of the mining licence is granted'.¹⁴⁹
- 2.32** Regarding the concerns around dust emissions from ventilation rise 8, Mr Dewar advised that in August 2022, Newcrest informed the Department of Planning and Environment (DPE) and the EPA that Cadia Mine's monitoring equipment had taken measurements in exceedance of clean air regulations.¹⁵⁰ Newcrest then started engineering work to resolve the issue, installing expensive filtration units:

¹⁴³ Submission 155, name suppressed, p 4.

¹⁴⁴ Evidence, Ms Green, 18 September 2023, p 23.

¹⁴⁵ Evidence, Ms Duhe, 18 September 2023, p 8.

¹⁴⁶ Evidence, Ms Duhe, 18 September 2023, pp 10 and 11.

¹⁴⁷ Evidence, Ms Duhe, 18 September 2022, p 8.

¹⁴⁸ Evidence, Mr Mick Dewar, General Manager, Cadia Valley Operations, Newcrest Mining, 18 September 2023, pp 8 and 9.

¹⁴⁹ Submission 92, Cadia Community Sustainability Network, Part F, p 3.

¹⁵⁰ Evidence, Mr Dewar, 18 September 2023, p 10.

The filtration units that we currently have installed were intended to be short to medium term in order to get something in place quickly. They're costing us around \$10 million a year in lease costs. We have a project that's been engineered to replace those, on a permanent basis. That project's 36 million. So in two years' time we'll have spent nearly \$50 million on dust attenuation in the underground mine.¹⁵¹

- 2.33** When asked why Newcrest had not taken such action earlier to ensure appropriate filtration, given residents had been complaining about dust emissions from ventilation rise 8 since December 2020, Mr Dewar stated that none of the mine's external monitors were indicating that the mine was polluting off premises.¹⁵²
- 2.34** Since the installation of the filtration units, Cadia Mine now collects dust from ventilation rise 8 in bulky bags. Newcrest advised that since a fifth dust extraction unit came online at ventilation rise 8 in mid-August 2023, the average mass of dust captured per day is 6,338 kilograms, with an average of 11 bags used per day.¹⁵³
- 2.35** Under questioning, Mr Dewar conceded that before there was filtration equipment in place, and the bags were catching it, some of this dust would have been emitted into the atmosphere.¹⁵⁴ However, Ms Duhe stated that the boundary testing Newcrest continuously does ensures the air quality is good and the nearby residents' water is safe to drink overall.¹⁵⁵
- 2.36** In contrast, Ms Green from the CCSN asserted that boundary monitoring wouldn't necessarily pick up elevated levels of dust from the vent. Ms Green stated that the monitors sit around the perimeter of the mine at a 6-foot level. 'It completely disregards a vent shaft stack that pumps whatever is coming out and through at 100 kilometres an hour... You can see that it lifts quite a significant height, and then whatever direction the wind is flowing, it then just drifts'.¹⁵⁶
- 2.37** Newcrest told the committee that to address residents' concerns it is conducting ongoing community consultation, it has launched a comprehensive water sampling program and it has gathered relevant independent studies.¹⁵⁷
- 2.38** Regarding the water sampling program, Mr Dewar advised that Newcrest sampled 144 households, taking sediment and sludge samples from the bottom of tanks. Samples were then sent off to the University of South Australia for isotope testing which was independently reviewed by Professor Brian Gulson. Mr Dewar explained that isotope testing can be used to 'fingerprint' lead. He stated that the testing showed no correlation to Cadia ore for 84 per cent of the samples with the remaining samples not being able to be distinguished between Cadia ore and the district soil (which has naturally occurring levels of lead):

As part of this we sent just under 60 samples from the Cadia [Mine] ore body so that we could have a fingerprint determined for Cadia ore. That formed the basis of analysis

¹⁵¹ Evidence, Mr Dewar, 18 September 2023, pp 10 and 11.

¹⁵² Evidence, Mr Dewar, 18 September 2023, p 10.

¹⁵³ Evidence, Mr Dewar, 18 September 2023, p 11; and Answers to questions on notice, Newcrest Mining Limited, 19 October 2023, p 2.

¹⁵⁴ Evidence, Mr Dewar, 18 September 2023, p 11.

¹⁵⁵ Evidence, Ms Duhe, 18 September 2023, p 11.

¹⁵⁶ Evidence, Ms Green, 18 September 2023, p 22.

¹⁵⁷ Evidence, Ms Duhe and Mr Dewar, 18 September 2023, pp 12-14.

to determine whether it matched the samples in the tanks. What that found was that there was no correlation to Cadia ore for 84 per cent of those samples. Of those remaining 16 per cent of samples, they couldn't be discriminated between Cadia ore and the district soil. There is a certain amount of naturally occurring lead in the soil around Cadia.¹⁵⁸

- 2.39** Under questioning, Mr Dewar stated that the results of this study, released in July 2023, confirmed that while there are community concerns about dust from the Cadia Mine, the community need not be concerned that the dust carries particulates such as lead.¹⁵⁹
- 2.40** However, commenting on this study, Ms Green disagreed that it allayed concerns that lead in district water tanks has come from Cadia Mine. She noted that Professor Gulson had stated following the study that the mine cannot be excluded as one of the sources of the lead in the water tanks.¹⁶⁰
- 2.41** Similarly, commenting on the study, Dr Ian Wright stated '...my reading of that suggested that some of the lead in the tanks was due to or matched the lead in the Cadia ore'.¹⁶¹
- 2.42** Mr Bruce Reynolds who lives 9.5 kilometres from the mine also took gutter mud from his roof and had it tested. Noting that Cadia Mine is a copper mine, he advised that the copper content in his gutter mud was 12 times the surrounding soil samples. Similarly, the level of zinc was 50 times higher, nickel was 2.5 times higher and chromium at least four times higher. Mr Reynolds stated, 'To me that sounds like a very dangerous cocktail going directly into our tanks'.¹⁶²

Government agencies' response to residents' complaints

- 2.43** A concern shared among some inquiry participants was that up until recently the EPA and NSW Health did not take Cadia residents' complaints regarding pollution from the mine, or their related health concerns, seriously. On 12 May 2023 the EPA CEO, Mr Tony Chappel met with the CCSN.¹⁶³ This meeting followed the water tests that Dr Wright had reviewed in February and March 2023, discussed earlier, as well as preliminary blood and hair tests and ongoing community complaints to the EPA discussed in what follows.
- 2.44** Regarding the EPA, Ms Green noted that she first started to contact the agency in late 2018 to provide feedback about increasingly visible dust from the mine's tailings facility. However, up until 12 May 2023, she had been 'grossly disappointed' with the response, submitting feedback to the EPA on behalf of her family and community 36 times and receiving four emails in response. Ms Green said that the response emails simply acknowledged her correspondence had been received and forwarded to the Environment Line.¹⁶⁴ Other than that, up until 12 May this

¹⁵⁸ Evidence, Mr Dewar, 18 September 2023, p 13.

¹⁵⁹ Evidence, Mr Dewar, 18 September 2023, pp 13 and 14. See also Media release, Newcrest Mining Limited, 'Cadia not linked to lead in district water tanks' 19 July 2023.

¹⁶⁰ Evidence, Ms Green, 18 September 2023, p 17.

¹⁶¹ Evidence, Dr Ian Wright, Associate Professor, Environmental Science, Western Sydney University, 18 September 2023, p 18.

¹⁶² Evidence, Mr Bruce Reynolds, local resident, 3 October 2023, pp 30 and 31.

¹⁶³ Submission 68, Dr Ian Wright, p 9.

¹⁶⁴ Evidence, Ms Green, 18 September 2023, p 21.

year, Ms Green said that she had had one roundtable meeting with the local EPA at which she handed over a USB containing three years' worth of video footage.¹⁶⁵

- 2.45** Ms Retallack stated that when complaints are not dealt with appropriately, the community gets the message after a while to stop lodging them:

Our experience of the EPA up until that [12 May] meeting was substantially non-existent, unresponsive. Even after...they initiated the inquiry into potential criminal charges following the discovery of vent shaft No. 8 emissions last year, community members were trying to call in to the hotline...and they were receiving written comments back saying "There is no evidence dust is leaving the site. We are not collecting samples at this time." And the problem with that is, when you don't come and collect samples, you deny the community the opportunity to report another dust event and eventually the community learns not to bother.¹⁶⁶

- 2.46** According to Dr Ian Wright, the EPA's regulation of Cadia Mine had been inadequate and the community had found the EPA reluctant to visit them or listen to their concerns. Dr Wright also stated that the EPA seemed to take little or no action to investigate community concerns around dust and metals.¹⁶⁷

- 2.47** In its submission to the inquiry, the Environmental Defenders Office said that in its experience the EPA has been 'reluctant to effectively utilise powers already available to it'.¹⁶⁸ The Environmental Defenders Office submitted that the actions that the EPA had taken against Cadia Mine in the time period preceding May 2023, in the form of penalty notices, was insufficient.¹⁶⁹

- 2.48** Since the 12 May 2023 meeting between Mr Chappel and the CCSN, according to Dr Wright there has been 'strong action from the EPA at multiple levels...involv[ing] improved communication with the community, conducting environmental investigations and tightening the environmental governance of this mining operation'.¹⁷⁰

- 2.49** CCSN indicated that in March 2023 it notified NSW Health of the results of the water testing it had conducted, reviewed by Dr Wright.¹⁷¹ CCSN also stated that community members had approached NSW Health earlier this year with a preliminary set of blood tests in relation to which they raised concerns about potential contamination. However, according to CCSN, NSW Health responded by issuing a webinar to local doctors that resulted in many of those doctors refusing to test residents for metal contamination unless they had symptoms.¹⁷² The hair and blood tests CCSN obtained later in the year following the announcement of the inquiry, and which were discussed earlier, were arranged privately and not with the assistance of NSW Health.¹⁷³

¹⁶⁵ Evidence, Ms Green, 18 September 2023, p 21.

¹⁶⁶ Evidence, Ms Retallack, 18 September 2023, p 22.

¹⁶⁷ Submission 68, Dr Ian Wright, p 13.

¹⁶⁸ Submission 88, Environmental Defenders Office, p 16.

¹⁶⁹ Submission 88, Environmental Defenders Office, p 18.

¹⁷⁰ Submission 68, Dr Ian Wright, p 13.

¹⁷¹ Evidence, Ms Green, 18 September 2023, p 17.

¹⁷² Submission 92, Cadia Community Sustainability Network, Part A, p 2.

¹⁷³ Evidence, Ms Green, 18 September 2023, p 17.

- 2.50** Dr Jeremy McAnulty, Executive Director, Health Protection NSW, NSW Health gave evidence that when the EPA wrote to NSW Health in May, NSW Health requested all relevant information to be provided by the EPA in respect to pollutants as well as any health results they had received. These results informed discussions in an expert advisory panel comprising a range of experts from different specialties (listed later in this chapter) who met in June. The panel agreed that early communication and engagement with local GPs is important to address concerns raised by patients and most appropriately respond in line with toxicology and other specialist advice and resolved that Health Protection NSW and health experts should meet with local GPs to ensure they have the best available evidence and guidance to support them in assessing and managing their patients' health concerns, as well as information to support them.¹⁷⁴
- 2.51** Mr Tony Chappel, CEO of the EPA, indicated that prior to the 12 May 2023 meeting he had with the CCSN, action was taking place behind the scenes with Newcrest to address pollution concerns. However, this was not appropriately communicated to community members. Mr Chappel stated that he had commissioned a formal review into how the EPA had engaged with the community in this case. Mr Chappel further stated that while he did not think there was any bad intent, there was historic practice involved that was too legalistic and focussed too little on the need to work with affected communities, not just the mine licensee.¹⁷⁵
- 2.52** When asked whether the EPA had also been too lenient in the past with Cadia Mine, issuing fines of \$15,000 instead of taking more severe action, Mr Chappel responded that 'Yes, I think there is a series of things there and that's what I'm unpacking internally now'.¹⁷⁶
- 2.53** The EPA also acknowledged that there could be improvement to its Environment Line for the reporting of pollution incidents. Mr Stephen Beaman, Executive Director Regulatory Practice and Services, EPA advised that when a member of the public lodges a complaint with this hotline it is investigated, and the EPA aims to finish every day with some form of action which it also aims to feed back to the complainant. However, Mr Beaman stated that 'Sometimes there might be a break in the system where we haven't [fed the information back to the complainant]'.¹⁷⁷
- 2.54** Mr Chappel also advised that the EPA is conducting a project this year to 'uplift the capability of the system' for reporting pollution incidents and this will include testing to see whether the community is confident in it. He said there are some capacity issues, particularly after hours, and reliance on contractors who may not deliver services optimally, so the EPA is reviewing those arrangements.¹⁷⁸ In addition, Mr Beaman stated that with modern technology there will

¹⁷⁴ See Evidence, Dr Jeremy McAnulty, Executive Director, Health Protection NSW, NSW Health, 27 October 2023, p 51; and Evidence, Dr Thanjira Jiranantakan, Medical Advisor, Centre for Alcohol and Other Drugs, NSW Ministry of Health, 27 October 2023, p 53.

¹⁷⁵ Evidence, Mr Tony Chappel, Chief Executive Officer, NSW Environment Protection Authority, 18 September 2023, pp 36-37.

¹⁷⁶ Evidence, Mr Chappel, 18 September 2023, p 37.

¹⁷⁷ Evidence, Mr Stephen Beaman, Executive Director Regulatory Practice and Services, NSW Environment Protection Authority, 27 October 2023, p 61.

¹⁷⁸ Evidence, Mr Chappel, 27 October 2023, pp 62 and 67.

be opportunities to 'streamline the workflow' for staff through use of a more advanced IT system.¹⁷⁹

2.55 EPA witnesses also stated that the regulatory framework under which the EPA operates is extremely powerful and the EPA has an 'amazing set of tools' with which to protect the environment.¹⁸⁰ Mr Chappel stated EPLs are the main tool that the EPA uses to control the impacts of pollution from mining, but they are not the only tool.¹⁸¹ EPLs are issued by the EPA under the POEO Act.¹⁸² EPLs and the EPA's role in regulating mining operations is discussed in chapter 1.

2.56 Regarding penalties under the POEO Act for pollution offences Mr Beaman explained that on-the-spot fines are only part of the regime and there is a hierarchy of penalties that can apply according to the seriousness of the offence:

People get very focused on the \$15,000 [fine] which is on the spot. The [Protection of the Environment Operations] Act has three tiers of fines. Tier 1 are our most egregious offences. They are the ones where we have to prove someone has been wilful or negligent. They can be penalties of up to \$5 million and/or seven years' jail. And then our tier 2 offences are strict liability offences and they'll have a maximum penalty of \$1 million. Tier 3 – for want of a better word...they're administrative in nature. They're similar to a speeding fine in terms of the way they're issued. They're \$15,000. So there is sort of a cascading hierarchy of fines.¹⁸³

2.57 Mr Beaman also pointed out that it is not just penalties the EPA is concerned with but also addressing the issue that has arisen on the mine site and requiring licensees to take action to deal with pollution at their own cost.¹⁸⁴

2.58 In answers to questions taken on notice, the EPA also noted that to date there has been one Tier 1 prosecution of a mining company.¹⁸⁵

2.59 The EPA's evidence regarding its regulatory framework accords with that of Dr Ian Wright who argued that the POEO Act is extremely powerful.¹⁸⁶ Dr Wright also made some suggestions for change around clean air regulations and requirements for baseline testing for metals and other contaminants prior to the development of a mine which are discussed later in the chapter.¹⁸⁷

¹⁷⁹ Evidence, Mr Beaman, 27 October 2023, p 62.

¹⁸⁰ See Evidence, Mr Chappel and Mr Beaman, 18 September 2023, pp 35-36 and 38.

¹⁸¹ Evidence, Mr Chappel, 18 September 2023, p 34.

¹⁸² Submission 106, NSW Government, p 3.

¹⁸³ Evidence, Mr Beaman, 18 September 2023, p 35.

¹⁸⁴ Evidence, Mr Beaman, 18 September 2023, pp 35-36.

¹⁸⁵ Answers to questions on notice, Mr Tony Chappel, Chief Executive Officer, NSW Environment Protection Authority, 16 October 2023, p 3.

¹⁸⁶ Evidence, Dr Wright, 18 September 2023, p 20.

¹⁸⁷ See evidence, Dr Wright, 18 September 2023, pp 22-24.

Agency action to address concerns about pollution from Cadia Mine and related health impacts

2.60 The sections that follow detail the action Government agencies, including the EPA and NSW Health are taking to address the concerns about the Cadia Mine.

EPA Action

2.61 As noted earlier, on 12 May 2023, Mr Chappel of the EPA met with CCSN and following this meeting the EPA took action in response to residents' concerns. According to Dr Wright, this included improved communication with the community, tightening the governance of the Cadia mining operation and conducting environmental investigations.¹⁸⁸

2.62 The EPA – and NSW Health – conducted drop-in sessions in Millthorpe on 23 May 2023 and 7 June 2023 so that residents could meet with agency representatives to discuss concerns about dust in the local area. The EPA also conducted a community information session in Blayney on 5 September 2023 about its monitoring programs and ongoing regulation of the Cadia Mine¹⁸⁹ and continues to meet regularly with the Cadia community.¹⁹⁰

2.63 In August and October 2023, the EPA launched prosecutions against Newcrest's Cadia Holdings Pty Ltd relating to ventilation rise 8 and the tailings storage facilities at Cadia Mine, as discussed earlier in the chapter.¹⁹¹

2.64 On 21 August 2023, the EPA announced the mine would be required to undertake vent emission monitoring and to provide a monthly report on dust discharge at the mine.¹⁹² Mr Dewar detailed the mine's response to increased requirements for filtration systems at ventilation rise 8:

Earlier this year the EPA asked us to comply immediately with the regulations and our class in the clean air regulation and we did so. We had two filters operating at that time. We accelerated the remaining three filters that were part of that plan, and we've identified the opportunity to install two more...¹⁹³

2.65 The EPA has also established an independent expert panel to advise as to the data that is collected from ongoing environmental investigations, including the monitoring of water, soil and air.¹⁹⁴

¹⁸⁸ Submission 68, Dr Ian Wright, p 13.

¹⁸⁹ Environment Protection Authority, *Cadia gold mine*, Environment Protection Authority website: www.epa.nsw.gov.au/working-together/community-engagement/updates-on-issues/cadia-gold-mine.

¹⁹⁰ Evidence, Mr Chappel, 27 October 2023, p 59.

¹⁹¹ Media release, Environment Protection Authority, 'EPA commences proceedings against Cadia gold mine', 21 August 2023; and Media release, Environment Protection Authority, 'Cadia pleads guilty in Land and Environment Court' 29 September 2023.

¹⁹² Media release, Environment Protection Authority, 'EPA commences proceedings against Cadia gold mine', 21 August 2023.

¹⁹³ Evidence, Mr Dewar, 18 September 2023, p 10.

¹⁹⁴ Evidence, Mr Chappel, 18 September 2023, pp 38-40.

Water monitoring

- 2.66** The EPA advised that between June and August 2023, it had conducted tests of water at 97 properties in the Cadia Valley area and had received results for 85 of those properties. Testing was undertaken at point of use – the kitchen tap – and at the top of tanks. 20 samples of sediment at the bottom of tanks were also taken.¹⁹⁵
- 2.67** Dr Wright cautioned that it is important to test not only from point of use but from the tanks themselves – particularly the bottom of tanks where water is most likely to be contaminated as during dry times when the water is less diluted or during a disturbance (e.g. rain which causes swirling), contaminated water from the bottom of the tank can enter the water system that people then drink. Dr Wright raised concerns that the water sampling that he had seen the EPA – and NSW Health – conduct had been at point of use and at the top of tanks and 'did not adequately document the contaminants deep in the water tanks'. However Dr. Wright did acknowledge that all samples of water taken from taps did not exceed National Water Safety Guidelines'.¹⁹⁶
- 2.68** Mr Beaman provided the following evidence about the methods the EPA used to conduct its tests:

I know there's been a bit of discussion around methodologies...Phase one, we want to make sure: Was the drinking water people are using today fit for purpose or meeting the guidelines? That's the whole idea of testing at point of use, which is the kitchen tap...Then we're working our way back through. We've also sampled the top of the tanks and the sludge at the bottom of the tanks, so the type of work that Dr Wright talked about...We sampled...over 20 samples of sediment at the bottom of the tanks.¹⁹⁷

- 2.69** From the EPA water testing, the following was found.
- At three of the 85 properties the point of use samples showed lead at or marginally exceeding the Australian Drinking Water Guidelines. At one of the 85 properties the point of use sample showed nickel marginally exceeding the Australian Drinking Water Guidelines.
 - Regarding the tank water, 14 of the 85 properties had a lead level at or exceeding Australian Drinking Water Guidelines. At two of the 85 properties there was a cadmium level exceeding the Australian Drinking Water Guidelines. Finally, at one of the 85 properties there was an antimony level exceeding the Australian Drinking Water Guidelines. However, all the kitchen taps for these properties with tank water exceedances met the guidelines.
 - Concerning the 20 samples of sediment at the bottom of the tanks the EPA said that "The data we are seeing out of Cadia is consistent with the data we see nationally around heavy

¹⁹⁵ See Evidence, Mr Beaman, 18 September 2023, p 39; Environment Protection Authority, *An investigation into metals in domestic tank water around the Newmont gold mine in Cadia* (2023) p 1; and Environment Protection Authority, *An investigation into metals in sediments from domestic rainwater tanks around Newmont gold mine in Cadia* (2023) p 1.

¹⁹⁶ Evidence, Dr Wright, 18 September 2023, p 18.

¹⁹⁷ Evidence, Mr Beaman, 18 September 2023, p 39.

metal contamination'.¹⁹⁸ The EPA also later referred to there being a 'range of heavy metals in the sediment and the particles' of sampled tanks.¹⁹⁹

2.70 This information was updated in answers to questions on notice from the EPA, received on 13 November 2023. The EPA advised that on 8 November 2023 it had published two reports following investigations into metals and sediments in residents' tank water around Cadia Mine. The EPA further advised that its independent expert panel had reviewed and provided input into the reports and that the panel had advised the reports' conclusions are supported by the data.²⁰⁰

2.71 On 8 November 2023 the EPA published the reports titled *An investigation into metals in domestic tank water around the Newmont gold mine in Cadia* and *An investigation into metals in sediments from domestic rainwater tanks around Newmont gold mine in Cadia*. The reports outline inter alia the results of tank water and sediment samples collected by the EPA between June and August 2023. The key observations from the results of the EPA's tank water testing in the Cadia valley area are as follows:

- There were exceedances based on the National Health and Medical Research Council Australian Drinking Water Guidelines (ADWG) values for lead (2.7 per cent at kitchen tap, 14 per cent in tanks), nickel (0.9 per cent at kitchen tap) and cadmium (1.7 per cent in tanks).
- Concentrations of key metals found in this investigation are within typical concentrations found in Australian rainwater tanks. It is likely that many or all of the exceedances found are from domestic and local sources of contamination such as roofing, plumbing and other atmospheric fallout such as that from aircraft emissions, industrial and roadside dust.
- Exceedances of the ADWG were most common for lead; however, the percentage of exceedances for lead found in this investigation were within typical levels found in Australian rainwater tanks.
- These results indicate the importance of maintaining catchments, tanks and tank water distribution systems in accordance with guidance provided by NSW Health, including first-flush diverters, regular tank cleaning and flushing. Property owners may also consider installing filtration to reduce potential contamination of their drinking water.
- No statistically significant relationship was found between concentrations of metals in water samples (from water tanks and kitchen taps) and distance or direction from the mine. No statistically significant relationship was found between concentrations of metals in soil samples and distance or direction from the mine.²⁰¹

2.72 Key observations from the report on the EPA's testing of sediments in tanks in the Cadia Valley area included:

¹⁹⁸ See Evidence, Mr Beaman, 18 September 2023, p 39; and Answers to questions on notice, Mr Stephen Beaman, Executive Director Regulatory Practice and Services, NSW Environment Protection Authority, 16 October 2023, p 2.

¹⁹⁹ Evidence, Mr Beaman, 27 October 2023, p 63.

²⁰⁰ Answers to questions on notice, Mr Beaman, 13 November 2023, p 1.

²⁰¹ Environment Protection Authority, *An investigation into metals in domestic tank water around the Newmont gold mine in Cadia* (2023) p 9.

- concentrations of metals in sediments is not widely researched but the concentrations of key metals found in this investigation are within typical concentrations found in Australian rainwater tanks
- no statistically significant relationship was found between concentrations of metals in sediment samples and distance or direction from the mine.²⁰²

2.73 Both reports also observed that the results of the investigations and testing indicate the importance of tank cleaning:

These results indicate the importance of maintaining catchments, tanks and tank water distribution systems in accordance with guidance provided by NSW Health, including first-flush diverters, regular tank cleaning and flushing. Property owners may also consider installing filtration to reduce potential contamination of their drinking water.²⁰³

2.74 Mr Beaman, in discussing sediment at the bottom of tanks containing heavy metal contamination, had stressed the importance of cleaning tanks every two to three years, noting the guideline that NSW Health had put out about managing water tanks.²⁰⁴ When asked whether Cadia Mine should be issued with an order to clean residents' tanks Mr Beaman replied '...this guidance has been around a long time. People do need to service their tanks'.²⁰⁵

2.75 Mr Chappel also stated that the EPA has put forward a proposal for sediment isotope testing to help identify where the lead found in some of the sediment samples from the bottom of tanks has come from and the expert panel has provided suggestions to make sure the testing is robust.²⁰⁶

2.76 On the issue of tank cleaning, Mr Bruce Reynolds who, as mentioned earlier, lives 9.5 kilometres from the mine advised that he and his family had been shown to have elevated levels of metals in their blood and hair following testing. On finding this Mr Reynolds went overseas for a solution and has now installed three levels of filtration at his house which cost him around \$8000. Mr Reynolds stated that since these changes his daughter's eczema cleared up somewhat over time.²⁰⁷

Soil monitoring

2.77 The EPA has conducted soil monitoring on public land throughout the Cadia Valley for 'any sort of gross deposition of heavy metal contamination that might be shown on the surface of the landscape'. This soil testing met national standards and matched the results of soil testing

²⁰² Environment Protection Authority, *An investigation into metals in sediments from domestic rainwater tanks around Newmont gold mine in Cadia* (2023) p 4.

²⁰³ Environment Protection Authority, *An investigation into metals in domestic tank water around the Newmont gold mine in Cadia* (2023) p 9; and Environment Protection Authority, *An investigation into metals in sediments from domestic rainwater tanks around Newmont gold mine in Cadia* (2023) p 5.

²⁰⁴ Evidence, Mr Beaman, 18 September 2023, p 39.

²⁰⁵ Evidence, Mr Beaman, 27 October 2023, p 64.

²⁰⁶ Evidence, Mr Chappel, 27 October 2023, p 59.

²⁰⁷ Evidence, Mr Bruce Reynolds, 4 October 2023, pp 30 and 33.

done pre-mine so the independent expert panel advised the EPA that this line of investigation could now be closed.²⁰⁸

Air monitoring

2.78 The EPA noted that it has installed 35 'PurpleAir monitors' to give a sense of environmental quality around the mine. The air monitoring data from these is published in real time on the EPA's website.²⁰⁹ Further, the EPA is installing high-volume air-monitoring systems which are large units that allow for sophisticated particulate analysis, including metal concentrations. There will be six of these surrounding the mine.²¹⁰ They are likely to be 4-10 kilometres from the mine and subject to landowner approval.²¹¹

2.79 Mr Chappel stressed that the EPA plans to move more broadly to real-time, publicly available, monitoring:

I think that a really key issue for community confidence is access to real-time environmental quality data. And around the Cadia project we're putting a very substantial effort into that... More broadly, we have some air-quality networks in New South Wales but around various mining precincts we are now considering how to deploy substantial monitoring networks so that before a project commences, through its operation and then afterwards, the community can see the data consistently and be confident that there's no deleterious impact to their environmental quality.²¹²

2.80 Mr Beaman also emphasised the importance of such monitoring being done independently and being industry-funded.²¹³

NSW Health action

2.81 NSW Health noted that earlier in 2023 it had been advised by the EPA that heavy metal exposures had occurred in the Cadia community. Hence, like the EPA, it formed an independent expert panel. This panel is made up of experts in toxicology, respiratory medicine, air quality, water quality, food pathology, health risk assessment, neurology and from the Department of Primary Industries. The panel is working closely with the EPA to understand the data around exposure pathways for nearby residents to heavy metals from the mine and other sources.²¹⁴

2.82 Professor Andrew Dawson, Clinical Toxicologist and Pharmacologist, advised that what was being seen in the Cadia area was some individuals who are showing slightly elevated heavy metal levels. He stated that these levels are not generally of critical concern and the thresholds that are set in Australia for heavy metal levels are very conservative. Where those levels are important is in signalling that someone has had an exposure and then doing work to explain the exposure

²⁰⁸ Evidence, Mr Beaman, 18 September 2023, p 39.

²⁰⁹ Evidence, Mr Beaman, 18 September 2023, p 39.

²¹⁰ Evidence, Mr Beaman, 18 September 2023, p 40 and 27 October 2023, p 66.

²¹¹ Answers to questions on notice, Mr Chappel, 16 October 2023, p 3.

²¹² Evidence, Mr Chappel, 27 October 2023, p 66.

²¹³ Evidence, Mr Beaman, 27 October 2023, p 66.

²¹⁴ Evidence, Dr McAnulty, 27 October 2023, p 51.

so that ideally it can be addressed.²¹⁵ In this regard, Professor Dawson noted that the results that he and NSW Health officials have seen from Cadia Valley area residents, through the EPA, were de-identified so they have no medical history on the people in question e.g. occupational history, medications and things that could affect the results.²¹⁶ This makes identifying the exposure pathways of these people to the metals impossible.

2.83 NSW Health has contacted community representatives to conduct a 'deep dive' into residents' test results. This will involve working with residents who feel they may have been exposed to heavy metals or may have associated symptoms as well as an expert environmentalist, an expert toxicologist and their GP to understand exactly what exposures the person may have had, where they're living and working and how to interpret results. This advice will then be provided to the expert panel, in de-identified form, so that its members can start mapping a picture of what is happening and provide advice to the community and GPs on possible next steps.²¹⁷ The expert panel will also be considering environmental data supplied by the EPA (e.g. concerning water, soil or air contamination) so that it can thoroughly assess the risks to individuals.²¹⁸

2.84 When asked whether there would be any proactive steps taken to test Cadia Valley residents for heavy metals so that there is a broader sample from which to draw conclusions that could potentially also be assessed against a control group, Dr Jeremy McAnulty of NSW Health indicated there would not:

We are keen to review any data the community has and the offer is there to have those sent to us to review. We're also, as part of the deep dive, wanting to collect clinical data which will then inform whether additional testing or other mechanisms need to be provided...It will be a first step...so that of those people who are believed to be the most impacted, we can get a good profile of those people and analyse it...That'll be a gateway to any additional things that need to be done.²¹⁹

2.85 As touched upon earlier, Dr McAnulty also confirmed that NSW Health, as part of an hour long consultation session between NSW Health and local GPs, has never given advice to GPs not to test people in the Cadia community. Dr McAnulty stated that '...the initial advice was that, while no widespread community testing was currently recommended...if people had exposure concerns or symptoms or the clinician, the doctor felt there was a need to test then they should use their clinical judgment'.²²⁰

²¹⁵ Evidence, Professor Andrew Dawson, Clinical Toxicologist and Pharmacist, Director National Poisons Register and Clinical Toxicology, Royal Prince Alfred Hospital Sydney, Senior Visiting Medical Officer, NSW Poisons Information Centre, Sydney Children's Hospital Network, 27 October 2023, p 56.

²¹⁶ Evidence, Professor Dawson, 27 October 2023 p 52.

²¹⁷ Evidence, Dr McAnulty, 27 October 2023, pp 52 and 54.

²¹⁸ Evidence, Dr McAnulty, 27 October 2023, p 57.

²¹⁹ Evidence, Dr McAnulty, 27 October 2023, pp 57-58.

²²⁰ Evidence, Dr McAnulty, 27 October 2023, p 51.

Suggestions for regulatory change arising from the Cadia Mine case

2.86 As noted earlier in the chapter, the EPA operates under a powerful regulatory framework and has a strong set of tools with which to respond to pollution incidents.²²¹ However, Dr Ian Wright made suggestions for change in two areas.

2.87 Dr Wright stated that clean air regulations in New South Wales are not fit for purpose and that while they need to be site-specific they are actually 'one size fits all' across New South Wales:

I do not think that the clean air regulations, which is one size fits all across the whole State are fit for purpose for this situation [that has arisen at Cadia Mine], and particularly not for dust...I think it's pretty obvious that there needs to be site-specific measures with clear targets for someone like Cadia to meet.²²²

2.88 Dr Wright suggested that, as a result of these inadequate clean air regulations, there was limited detail in the Cadia Mine EPL surrounding air pollution limits, which contrasted with the position as regards water pollution:

...a licence is really a pollution permit..."This is how much you can pollute." It does things like specify what are the dangerous pollutants in the emission. They are quite detailed for the Cadia mine in its environmental protection licence for water. It lists all the metals that could be of concern. But when it comes to air and enrichment of metals in the dust, there is no such detail so it is very hard to follow what is actually there.²²³

2.89 In addition, Dr Wright made a recommendation for baseline testing. Dr Wright indicated that prior to the development of a mine a baseline should always be taken of heavy metals and contaminants as part of the environmental impact assessment process. This information can then be used for comparisons later if concerns around heavy metal contamination arise in relation to a mine. He said that water tanks should be inspected as part of this process because that is what many regional Australians drink from, and creeks, farm dams and even groundwater should be baseline tested.²²⁴

2.90 In its submission to the inquiry the Environmental Defenders Office stressed that a significant weakness in the regulatory framework for mining is that cumulative impacts are not considered:

Health Impact Assessments must be explicitly required by state development assessment laws and must consider cumulative impacts. Current social impact assessments often focus on economic and other issues without fully exploring the potential health risks of a project. This should include comprehensive mandatory assessment of cumulative impacts of multiple projects in an area, which often occurs when a particular resource becomes valuable to extract (as is likely to be the case with so-called "transition minerals" in future).²²⁵

²²¹ See evidence Mr Chappel and Mr Beaman, 18 September 2023, pp 35-36 and 38.

²²² Evidence, Dr Wright, 18 September 2023, p 24.

²²³ Evidence, Dr Wright, 18 September 2023, p 20.

²²⁴ Evidence, Dr Wright, 18 September 2023, pp 22-23.

²²⁵ Submission 88, Environmental Defenders Office, p 10.

Committee comment

Cadia Mine

- 2.91** The committee notes the positive aspects of the Cadia Mine. It is important to the local economy having benefits for business in the Orange region and being a major direct and indirect local employer. It also contributes significant capital to local community groups through its community partnerships program. Similarly, Cadia Mine is a significant copper producer – a metal that has been identified as important in the clean energy transition so that New South Wales realises its objective of net zero emissions by 2050.
- 2.92** The committee notes that all mines in New South Wales must be regulated appropriately to protect human health and the environment.

The response to residents' concerns and the need for cultural change

- 2.93** The committee notes evidence that, until recently, local residents did not feel heard by Newcrest and by the EPA when they raised concerns about observable dust lift-off and emissions from the mine. It notes that both Newcrest and the EPA conceded that they could have done better. The committee notes that some residents took steps to have their water tested at their own expense.
- 2.94** In March 2023, the Western NSW Local Health District Public Health Unit (PHU) followed up community investigations into the water sampling in their tanks and collected samples of household drinking water supplied from rainwater tanks at several residences in the Cadia region. These samples were tested to assist residents in identifying potential contamination that could pose a health risk. Tests were carried out for lead, selenium and more than 20 other elements. All results from the testing by NSW Health were below the health-related guideline values in National Health and Medical Research Council Australian Drinking Water Guidelines. This indicated that for the characteristics tested the water did not pose a health risk. Concerned residents went on to conduct independent blood and hair testing for heavy metals. The blood and hair testing results for heavy metals was not received by NSW Health until after 20 May 2023.
- 2.95** The committee accepts that the advice given by NSW Health to GPs regarding whether or not to test people in the Cadia Valley area for heavy metals was nuanced – that while no widespread community testing was currently recommended, if people had exposure concerns or symptoms or the doctor felt there was a need to test, doctors should use their clinical judgment.
- 2.96** Regarding the EPA, the committee notes that the CEO, Mr Chappel, has commissioned a formal review into how the EPA engaged with the community in this case. The committee notes evidence the EPA is undertaking a project to improve the system for reporting pollution incidents.
- 2.97** The committee accepts evidence that the regulatory framework under which the EPA operates is powerful and that the POEO Act generally provides strong tools to respond to pollution incidents. The Act provides three tiers of regulatory response according to seriousness. Penalties within Tier 1 for the most egregious offences are the most significant. However, the maximum fine available under Tier 3, of \$15,000, is often inadequate and can fail to act as a deterrent to

large or multinational companies. The committee also emphasises that the EPA continues to strengthen its culture of enforcement including using the full ambit of regulatory responses.

Finding 3

The Environment Protection Authority operates under a regulatory framework which generally includes a strong toolkit with which to regulate pollution incidents. The Environment Protection Authority has worked for many years with the Cadia mine site. A range of ongoing issues has been problematic for the environment and community and provide important information which can assist regulation into the future. The Environment Protection Authority has issued maximum infringement notices a number of times as well as court proceedings.

Recommendation 1

That the Environment Protection Authority reviews and continues to strengthen its culture of engagement and communication with communities throughout New South Wales, especially regional communities, and ensures that trust is rebuilt and a culture of accountability to the community is in place.

Finding 4

The maximum penalty of \$15,000 for Tier 3 offences under the *Protection of the Environment Operations Act 1997* is often inadequate and can fail to act as a deterrent to large or multinational companies.

Recommendation 2

That the Government consider increasing the maximum penalty for Tier 3 offences under the *Protection of the Environment Operations Act 1997*.

Action now being taken by government agencies to respond to residents' concerns

- 2.98** The committee notes that following the meeting between the CCSN and Mr Chappel on 12 May 2023, the EPA started engaging more actively with local residents and has been conducting environmental investigations in the form of water, soil and air monitoring.
- 2.99** Regarding water monitoring, the committee notes health concerns around elevated levels of some metals, including lead, in point of use samples and tank water samples taken from 85 properties in the Cadia Valley area. The committee also notes isotope testing which indicates that lead in these tanks may not be sourced from the Cadia Mine. As such this raises a concern for state-wide health in tank water quality and tank water maintenance.

- 2.100** In addition, the committee notes that isotope testing conducted earlier in the year by Newcrest had failed to exclude the Cadia Mine as the source of some lead found in local residents' water tanks; and evidence from Mr Bruce Reynolds that gutter mud he had tested from his roof contained concentrations of metal, including copper, that did not match soil samples surrounding his property, 9.5 kilometres from the mine.
- 2.101** While testing indicates that water at the point of use is generally not exceeding safe levels, Dr Wright has argued that in certain circumstances metals in the tank may enter water in the taps. The committee notes it is important to gain a state-wide understanding of current lead levels in water tanks.
- 2.102** On the other hand, the committee notes the two reports published by the EPA on 8 November 2023 following investigations into metals and sediments in domestic tank water around the Cadia Mine, which were endorsed by the EPA's independent expert panel. The reports contained key observations including that test results were typical for Australian rainwater tanks; and that no statistically significant relationship was found between concentrations of metals and distance or direction from the mine.
- 2.103** The committee welcomes and notes news that the EPA has put forward a proposal for further isotope testing to help identify where lead found in some of the sediment samples taken has come from, and that the expert panel has had input into this process.
-

Finding 5

That water metal level testing conducted by the Environment Protection Authority concludes drinking water near the Cadia mine is within the National Safe Water Guidelines.

Finding 6

That there may be a concern for the quality of water within tanks throughout the state.

- 2.104** The committee also notes that soil testing conducted by the EPA met national standards and matched the results of soil testing done pre-mine and makes the following further finding.
-

Finding 7

That recent soil testing conducted by the EPA drew the same results as soil testing conducted prior to Cadia's construction.

- 2.105** With regard to the air monitoring that the EPA is undertaking around the perimeter of Cadia Mine, the committee is pleased that this is publicly available real-time monitoring. The committee notes that the EPA plans to move to real-time publicly available air monitoring around various mining precincts more generally.
-

- 2.106** Accordingly, the committee recommends that the Government consider amending the *Protection of the Environment Operations Act 1997* to require publicly accessible air quality monitoring at all mining operations in NSW, using best available technology as determined by the EPA. This condition should be additional to any planning approval conditions.

Recommendation 3

That the Government consider amending the *Protection of the Environment Operations Act 1997* to require publicly accessible air quality monitoring at all mining operations in New South Wales, using best available technology as determined by the Environment Protection Authority. This condition should be additional to any planning approval conditions.

- 2.107** On the subject of action now being taken by NSW Health to respond to residents' concerns about heavy metal levels in their blood and hair, the committee is pleased to see that following interactions with the EPA, NSW Health is conducting a 'deep dive' to collect in-depth information from willing residents surrounding the Cadia Mine. The deep dive is the mechanism by which exposure pathways can be understood and is a necessary first step to understanding whether further testing is required, and for which substances officials should be testing.
- 2.108** Accordingly, the committee recommends that the Minister for Health use the results of the upcoming 'deep dive' on the hair and blood of willing residents currently being conducted with residents surrounding Cadia Mine to inform any consideration of a need for larger, wide-scale testing and related public health responses.

Recommendation 4

That the Minister for Health use the results of the upcoming 'deep dive' on the hair and blood of willing residents currently being conducted with residents surrounding the Cadia Mine to inform any consideration of a need for larger, wide-scale testing and related public health responses.

Recommendation 5

That the Government run a statewide education campaign on care and maintenance of rainwater tanks and safe use of water.

Regulatory change that is needed arising from the Cadia Mine case

- 2.109** As above, the committee accepts evidence that the regulatory framework under which the EPA operates is powerful and there are many strong tools to respond to pollution incidents. However, as noted, it may be worth investigating publicly available, real-time monitoring of air quality around mines.
- 2.110** Accordingly, the committee is of the view that the Minister for Climate Change should instruct the EPA to institute a review of the clean air regulations made under the *Protection of the*

Environment Operations Act 1997. This review should consider a range of issues and should include an examination of whether licence conditions are best placed for individual mine limits or cumulative mine limits.

- 2.111** Prior to the development of a mine there should be a requirement for a baseline reading to be taken of heavy metals and contaminants including in surrounding water tanks, creeks, farm dams and in groundwater, as part of the environmental assessment process. Such baseline testing would be invaluable in assessing the source of heavy metal exceedances in Cadia Valley area tank water today.
-

Recommendation 6

That the Minister for Climate Change instruct the Environment Protection Authority to institute a review of the clean air regulations made under the *Protection of the Environment Operations Act 1997*. This review should consider a range of issues and should include an examination of whether licence conditions are best placed for individual mine limits or cumulative mine limits.

Recommendation 7

That the Government amend the *Environmental Planning and Assessment Act 1979* and associated regulations as required to mandate that any environmental impact assessment for the proposed development of a mine include baseline data of heavy metals in water tanks, creeks, farm dams and groundwater surrounding the proposed mine.

Concerns about water usage by Cadia Mine

- 2.112** In addition to the concerns about Cadia that have been discussed throughout this chapter, concerns about the mine's use of water were also raised.
- 2.113** Mr Ian Pearce owns a horticultural business located in the north of Orange that grows apples and cherries. His business relies on adequate water for irrigation and a large portion of this is accessed through water licences Mr Pearce holds to extract water from the Summer Hill Creek.²²⁶ Mr Pearce also indicated that the neighbouring orchard to his property sources water from the creek through an irrigation licence.²²⁷
- 2.114** Mr Pearce advised that prior to 1998 there was complete water security for his business. However, since then treated effluent water that was being discharged back into the creek is now being transferred to the Cadia Mine for use in its operations. Mr Pearce advised that this has had a substantial impact to flows on Summer Hill Creek – the removal of approximately eight to 10 megalitres of water per day on average – and to his business. Under the terms of his water licence he cannot extract water when there are no visible flows in the creek for example, during the 2019-20 summer. The situation has impacted production and risk profiles for Mr Pearce's

²²⁶ Evidence, Mr Ian Pearce, Director PFT Agriculture, 3 October 2023, p 30.

²²⁷ Submission 109, Mr Ian Pearce, p 2.

business. Under questioning Mr Pearce confirmed that though it is effluent, the water being transferred to Cadia Mine could be used on his crops without further treatment.²²⁸

2.115 In its submission to the inquiry, the Orange and Region Water Security Association stated that it considered Cadia Mine to be 'the major disruptor of the local water balance' and that since Cadia Mine started taking treated water from the Orange Sewer Treatment Plant in 1998, it now takes 9 megalitres per day or up to 3,300 megalitres per year on average. The Association urged the inquiry to examine the arrangement between Orange City Council and Cadia Mine so that a more 'appropriate and sustainable arrangement' could be instigated.²²⁹

2.116 Similarly, Summer Hill Creekgcare, a Landcare group which aims to improve the health of the Summer Hill Creek catchment, noted this water loss in its submission:

the decision to supply Cadia resulted in that 10 to 13 ML per day supply being removed from the Summer Hill Creek (and Macquarie Bogan) catchment altogether and instead being transferred to the Belubula (Lachlan) Catchment. We believe this is an unprecedented water loss from one catchment to another in all NSW Water Sharing Plans and the effect has been ignored for the 25 years that it has been happening.²³⁰

2.117 Mr David Waddell, Chief Executive Officer, Orange City Council, was asked for information about agreements that Council has in place for the transfer of the treated effluent water to Cadia Mine. Mr Waddell explained that such an agreement had been made because of the load-based water licensing system that had existed back when the agreement was struck:

It goes back 20 years. Back in those days you paid to pollute...the creek. It was called load-based licensing. Orange City Council at the time was paying to put it into the local creek. It was considered at the time a much better deal, if Cadia was willing to build the pipe and the pump stations, to just let it go to them for free.²³¹

2.118 Mr Waddell advised that although load-based licensing is no longer in effect the agreement continues because it is for the life of the mine. He further stated that during the last drought that Orange had experienced the mine gave back some of the water to help with environmental flows but that 'in a savage drought, when push came to shove, it would be interesting'. He also stated that currently, if Council could keep the water, it could probably even be recycled for drinking.²³²

Committee comment

2.119 The committee notes community concerns around water usage of mines, and that the ongoing usage of water should be considered by relevant regulatory agencies both during and after the approval process.

²²⁸ Evidence, Mr Pearce, 3 October 2023, p 30.

²²⁹ Submission 90, Orange and Region Water Security Association, p 1.

²³⁰ Submission 65, Summer Hill Creekgcare Inc, p 1.

²³¹ Evidence, Mr Waddell, 3 October 2023, p 16.

²³² Evidence, Mr Waddell, 3 October 2023, p 16.

Workplace health and safety and Cadia Mine

2.120 There are a number of arrangements in place at Cadia Mine to protect the health and safety of workers. Mr Dewar stated that, being a large-scale and intensive mining operation, Cadia Mine has an intensive workplace hygiene program that covers exposure to metals and dust. He indicated that the gold processing area is a particular area of focus:

In that gold room, you do get a presentation of small amounts of things like lead pulling through, lead being two-thirds the density of gold. So for about a decade we've been actually taking blood samples from the workers in that gold room.²³³

2.121 Mr Dewar also advised that regular testing of dust takes place in areas of the mine where you would expect a heavy metal like lead to concentrate and there had never been an exceedance. Further, when working underground in certain areas, Cadia Mine requires workers to be clean-shaven so that they can wear a P2 respirator or a full-face dust mask.²³⁴

2.122 In other areas the mine has been able to engineer out the dust exposure and cabins on loaders are pressurised and maintained using smoke tests to make sure that the air conditioning systems keep dust out of the cabins. Mr Dewar also said that in certain areas on the conveying system, operators have dust-sealed cabins. He summarised the situation as follows:

So you have a combination of engineer controls where people can work in an environment that's sensibly dust-proof underground. In others, where they're exposed and they're working in headings and things like that, we rely on filtration for diesel particulate on the machines themselves, mine vent, and also respirators and facial protection.²³⁵

2.123 The Australian Workers Union (AWU) has coverage of workers in the metalliferous mining industry in New South Wales along with the Mining and Energy Union and these unions are in alliance.²³⁶ Mr Jack Ayoub, Organiser, Australian Workers' Union, NSW Branch indicated that approximately 100 of the workers at Cadia Mine are AWU members and that he did not know how many others may be members of the Mining and Energy Union.²³⁷

2.124 Mr Ayoub commented that workers can play an important role in ensuring that mining operations are doing the right thing not only for workers but the community more broadly. He stated that 'check inspectors' in coal mines were a good example of how this can be done, and suggested that such a model would be a positive change for metalliferous mining workplaces:

...in the coal space they have what are called check inspectors or checkies. These are workers who are nominated by the relevant trade union – the Mining and Energy Union, in that case. Under the legislated provisions, they have very significant powers equivalent to that of an inspector. If they were to come across an activity that was emitting an extreme amount of dust, they have legislative authority to say, "Turn it off.

²³³ Evidence, Mr Dewar, 18 September 2023, p 12.

²³⁴ Evidence, Mr Dewar, 18 September 2023, p 15.

²³⁵ Evidence, Mr Dewar, 18 September 2023, p 15.

²³⁶ Evidence, Mr Jack Ayoub, Organiser, Australian Workers' Union, NSW Branch, 4 October 2023, p 2.

²³⁷ Evidence, Mr Ayoub, 4 October 2023, p 5.

Stop it. We are pulling up", until such time as appropriate protections are in place. We do not have that power within the metalliferous mining space.²³⁸

2.125 The functions of industry safety and health representatives (ISHRs), traditionally known as check inspectors or 'checkies' in coal mines are set down in Part 5, Division 2 of the *Work Health and Safety (Mines and Petroleum Sites) Act 2013* (WHS (MPS) Act). The Mining and Energy Union has summarised them as follows:

[The functions] include inspecting mines to assess risk levels; reviewing procedures to control risks; detecting unsafe practices and taking action to address them; participating in investigations into serious accidents and high potential incidents and investigating complaints from coal mine workers regarding safety or health.

ISHRs have the power to make enquiries about the operation of coal mines, enter any part of a coal mine, examine and copy relevant documents and importantly to issue a directive to suspend operations if risk levels are considered unacceptable.²³⁹

2.126 The ISHRs must be nominated by the relevant union and coal mine operators are legally obliged to inform ISHRs about accidents and high potential incidents.²⁴⁰

2.127 The Resources Regulator a division of Mining Exploration and Geoscience within the Department of Regional NSW is the regulator for work health and safety at mines pursuant to the WHS(MPS) Act and the *Work Health and Safety (Mines and Petroleum Sites) Regulation 2022* (WHS (MPS) Regulation). The Government advised that the WHS (MPS) regulatory framework builds on the generic *Work Health and Safety Act 2011* (WHS Act) to deal with the particular hazards and risks of the mining industry.²⁴¹

2.128 The Resources Regulator has a number of compliance and enforcement tools at its disposal to deal with work health and safety matters. These include:

- inspections and audits
- advisory and warning letters
- cautions for low-level non-compliances
- penalty notices for less serious breaches of the legislation
- statutory notices and directions issued under WHS legislation to direct a party to do or not to do something, including stop work orders
- enforceable undertakings
- prosecutions for serious, ongoing or repeated breaches of legislation.²⁴²

²³⁸ Evidence, Mr Ayoub, 4 October 2023, p 2.

²³⁹ Mining and Energy Union, *Checkies give workers a strong voice on safety* (27 July 2023), Mining and Energy Union website, <https://meu.org.au/checkies-give-workers-a-strong-voice-on-safety/>.

²⁴⁰ See Mining and Energy Union, *Checkies give workers a strong voice on safety* (27 July 2023), Mining and Energy Union website, <https://meu.org.au/checkies-give-workers-a-strong-voice-on-safety/>; and *Workplace Health and Safety (Mines and Petroleum Sites) Act 2013* s 28(2).

²⁴¹ Submission 106, NSW Government, p 19.

²⁴² Submission 106, NSW Government, pp 10-11.

- 2.129** As the WHS (MPS) framework seeks to build on the WHS Act to address the particular risks and hazards of the mining industry, this framework allows for stop work orders and improvement and prohibition notices to be issued in a wider range of circumstances than the WHS Act alone.²⁴³
- 2.130** Mr Ayoub stated that there is a need to enhance the capabilities, capacities and resourcing of the workplace regulator. He emphasised resourcing and stated 'Many of these mines are in remote and regional areas...there is an element of resourcing in terms of inspectors being able to travel and travel regularly'.²⁴⁴ In answers to questions on notice Mr Ayoub also noted that SafeWork (SafeWork NSW) was investigating Cadia Mine after a mine worker was seriously injured whilst changing components of a jumbo drill rig at Cadia East Underground Mine on 19 June 2023.²⁴⁵ The reference to SafeWork appears to be an oversight and the Resources Regulator has confirmed it is the regulator that is investigating in this case.²⁴⁶
- 2.131** In response to questions put to him, Mr Ayoub said that the AWU had about 100 members working at the Cadia mine, a figure of less than roughly 10 percent of the workforce. Mr Ayoub went further to state in relation to Cadia mine: 'We have put a lot of resources into trying to unionise that workplace—and particularly around safety. But the company has been very sophisticated at keeping us out, and some of our powers aren't sufficient to get in the door.'²⁴⁷
- 2.132** The Government advised that it has more than 150 inspectors and staff located close to mining areas in offices at Armidale, Broken Hill, Dubbo, Orange, Lithgow, Maitland and Wollongong, including a dedicated mine safety investigation unit for work health and safety.²⁴⁸ Mr Peter Day, Executive Director, NSW Resources Regulator also confirmed that the Resources Regulator has a proactive compliance program which includes audits and inspections and target assessment programs and stated that the Resources Regulator conducts significant amounts of compliance and enforcement activity in New South Wales:
- ...in the last financial year just completed, in the safety side we conducted over 1,700 proactive mine and petroleum site safety assessments. We received, assessed and responded to just over 2000 mine safety incident notifications. We took enforcement action in terms of accepting enforceable undertakings, finalising prosecutions, issuing three penalty notices and 18 official cautions. We issued 174 prohibition notices, requiring operators to immediately cease unsafe work practices as well as...889 notices, including notices to address safety compliance issues observed during our proactive campaign.²⁴⁹
- 2.133** Later, in answer to a question on notice regarding how many investigations are proactive versus reactive, the Resources Regulator advised that compared with the 1711 proactive site

²⁴³ Submission 106, NSW Government, p 19.

²⁴⁴ Evidence, Mr Ayoub, 4 October 2023, p 3.

²⁴⁵ Answers to questions on notice, Mr Jack Ayoub, Organiser, Australian Workers Union, NSW Branch, 23 October 2023, p 1.

²⁴⁶ Media release, Resources Regulator, 'Serious injury of a Jumbo offsider during drilling work' 4 July 2023.

²⁴⁷ Evidence, Mr Ayoub, 4 October 2023, p 5.

²⁴⁸ Submission 106, NSW Government, p 21.

²⁴⁹ Evidence, Mr Peter Day, Executive Director, NSW Resources Regulator, 27 October 2023, p 27.

assessments it had conducted in the 2022-2023 financial year, it had conducted 269 reactive site assessments over the same period.²⁵⁰

- 2.134** Mr Day also said that education is an important part of ensuring workplace health and safety compliance and that last year the Resources Regulator conducted 33 workshops with smaller mines and issued 34 safety alerts and information on the agency's investigations as well.²⁵¹ The Resources Regulator also has a 24/7 hotline to which workers can make notifications and Mr Day stated that if there were a critical incident at a mine site 'we would respond the minute we're aware of that from the point of view of investigating the safety breach'.²⁵²
- 2.135** In addition, Mr Day advised that the fatality rate in mining in New South Wales is very low compared to industries such as agriculture, transport and construction and that the metals industry has gone two years without a fatality. Mr Day stated that this 'is a major achievement in an industry that is regarded as [a] high-hazard, high-risk industry'.²⁵³

Committee comment

- 2.136** The committee is concerned at reports by the AWU that Cadia Mine has restricted its attempts to gain access to the workers at the mine.
- 2.137** The committee acknowledges the measures in place at Cadia Mine to protect workers from metals and dust, which are vital in such a hazardous working environment. Given evidence discussed throughout this chapter about dust emission events at the mine, the committee suggests that the Government consider expanding the role of industry safety health representatives (ISHRs) outlined in the *Workplace Health and Safety (Mines & Petroleum Sites) Act 2013* to metalliferous mine sites.
- 2.138** The committee notes evidence of low fatality rates in the metalliferous mining industry in New South Wales, further noting that any fatality is quite obviously one too many. The committee also notes that the Resources Regulator is conducting a range of proactive compliance and enforcement activity across the state, with 150 inspectors and staff located close to regionally-based mining operations. However, the committee is very concerned at evidence of a serious accident at Cadia Mine on 19 June 2023 and notes any such accident is an extremely grave circumstance for the workers, families and communities involved. Any action that can be taken to proactively avoid such occurrences in the future should be fully examined.
- 2.139** In this regard, the committee notes AWU evidence that the number of workplace inspectors available to service regional areas close to mines may still not be optimal. The committee is of the view that this matter should be considered further.

²⁵⁰ Answers to questions on notice, Resources Regulator, 10 November 2023, p 1.

²⁵¹ Evidence, Mr Day, 27 October 2023, p 27.

²⁵² Evidence, Mr Day, 27 October 2023, p 29.

²⁵³ Evidence, Mr Day, 27 October 2023, p 26.

Recommendation 8

That the Government consider expanding the role of industry safety and health representatives outlined in the *Workplace Health and Safety (Mines and Petroleum Sites) Act 2013* to metalliferous mine sites.

Recommendation 9

That the Government review the resourcing of the NSW Resources Regulator with a view to ensuring that there are enough staff, including workplace inspectors, to service regional areas where mining operations are taking place.

Chapter 3 Bowdens Silver Project and McPhillamys Gold Project

This chapter explores two recently approved mining projects in New South Wales: the Bowdens Silver Project near Mudgee and the McPhillamys Gold Project near Blayney. In particular, it explores community concerns arising from the assessment and approval of the projects. It also explores the responses of the relevant mining companies and regulators to the criticisms and makes recommendations to address concerns about the current procedures.

Background information concerning Bowdens Silver Project

- 3.1** Bowdens Silver Project is owned by Bowdens Silver Pty Ltd (Bowdens Silver), a wholly-owned subsidiary of Silver Mines Ltd, which is an Australian company listed on the Australian Securities Exchange.²⁵⁴ The project is located 26 kilometres east of Mudgee, New South Wales and Bowdens Silver advised that it is the largest undeveloped silver deposit in Australia.²⁵⁵
- 3.2** Bowdens Silver stated that 'The silver mine development with by-products of zinc and lead comprises an open-cut mine feeding a new processing plant with a conventional milling circuit and differential flotation to produce two concentrates that will be sold for smelting off-site'.²⁵⁶ Mr Anthony McClure, Managing Director, Bowdens Silver advised that the mine will initially produce approximately six million ounces of silver per year.²⁵⁷
- 3.3** In May 2020, Bowdens Silver submitted a development application and environmental impact statement (EIS) to the Department of Planning and Environment (DPE) in respect of the project. In March 2021, Bowdens Silver announced the submission of its mining lease application.²⁵⁸
- 3.4** In December 2022, DPE announced that it had assessed the project as being in the public interest subject to conditions of consent and that it had referred the project to the Independent Planning Commission (IPC) for final determination.²⁵⁹ This referral was made as there had been more than 50 unique public submissions objecting to the project.²⁶⁰ On 21 July 2022, the

²⁵⁴ Evidence, Mr Anthony McClure, Managing Director, Bowdens Silver Pty Ltd, 27 October 2023, p 2.

²⁵⁵ Submission 77, Bowdens Silver, p 1.

²⁵⁶ Submission 77, Bowdens Silver, p 1.

²⁵⁷ Evidence, Mr McClure, 27 October 2023, p 2.

²⁵⁸ Submission 77, Bowdens Silver, p 1.

²⁵⁹ Submission 77, Bowdens Silver, p 1; Media release, Bowdens Silver, 'Bowdens Silver Project Achieves Final Development Approval' 5 April 2023; and Mr Steve O'Donoghue, Director, Resource Assessments, Department of Planning and Environment, *Bowdens Silver Referral to IPC*, (22 December 2022), Independent Planning Commission website, <https://www.ipcn.nsw.gov.au/resources/pac/media/files/pac/projects/2022/12/bowdens-silver/referral-from-dpe/bowdens-silver-referral-to-ipc.pdf>.

²⁶⁰ Mr Steve O'Donoghue, Director, Resource Assessments, Department of Planning and Environment, *Bowdens Silver Referral to IPC*, (22 December 2022), Independent Planning Commission website, <https://www.ipcn.nsw.gov.au/resources/pac/media/files/pac/projects/2022/12/bowdens-silver/referral-from-dpe/bowdens-silver-referral-to-ipc.pdf>.

Minister for Planning, the Hon. Anthony Roberts MP, had also requested that the IPC hold a public hearing in relation to the project, prior to handing down its determination.²⁶¹ Then in April 2023, the IPC approved the project, subject to conditions of consent.²⁶²

3.5 Having outlined the expected initial silver production rate of Bowdens Silver Project, Mr McClure noted that silver will be important to the clean energy transition. In Australia, all states and territories have committed to meeting the target of net zero emissions by 2050.²⁶³ Consistent with evidence provided by the NSW Minerals Council, Mr McClure stated that silver is the best electrical conductor of all the metals and is commonly used in electronic goods including computers, televisions and vehicles including electric vehicles, and that it is important for solar power. Regarding solar power Mr McClure stated:

Last year approximately 10 per cent of world silver production was used in the production of photovoltaic cells for solar power. This is expected to double over the next few years. Approximately 85 per cent to 98 per cent of all current global silver reserves is predicted to be consumed by 2050 by solar power alone. That's in 26 years. Without silver, the world cannot decarbonise...The security...of silver and componentry is a major supply issue for the world going forward. I would suggest that these are key points as to why silver is classified in the New South Wales Critical Minerals and High-Tech Metals Strategy.²⁶⁴

3.6 It is noted that the New South Wales Critical Minerals and High-Tech Metals Priority List includes silver although lead and zinc, the other metals to be extracted at the Bowdens Silver Project, are not listed.²⁶⁵ It is noted that the New South Wales Critical Minerals and High-Tech Metals Strategy is currently under review.²⁶⁶

3.7 Mr McClure also stated that silver has striking antibacterial, antiviral and antifungal properties, is used in hospitals to sterilise medical equipment, and in biosciences and pharmaceuticals.²⁶⁷ In addition, Mr McClure indicated that the Bowdens mine would be very important for the local economy with coal mining closing down in coming years. He stated that the project will create 320 jobs during construction and 228 ongoing local jobs during operation and that many more jobs would be created in local services industries and small businesses. Mr McClure provided the following context:

²⁶¹ The Hon. Anthony Roberts MP, Minister for Planning, *Request to the Independent Planning Commission, Bowdens Silver Project* (21 July 2022), Independent Planning Commission website, <https://www.ipcn.nsw.gov.au/resources/pac/media/files/pac/projects/2022/12/bowdens-silver/referral-from-dpe/bowdens-silver-public-hearing-request.pdf>.

²⁶² Submission 77, Bowdens Silver, p 1; and Media release, Bowdens Silver, 'Bowdens Silver Project Achieves Final Development Approval' 5 April 2023.

²⁶³ See ClimateWorks Australia, *State and Territory Climate Action: Leading Policies and Programs in Australia* (October 2021) p 6.

²⁶⁴ Evidence, Mr McClure, 27 October 2023, p 2. See also Submission 75, NSW Minerals Council, p 9.

²⁶⁵ Mining Exploration and Geoscience, Department of Regional NSW, *Critical Minerals and High-Tech Metals Priority List*, NSW Government website, <https://www.nsw.gov.au/sites/default/files/2022-08>.

²⁶⁶ Media release, Hon Courtney Houssos MLC, Minister for Natural Resources, 'New critical minerals strategy to promote domestic manufacturing, investment and net zero opportunities' 8 September 2023.

²⁶⁷ Evidence, Mr McClure, 27 October 2023, p 2.

At present, coal accounts for 79 per cent of the region's export from the LGA. However, as we move forward to net-zero emissions and coalmining operations closing down, our community will lose an important source of economic activity...A number of local towns close to us are struggling. For example, Kandos, a town of 1,200 people 25 minutes from our site has been in socio-economic decline for many years after industries closed...The Government needs to consider what happens to towns like Mudgee post-coal. Silver mining provides an opportunity to diversify the local economy and ensure economic prosperity.²⁶⁸

Background information concerning McPhillamys Gold Project

3.8 McPhillamys Gold Project is owned by Regis Resources Ltd (Regis) and is located approximately 250 kilometres west of Sydney and 8 kilometres from Blayney, New South Wales. Regis advised that this project is one of Australia's larger undeveloped open-pit gold resources. Regis further stated that over the life of the mine – which it expects to be 15 years (two years construction, 10-11 years of operation and two to three years of rehabilitation) – 'an ore reserve of 60.8 million tonnes at 1.04g/t containing 2.02 million ounces of gold will be mined and processed'.²⁶⁹

3.9 Regis advised of the following key milestones in obtaining approval for the project.

- December 2018: Environmental Assessment Requirements were issued by DPE and a Community Consultative Committee was formed and has met quarterly since.
- August 2019: The EIS for the project provided responses to the Environmental Assessment Requirements.
- September 2020 – October 2022: A submissions report seeking to address issues raised in 671 stakeholder submissions to DPE during the EIS exhibition period was lodged, followed by three amendment reports that sought to respond to various issues.²⁷⁰
- November 2022: DPE announced that it had assessed the project as being in the public interest subject to strict conditions of consent and referred it to the IPC for final determination as DPE had received more than 50 unique public submissions objecting to the project.²⁷¹ By request dated 19 February 2020, received by the IPC on 11 March 2020, the Minister for Planning, the Hon Rob Stokes MP, had also previously requested that the IPC conduct a public hearing prior to making its determination about the project.²⁷²

²⁶⁸ Evidence, Mr McClure, 27 October 2023, p 2.

²⁶⁹ Submission 69, Regis Resources Ltd, p 2.

²⁷⁰ Submission 69, Regis Resources Ltd, p 3.

²⁷¹ Submission 69, Regis Resources Ltd, p 3; and Mr Steve O'Donoghue, Director, Resource Assessments, Department of Planning and Environment, *McPhillamys Gold Project Referral to IPC_Redacted*, (17 November 2022), Independent Planning Commission website, https://www.ipcn.nsw.gov.au/resources/pac/media/files/pac/projects/2022/11/mcphillamys-gold-project/referral-from-dpe/mcphillamys-gold-project--referral-to-ipc_redacted.pdf.

²⁷² The Hon. Rob Stokes MP, Minister for Planning, *Request to the Independent Planning Commission, McPhillamys Gold Project* (19 February 2020), Independent Planning Commission website, https://www.ipcn.nsw.gov.au/resources/pac/media/files/pac/projects/2022/11/mcphillamys-gold-project/referral-from-dpe/request-for-public-hearing_mcphillamys.pdf.

- March 2023: The IPC approved the project so that it could proceed to development subject to 162 conditions of consent.²⁷³

- 3.10** Mr Wayne Taylor, Project Delivery Director, McPhillamys Regis Resources also advised that the McPhillamys Gold Project will have significant benefits for the local community and the state. He commented that once in operation, the project is likely to support 260 full-time jobs, providing \$67 million per annum in employment-related income to the local community. Mr Taylor also said there would be benefits for local businesses supplying services, for the local council through rates, and via other community investment programs.²⁷⁴
- 3.11** Expanding on these points, Ms Danielle Wallace, Health, Safety and Environment Manager, Regis Resources stated that Regis will pay approximately \$56 million in state government royalties over the life of the McPhillamys project. Further, regarding environmental benefits, Regis will contribute to biodiversity improvements with a stewardship site and 'look to undertake a significant uplift of the Belubula River which is showing signs of exotic trees and damage from farming'.²⁷⁵
- 3.12** It is noted that the New South Wales Critical Minerals and High-Tech Metals Priority List does not include gold²⁷⁶ and it is not listed on the Australian Critical Minerals List.²⁷⁷ However, as noted in chapter 2, after coal, gold was the second most valuable goods export for New South Wales in 2021-22.²⁷⁸
- 3.13** As noted in chapter 1, the NSW Minerals Council advised that the primary demand for gold comes from jewellery and other decorative applications and that these uses generate approximately 50 per cent of overall global demand. Further, the NSW Minerals Council advised that approximately 40 per cent of demand for gold is for investment uses as gold is central to global financial markets. Finally, the NSW Minerals Council noted that technologies and medicines account for about 10 per cent of the demand for gold with 'gold's conductivity and corrosion resistance making it ideal for use in certain electronics applications'.²⁷⁹

Assessment process for the development of a mine and pre-approvals

- 3.14** As discussed in chapter 1, large-scale mineral ore extraction developments are State Significant Development (SSD) under the *Environmental Planning and Assessment Act 1979* (EP&A Act). The

²⁷³ Submission 69, Regis Resources Ltd, p 3.

²⁷⁴ Evidence, Mr Wayne Taylor, Project Delivery Director, McPhillamys, Regis Resources, 27 October 2023, p 10.

²⁷⁵ Evidence, Ms Danielle Wallace, Health, Safety and Environment Manager, Regis Resources, 27 October 2023, p 13.

²⁷⁶ Mining Exploration and Geoscience, Department of Regional NSW, *Critical Minerals and High-Tech Metals Priority List*, NSW Government website, <https://www.nsw.gov.au/sites/default/files/2022-08>.

²⁷⁷ Department of Industry, Science and Resources, *Australia's Critical Minerals List*, Department of Industry, Science and Resources website, <https://www.industry.gov.au/publications/australias-critical-minerals-list>.

²⁷⁸ Submission 76, Newcrest Mining Limited, p 5.

²⁷⁹ Submission 75, NSW Minerals Council, p 8.

Government advised that the SSD assessment process is an integrated, whole-of-government process which is coordinated by the Department of Planning and Environment (DPE). The process recognises that mining projects require consent under the EP&A Act and approvals under the following:

- *Mining Act 1992* (Mining Act)
- *Protection of the Environment Operations Act 1997* (POEO Act)
- *Water Act 1912*
- *Water Management Act 2000*
- *Work Health and Safety (Mines and Petroleum Sites) Act 2013* (WHS (MPS) Act)
- associated regulations.²⁸⁰

3.15 As also discussed in chapter 1, throughout the assessment process, DPE seeks advice from a range of government agencies and local councils and all advice is posted to the DPE website and made available to the applicant. This includes advice on the Secretary's Environmental Assessment Requirements (SEARs), the EIS, draft conditions of development consent, and responses to requests for additional information.²⁸¹

3.16 Mr Clay Preshaw, Executive Director, Energy, Resources and Industry Assessments, DPE referred to the SSD assessment process as involving a 'one-stop-shop' and provided the following detail about DPE's coordination role in what he indicated was an 'arduous' process:

...you come to the Department of Planning with an application, there are a range of laws and policies that will apply to a project – a mining project in particular – and the Department of Planning has a role in coordinating all of the advice about those various issues across government. It is quite an arduous process...[E]ach stage of your development application, we will be sending that stage out to all the agencies for comments around how the project would relate to the regulations and the laws around their particular areas.²⁸²

3.17 SSD applications and documents, including the relevant EIS, are publicly exhibited for a minimum of 28 days. Government agencies, local councils, special interest groups and members of the public can make submissions. Any government agency can also ask for additional information and/or studies from the applicant, and applicants must provide a response to submissions to address all matters raised.²⁸³

3.18 Mr Preshaw explained that this means all relevant government agencies are consulted at least four times during the assessment process and often more. He categorised the process into four main stages:

- the scoping stage, where DPE seeks advice on the SEARS
- the exhibition stage where DPE seeks advice on the EIS

²⁸⁰ Submission 106, NSW Government, p 2.

²⁸¹ Submission 106, NSW Government, p 3.

²⁸² Evidence, Mr Clay Preshaw, Executive Director, Energy, Resources and Industry Assessments, NSW Department of Planning and Environment, 27 October 2023, p 37.

²⁸³ Submission 106, NSW Government, p 3.

- the submissions report stage – where the applicant's response to submissions received on the SSD application and accompanying documents including the EIS are provided to agencies for advice
- the draft conditions of consent stage – where the DPE's draft conditions of consent are sent to agencies for advice if DPE is recommending an application be approved.²⁸⁴

3.19 As discussed in chapter 1, SSD projects need development consent from the Minister, or the Minister's delegate, or from the IPC. The Government advised that 'All SSD projects are determined on their merits, having regard to economic, environmental and social impacts and the principles of ecologically sustainable development'.²⁸⁵

3.20 The IPC's key role is to make decisions on large and contentious development applications.²⁸⁶ It is a standalone decision-making body that operates independently of DPE and other government departments. It is not subject to the direction or control of the Minister for Planning and Public Spaces except in regard to procedural matters.²⁸⁷ If an SSD application goes to the IPC for determination this can only happen after it has been publicly exhibited and assessed by DPE. An SSD application meeting one or more of the following criteria will go to the IPC for determination.

- There are 50 or more unique public objections to the SSD application.
- The applicant has made a reportable political donations disclosure.
- The local council has objected to the SSD application and has not withdrawn its objection following the exhibition of the application. Where the council has withdrawn its objection following exhibition, and the council's objection was the only reason for the matter to go to the IPC for determination, the SSD application will instead go to the Minister or the Minister's delegate for determination.²⁸⁸

3.21 As noted, both the Bowdens Silver Project and McPhillamys Gold Project applications went to the IPC for determination.²⁸⁹

3.22 When an SSD application comes to the IPC, DPE provides the IPC with a whole-of-government assessment report, which is published on both agencies' websites, along with any recommended conditions of consent.²⁹⁰

²⁸⁴ Evidence, Mr Preshaw, 27 October 2023, p 35. See also Submission 106, NSW Government, p 3.

²⁸⁵ Submission 106, NSW Government, p 3.

²⁸⁶ Independent Planning Commission website, <https://www.ipcn.nsw.gov.au/about-us/what-we-do>.

²⁸⁷ Independent Planning Commission website, <https://www.ipcn.nsw.gov.au/about-us/about-our-agency>.

²⁸⁸ Independent Planning Commission website, <https://www.ipcn.nsw.gov.au/about-us/our-role-in-the-nsw-planning-system>.

²⁸⁹ Submission 77, Bowdens Silver, p 1; and Submission 69, Regis Resources Ltd, p 3.

²⁹⁰ Independent Planning Commission website, <https://www.ipcn.nsw.gov.au/engage-with-us/our-processes>.

- 3.23** The Chair of the IPC will then appoint a panel of commissioners to consider the SSD application and make a determination.²⁹¹
- 3.24** The IPC then invites interested individuals and groups to make any submission they consider appropriate. However, the IPC is particularly assisted by submissions that are responsive to the DPE whole-of-government assessment report and recommended conditions of consent.²⁹² The IPC also has available to it all submissions previously made to DPE during its exhibition of the EIS.
- 3.25** After that, the IPC may decide to meet with various stakeholders, including an applicant or proponent, DPE, other government agencies, local councils, and community and interest groups to hear their views, seek additional information or to provide advice on a planning matter. Records of such meetings are kept in accordance with the IPC's transparency policy. The IPC often also requests additional information in writing from DPE or the applicant to help with its determinations. The IPC can also undertake a physical and/or virtual site inspection and/or locality tour to understand the physical attributes of the project site in question and its locality.²⁹³
- 3.26** A public meeting may then be held, providing an opportunity for the IPC to hear the community's views on the DPE assessment report for the SSD application. There is no statutory requirement for the IPC to hold a public meeting before determining an application. The considerations that will guide the IPC deciding whether to hold a public meeting are set out in its Public Meeting Guidelines and are discussed in chapter 1.²⁹⁴ If a public meeting is held, it does not affect people's merit appeal rights to the NSW Land and Environment Court concerning the IPC's determination of the application.²⁹⁵
- 3.27** However, a public *hearing* must be held by the IPC if it receives a formal request to do so from the Minister for Planning and Public Spaces.²⁹⁶ A public hearing occurred in respect of both the Bowdens Silver Project and the McPhillamys Gold Project applications.²⁹⁷

²⁹¹ Independent Planning Commission website, <https://www.ipcn.nsw.gov.au/engage-with-us/our-processes>.

²⁹² Independent Planning Commission website, <https://www.ipcn.nsw.gov.au/engage-with-us/our-processes>.

²⁹³ Independent Planning Commission website, <https://www.ipcn.nsw.gov.au/engage-with-us/our-processes>.

²⁹⁴ Independent Planning Commission website, <https://www.ipcn.nsw.gov.au/engage-with-us/our-processes>.

²⁹⁵ Independent Planning Commission, *Public Meeting Guidelines* (13 September 2023), Independent Planning Commission website, https://ipcn.nsw.gov.au/resources/pac/media/files/pac/general/2023-policy-and-guidelines-documents/public-meeting-guidelines_230913.pdf?la=en&hash=D3FC91D730C512FD0106301D9EEC4A5B, p 2.

²⁹⁶ Independent Planning Commission website, <https://www.ipcn.nsw.gov.au/engage-with-us/our-processes>.

²⁹⁷ Independent Planning Commission website, <https://www.ipcn.nsw.gov.au/cases/2022/12/bowdens-silver>; and <https://www.ipcn.nsw.gov.au/cases/2022/11/mcphillamys-gold-project>.

- 3.28** Anyone can submit an application to speak at a public hearing, which may run for several days. At the hearing, the developer and DPE will give their presentations and answer questions from the panel and/or counsel assisting on the issues. The panel will also hear presentations from the community and other stakeholders. The IPC also has powers to require certain people to attend and give evidence at the hearing.²⁹⁸
- 3.29** When the IPC holds a public hearing in relation to a development application for which it is the consent authority, this public hearing replaces the merits appeal process in the NSW Land and Environment Court.²⁹⁹
- 3.30** Where a public hearing has been held there are only limited appeal rights to the NSW Land and Environment Court, on narrower administrative law grounds. While the court cannot review the merits of the decision, it can conduct judicial review of the legality of the decision. Mr James Innes, Legal Director, IPC explained that some of the grounds for appeal include that there was a failure on the IPC's part to be procedurally fair, that the IPC failed to take into account a relevant consideration or that the IPC took into account an irrelevant consideration.³⁰⁰
- 3.31** In addition to the general community concerns about the assessment process for mining projects, the Belubula Headwaters Protection Group and the Mudgee Region Action Group called for changes to the law to allow merit-based appeals to be brought in the NSW Land and Environment Court following an IPC determination on an SSD application where a public hearing has occurred.³⁰¹
- 3.32** These concerns were shared by the Environmental Defenders Office which stated that 'discretionary removal of merit appeal rights via IPC public hearings has eroded confidence in the fairness of approval processes for resource projects. IPC public hearings are not a substitute for merit appeal rights for interested parties.³⁰² Similarly, the Wilderness Society submitted that 'Merits review, as a component of the right to justice, is critical for ensuring transparency in decision-making and accountability of decision-makers, which in turn deters corruption.³⁰³
- 3.33** Upon determining a state significant development (SSD) application, the IPC will issue any development consent or notice of refusal and publish this with a statement of reasons for decision on its website. The IPC website advises that the statement of reasons will include:
- the IPC's decision
 - date of the decision

²⁹⁸ Independent Planning Commission website, <https://www.ipcn.nsw.gov.au/engage-with-us/our-processes>.

²⁹⁹ Independent Planning Commission website, <https://www.ipcn.nsw.gov.au/engage-with-us/our-processes>.

³⁰⁰ Evidence, Mr James Innes, Legal Director, Independent Planning Commission, 27 October 2023, p 24. See also Land and Environment Court of NSW, *Reviewing a government decision*, Land and Environment Court of NSW website, <https://www.lec.nsw.gov.au/your-legal-problem-is-about--reviewing-a-government-decision>.

³⁰¹ Submission 72, Mudgee Region Action Group, p 3; and Evidence, Mr Dan Sutton, President, Belubula Headwaters Protection Group, 18 September 2023, p 26.

³⁰² Submission 88, Environmental Defenders Office, p 32.

³⁰³ Submission 85, The Wilderness Society, p 4.

- the reasons for the decision (having regard to any statutory requirements applying to the decision)
- how community views were taken into account.³⁰⁴

3.34 As discussed in chapter 1, if development consent is granted to an SSD it may be granted with conditions. DPE consults with other government agencies in drafting consent conditions. These consent conditions can include:

- limit conditions: specific requirements applicants must meet e.g. noise and air quality criteria, disturbance area or project life
- operating conditions: actions the applicant must take whilst undertaking the development
- environmental performance measures the applicant must meet during or after the operation e.g. measures around water, rehabilitation or subsidence-related impact
- requirements to undertake various monitoring regarding the development's environmental impacts e.g. monitoring programs regarding noise, blasting, air quality, surface water, groundwater, biodiversity and social impact
- requirements to undertake further investigation of matters raised during assessment of the project
- review and reporting conditions requiring the applicant to report any incidents or non-compliance with the development consent or to provide an annual review of the development reporting on progress of the development, reviewing monitoring data and reporting on compliance with the development consent.³⁰⁵

3.35 As is also discussed in chapter 1, if development consent is granted to an SSD project certain regulatory instruments necessary to carry out the project, such as environment protection licences and new mining leases, cannot be refused. These instruments must also be substantially consistent with the development consent.³⁰⁶

Timeline for the assessment of the Bowdens Silver Project by the Independent Planning Commission

3.36 The timeline for the IPC's assessment of the Bowdens Silver Project application was as follows:

- 22 December 2022:
 - application referred to the IPC for determination
 - speaker registrations for IPC public hearing regarding the application opened
 - submissions opened
- 30 January 2023: meeting between the IPC and DPE
- 2 February 2023:

³⁰⁴ Independent Planning Commission website, <https://www.ipcn.nsw.gov.au/engage-with-us/our-processes>.

³⁰⁵ Submission 106, NSW Government, p 12.

³⁰⁶ Submission 106, NSW Government, p 3.

- meeting between the IPC and the applicant, Bowdens Silver
- meeting between the IPC and Mid-Western Regional Council
- 8 February 2023: deadline for speaker registrations for IPC public hearing
- 14 February 2023: IPC site inspection of Bowdens Silver Project
- 15 February 2023: Public hearing, Day 1
- 16 February 2023: Public hearing, Day 2
- 17 February 2023: Public hearing, Day 3
- 24 February 2022: Submissions deadline
- 3 April 2023: IPC determination.³⁰⁷

Timeline for the assessment of the McPhillamys Gold Project by the Independent Planning Commission

3.37 The timeline for the IPC's assessment of the McPhillamys Gold Project application was as follows:

- 17 November 2022:
 - application referred to the IPC for determination
 - submissions opened
- 28 November 2022: site inspection
- 6 December 2022:
 - meeting between the IPC and applicant, Regis
 - meetings between the IPC and Bathurst Regional Council, Cabonne Shire Council, Blayney Shire Council and Lithgow City Council
 - meeting between the IPC and DPE
- 9 January 2023: speaker registrations for IPC public hearing regarding the application opened
- 30 January 2023: deadline for speaker registrations for IPC public hearing
- 1 February 2023: meeting with Associate Professor Mathew Crowther
- 6 February 2023:
 - public hearing day 1
 - site inspection part 2
- 7 February 2023:
 - meeting with Nyree Reynolds
 - public hearing day 2
- 15 February 2023: submissions deadline

³⁰⁷ Independent Planning Commission website,
<https://www.ipcn.nsw.gov.au/cases/2022/12/bowdens-silver>.

- 30 March 2023: IPC determination.³⁰⁸

Complaints about the framework for assessment and approval of mines in New South Wales – the Bowdens Silver Project

3.38 In approving the Bowdens Silver Project, the IPC stated:

After consideration of the material, the expert evidence before it, the absence of any outstanding concerns regarding health impacts from NSW Health or the NSW Environment Protection Authority that are unable to be managed, and the conditions imposed by the Commission, the Commission is satisfied that the Project can meet all relevant requirements for protecting human health and safety and that on balance, the Application is in the public interest.³⁰⁹

3.39 However, the Mudgee Region Action Group which is a volunteer-run group comprised of residents of the Lue, Mudgee, Rylstone and Kandos areas of New South Wales disagree with this approval.³¹⁰ Ms Susannah White, Angus seedstock producer and a member of the group, stated that approval for the project was granted 'despite serious concerns around health, environmental and economic impacts being raised by hundreds of community members and numerous independent experts including those engaged by the DPE itself'.³¹¹ It is understood Mudgee Region Action Group engaged in the assessment and approval process from the start and briefed a number of experts to review project documents.³¹²

3.40 In the circumstances, Ms White asserted that if the Government is to pursue its Critical Minerals and High-Tech Metals Strategy, there must be thorough analysis of what constitutes a critical mineral or high-tech metal 'and its importance needs to be weighed properly against the social, economic and environmental costs of extraction'.³¹³

3.41 In addition, Mudgee Region Action Group, and many other individuals and organisations that submitted to this inquiry, called for changes to the law to reinstate merit-based appeals to be brought in the NSW Land and Environment Court following an IPC determination on an SSD application where a public hearing has occurred.³¹⁴

³⁰⁸ Independent Planning Commission website, <https://www.ipcn.nsw.gov.au/cases/2022/11/mcphillamys-gold-project>.

³⁰⁹ Peter Duncan AM, Clare Sykes and Peter Cochrane, *Bowdens Silver SSD-5765 Statement of Reasons for Decision* (3 April 2023) Independent Planning Commission website, <https://www.ipcn.nsw.gov.au/resources/pac/meidafiles/pac/projects2022/12/bowdens-silver-determination/230403-bowdens-silverproject-ssd-5765-statement-of-reasons-for-decision-pdf>. p i.

³¹⁰ See Submission 72, Mudgee Region Action Group, p 4.

³¹¹ Evidence, Ms Susannah White, Angus seedstock producer, Mudgee Region Action Group, 18 September 2023, p 27.

³¹² Submission 88, Environmental Defenders Office, p 31.

³¹³ Evidence, Ms White, 18 September 2023, p 27.

³¹⁴ Submission 72, Mudgee Region Action Group, p 3; Submission 80, Mudgee District Environment Group, p 4; Submission 88, Environmental Defenders Office, p 32; Submission 85, The Wilderness Society, p 4; Submission 24, Central West Environment Council, p2. Submission 26, Mr Michael Boller, p 2.

Air quality and lead exposure

- 3.42** Chief amongst the concerns of the Mudgee Region Action Group and many residents of the region is that lead will be open-cut mined at the project site which is two kilometres from a village called Lue and the Lue Primary School.³¹⁵ According to the World Health Organisation there is no safe level of lead for humans.³¹⁶
- 3.43** Ms White stated that the mine would disturb 130,000 tonnes of lead on a water-constrained site and that 'The DPE itself acknowledged that dust would be a key pathway for lead to leave the site'.³¹⁷ Mr Jack White who is also an Angus seedstock producer³¹⁸ provided further context concerning this dust:
- We have major concerns that in dry times they may not wish to scale back operations and, instead of scaling back operations, they may not apply as much water onsite for, say, dust suppression, and then not only are we losing water but we are also likely to have a lot of dust coming over the village of Lue. It's an elevated site; it's only two kilometres from Lue. There are always strong westerly winds and north-westerly winds...³¹⁹
- 3.44** The Mudgee Region Action Group also noted that there is a significant risk in relying solely on modelling to predict the health and air quality impacts of the mine³²⁰ and one of the IPC's conditions of consent for the project is that a research and monitoring program, funded by Bowdens Silver, take place alongside blood level monitoring to 'determine the accuracy of predicted modelling and to inform and adjust mitigation measures to minimise impacts on human health'. The blood testing would be voluntary.³²¹
- 3.45** Dr Peter Bentivoglio, Emeritus Consultant Neurosurgeon, St Vincent's Hospital commented that the statement that there are no health impacts as a result of the Bowdens Silver Project 'would have to be seriously tested'.³²² Dr Bentivoglio agreed that exposure from the mine to lead would be mainly through dust.³²³ Under questioning he said he disagreed with IPC and Environment Protection Authority (EPA) assessments that there will not be a problem with lead escaping the site and commented 'I have never seen dust respond to any border in their whole life and I've watched dust clouds go from one side over many, many kilometres'.³²⁴

³¹⁵ Evidence, Ms White, 18 September 2023, p 27.

³¹⁶ Evidence, Dr Peter Bentivoglio, Emeritus Consultant Neurosurgeon, 4 October 2023, p 12.

³¹⁷ Evidence, Ms White, 18 September 2023, p 26.

³¹⁸ Evidence, Mr Jack White, local resident, 4 October 2023, p 25.

³¹⁹ Evidence, Mr White, 4 October 2023, p 25.

³²⁰ Submission 72, Mudgee Region Action Group, p 12.

³²¹ Peter Duncan AM, Clare Sykes and Peter Cochrane, *Bowdens Silver SSD-5765 Statement of Reasons for Decision* (3 April 2023) Independent Planning Commission website, <https://www.ipcn.nsw.gov.au/resources/pac/meidafiles/pac/projects2022/12/bowdens-silver-determination/230403-bowdens-silverproject-ssd-5765-statement-of-reasons-for-decision-pdf>. p 19.

³²² Evidence, Dr Bentivoglio, 4 October 2023, p 12.

³²³ Evidence, Dr Bentivoglio, 4 October 2023, p 12.

³²⁴ Evidence, Dr Bentivoglio, 4 October 2023, p 14.

3.46 Dr Bentivoglio advised that lead has a deleterious effect on the brain and causes cognitive impairment, even at low levels in the blood. He said it is particularly destructive for children, especially those under six years:

They don't have a reservoir to store it like adults do, which is predominantly – or 90 per cent – stored in the bone. Children don't have that much bone, so they can't store it, so it focuses in other areas in the brain. We know that chronic exposure to lead in children results in IQ level drops of 10 to 15 points.³²⁵

3.47 Dr Bentivoglio also indicated that chronic lead exposure has life-long consequences for the children involved because with significant IQ deficiencies they cannot reach their life goals:

I see so many young workers compensation people like this whose life is now resulting in heavy manual labour, which they have to do and their body doesn't hold up, which puts them on the scrap heap of employment for the rest of their life at age 35 to 40, which is a psychologically debilitating thing. You see families break up.³²⁶

3.48 Ms Jade Miskle, who has two young sons and lives less than 10 kilometres from the mine site, advised that there are at least 20 children who live within a 10 kilometre radius of the site and further children living in surrounding localities.³²⁷ She too questioned the modelling on these matters and noted lead level statistics for children who live around lead operations:

I have lived in this region my entire life...We know it's often hot and dry. It's not a matter of if there will be lead dust; it's a matter of when. Historically, communities near lead operations in Australia suffer from elevated lead blood levels, in children we know the statistics are shocking. In Port Pirie last year, 64 per cent of children under the age of five had abnormal levels of lead in their blood.³²⁸

3.49 Ms Miskle and Ms Maree O'Connell, another mother with a young daughter, who lives approximately 20 kilometres from the project site in Rylstone, spoke of the prospect of taking their children for routine blood testing to check for lead from the mine site as per the IPC's consent condition. Both agreed that this ongoing testing would be traumatising for their children.³²⁹

3.50 This accords with the evidence of Ms White who also has small children. She noted that this scenario places parents in a very difficult position, adding that the details of the blood testing regime required by the IPC's consent condition are very vague:

Who is doing the testing? How much does it cost? Who is in charge of the data? How frequently do they report? We don't have any of this detail. Even if we did, is it really a solution when the onus then falls on the parents of the children? Are you a good parent by subjecting your child to the routine trauma of blood testing? Can you imagine doing that to a one-year-old on a routine basis? Or, if you don't do it, are you a good parent

³²⁵ Evidence, Dr Bentivoglio, 4 October 2023, p 12.

³²⁶ Evidence, Dr Bentivoglio, 4 October 2023, p 14.

³²⁷ Evidence, Ms Jade Miskle, local resident, 4 October 2023, pp 17-18.

³²⁸ Evidence, Ms Miskle, 4 October 2023, p 17.

³²⁹ Evidence, Ms Miskle and Ms Maree O'Connell, local resident, 4 October 2023, p 20.

for protecting them from that trauma but risking that maybe they are being exposed to lead and you don't know about it?³³⁰

- 3.51** Ms O'Connell also said that even if parents were to implement a regime to manage lead in the home, there would be no way to control it upon leaving the house e.g. visiting friends.³³¹ Both Ms O'Connell and Ms Miskle agreed that they would be living in a constant state of fear under such a lead management regime.³³²
- 3.52** Dr David Parry-Okeden, a local veterinarian in the Mudgee region also tendered a map of major lead deposits in Australia as well as lead mines in operation.³³³ During questioning he emphasised that the map indicated that to date, regardless of where lead deposits lie in Australia, there are no operating lead mines anywhere near the east coast or highly populated areas. While noting that he is not a mining expert he agreed that the map indicated the proposed location of the Bowdens Silver project, which will produce lead, is quite extraordinary.³³⁴
- 3.53** Dr Parry-Okeden also noted that lead poisoning in animals is similar to that in humans, causing permanent damage to the brain. He said 'If they get a little bit, they'll live with problems; if they get more, they'll die of acute poisoning'.³³⁵ He said lead dust is the main concern because animals ingest it during the grooming process.³³⁶ In the mining context Dr Parry-Okeden also said there is nothing to stop wild animals drinking from tailings dams. He also referred to a study from Professor Mark Taylor that found that lead affects bees, impairing their memories.³³⁷

Water impacts

- 3.54** Ms White of the Mudgee Region Action Group stated that 'The project lacks crucial technical detail around water supply and prevention of acid mine drainage' and that expert evidence put before DPE and the IPC demonstrated that the project had inadequate water supply but approval was granted. Ms White added that 'The modelling used to try and demonstrate that they have adequate water supply was calibrated using flow rates from an entirely unrelated catchment'.³³⁸
- 3.55** The DPE assessment report also discussed the impact of the project on the local water supply, noting that while the mine is operating there will be 177 megalitres of water lost to local creeks. The report stated:

The project would also affect surface water flows directly by reducing the catchment size in areas where mine infrastructure is located. While the mine is operating rainfall and runoff from within an approximately 250 ha area of the Hawkins Creek catchment

³³⁰ Evidence, Ms White, 18 September 2023, p 29.

³³¹ Evidence, Ms O'Connell, 4 October 2023, p 20.

³³² Evidence, Ms O'Connell and Ms Miskle, 4 October 2023, p 21.

³³³ Tabled document, Dr David Parry-Okeden, *Map of Australian lead deposits (megatonnes)*, 4 October 2023, p 1.

³³⁴ Evidence, Dr David Parry-Okeden, local veterinarian, 4 October 2023, pp 32 and 33.

³³⁵ Evidence, Dr Parry-Okeden, 4 October 2023, p 32.

³³⁶ Evidence, Dr Parry-Okeden, 4 October 2023, p 31.

³³⁷ Evidence, Dr Parry-Okeden, 4 October 2023, p 32.

³³⁸ Evidence, Ms White, 18 September 2023, p 26.

and a 300 ha area of the Walkers Creek catchment would be intercepted by the water management system which would result in around 177ML/year less water on average reporting to the creeks.³³⁹

- 3.56** The project will require approximately 1,800 megalitres of water per year to operate.³⁴⁰ Local resident Mr White stated that the approval did not take into account the amount of water that farmers like him require, particularly in dry times.³⁴¹ There is a consent condition attached that the mine must scale back operations in dry times but he indicated this was a concern because it would probably fall to the community to monitor and it would be the community that first felt adverse impacts.³⁴² Mr White commented:

We observed in 2019 that we couldn't actually pump for irrigation purposes in that time with the existing way that the water uses in the creek upstream already exist. We have grave concerns that if you take [1,800] megalitres out of the catchment per year, it is not going to leave much for anybody else.³⁴³

- 3.57** The Bowdens Silver Project also has water quality implications, with Ms White expressing her concern that the project was approved notwithstanding a lack of detail regarding acid mine drainage.³⁴⁴

Potential concerns about the site's tailings storage facility

- 3.58** In addition to the above, concerns were raised that the project had been approved despite the possible failure and leakage of the site's tailings storage facility (TSF). Some witnesses claimed that the TSF had been approved to seep 1.6 ML per day of contaminated water into Lawson Creek.³⁴⁵
- 3.59** Mr White stated that the TSF is proposed over a mapped fault structure which has not been properly investigated and that if it is 'lined with plastic and clay layers, leakage from this dam is expected to occur'.³⁴⁶ Dr Parry-Okeden expressed similar concerns that the TSF would break in the floods that have been known to engulf the Mudgee area.³⁴⁷

³³⁹ Department of Planning and Environment, *Bowdens Silver Project State Significant Development Assessment SSD 5765* (December 2022), p 28.

³⁴⁰ Evidence, Mr McClure, 27 October 2023, p 2.

³⁴¹ Evidence, Mr White, 4 October 2023, p 25.

³⁴² Evidence, Mr White, 4 October 2023, p 23. See also Peter Duncan AM, Clare Sykes and Peter Cochrane, *Bowdens Silver SSD-5765 Statement of Reasons for Decision* (3 April 2023) Independent Planning Commission website, <https://www.ipcn.nsw.gov.au/resources/pac/meidafiles/pac/projects2022/12/bowdens-silver-determination/230403-bowdens-silverproject-ssd-5765-statement-of-reasons-for-decision-pdf> pp 25 and 32.

³⁴³ Evidence, Mr White, 4 October 2023, p 25.

³⁴⁴ Evidence, Ms White, 18 September 2023, p 26.

³⁴⁵ Submission 28, Healthy Rivers Dubbo, p 2.

³⁴⁶ Evidence, Mr White, 4 October 2023, p 23.

³⁴⁷ Evidence, Dr Parry-Okeden, 4 October 2023, p 30.

- 3.60** Healthy Rivers Dubbo expressed concerns about the TSF failing, particularly due to the increased risk of more severe flooding due to climate change. Healthy Rivers Dubbo stated ‘The irreversible pollution risk to the Cudgegong River, Burrendong dam, Wambuul-Macquarie River and the Ramsar listed Macquarie Marshes is unacceptable’.³⁴⁸

Biodiversity impacts

- 3.61** A concern raised was that the project had been approved, despite the impact on biodiversity, including state and federally listed threatened endangered ecologically communities, plants and animals. The project will entail the removal of 180 hectares of critically endangered box gum woodland, 139.5 hectares of core koala habitat and 182 hectares of regional honeyeater habitat.³⁴⁹
- 3.62** The DPE (2022) assessment of the project assumes that staged 'offsetting' measures will improve or maintain biodiversity values.³⁵⁰ However, it was noted by P & J Smith Ecological Consultants the Box-Gum Woodland, habitat for the critically endangered regent honeyeater, is 'one of the most threatened and most studied ecological communities in Australia' and that the 'relatively large remnant at Lue is highly significant'.³⁵¹
- 3.63** Concerns were also raised that the project would have an unacceptable impact on a local koala colony. Ms Shireen Baguley, Environmental Consultant, Mudgee Region Action Group, and a DPE-approved auditor of SSDs in New South Wales, stated that 'there is core koala habitat around that area that has been underplayed for an extended period by the proponent'.³⁵² Mr Michael Boller, a resident of Lue and point of contact for koala sightings in the area, provided a document listing nearly 30 koala sightings in the Mid-West Regional Council area from pre-2014 to September 2023, most of them in Lue.³⁵³
- 3.64** Ms Baguley also raised the topic of groundwater dependent ecosystems and said that there are some montane peatlands and swamps in the area of the project site. She stated that DPE and the IPC's assessments were flawed because they had not fully considered the species in this area prior to approval of the project.³⁵⁴

Aboriginal Heritage Impacts

- 3.65** Impacts of the mine on Aboriginal heritage was also raised as a concern by some witnesses. Ms Susannah White noted that of 52 surveyed Aboriginal artefacts in the area, 25 will be destroyed

³⁴⁸ Submission 28, Healthy Rivers Dubbo, p 2.

³⁴⁹ Evidence, Ms White, 18 September 2023, p 29; see also Evidence, Ms Shireen Baguley, Environmental Consultant, Mudgee Region Action Group, 18 September 2023, p 29.

³⁵⁰ Submission 6, P & J Smith Ecological Consultants, p 6.

³⁵¹ Submission 6, P & J Smith Ecological Consultants, p 7.

³⁵² Evidence, Ms Baguley, 18 September 2023, p 29.

³⁵³ Evidence, Mr Michael Boller, local resident, 4 October 2023, pp 25-26.

³⁵⁴ Evidence, Ms Baguley, 18 September 2023, p 29.

for the project³⁵⁵ while Ms Lucy White, local resident, noted that the Mudgee region has a 'rich cultural Wiradjuri heritage'.³⁵⁶

The local economy

- 3.66** Having regard to the various contamination concerns discussed above, many residents also raised concerns about the possible effects of the Bowdens Silver Project on the local economy in the Mudgee region. There was particular concern around the agriculture and tourism industries, which they said had been given scant regard in the approval process.
- 3.67** Mudgee Region Action Group stated that the DPE Assessment report for the mining project did not contain any meaningful exploration of the role that tourism, agriculture and the visitor economy play in the region and that it failed to assess the impact the project will have on these industries.³⁵⁷ Mudgee Region Action Group further contended that wine, nature and dining out are key activities for visitors to the area and that these activities rely on a reputation for a pristine natural environment.³⁵⁸ Ms Susannah White added that the Mudgee region was voted the top tourism town in Australia two years in a row in 2021 and 2022.³⁵⁹
- 3.68** Ms Lucy White, local resident and a tourism professional who has worked in the region for over 25 years, questioned Bowdens' claim that the mining project would be good for the local economy and create jobs. She said:
- The Mudgee region attracts 724,000 people annually. These people spend \$930,000 every day...Our own council's economic development strategy places the tourism industry as the third largest in the region and it actually supports 2,074 jobs. Why were these numbers ignored when the lead mine was approved?...How is it that 200 jobs are more important than 2,074?...Once a lead mine is in operation no amount of publicity campaigns can take back that perception that lead mines ruin industries and then ruin places...Why? They fear health concerns once confronted with a lead mine.³⁶⁰
- 3.69** This view is consistent with the evidence of Mrs Alison Broinowski, President of Business Mudgee who stated that Mudgee and its businesses are heavily invested in tourism, that employment from the Bowdens Silver Project would be negligible to the economy and that 'Mudgee is at risk of losing all this should there be any perception of contamination of water or air by heavy metals. Already there has been negative visitor sentiment identified with discussion around the Lue project'.³⁶¹
- 3.70** Ms Lucy White noted that wine, sheep, beef and grazing enterprises and olive groves are all central to the area's economy,³⁶² with wine and olive industry representatives indicating that they had major concerns with the mining project. Mr Michael Southan of the Australian Olive

³⁵⁵ Evidence, Ms White, 18 September 2023, p 29.

³⁵⁶ Evidence, Ms Lucy White, local resident, 4 October 2023, p 6.

³⁵⁷ Submission 72, Mudgee Region Action Group, p 10.

³⁵⁸ Submission 72, Mudgee Region Action Group, p 10.

³⁵⁹ Evidence, Ms White, 18 September 2023, p 32.

³⁶⁰ Evidence, Ms Lucy White, 4 October 2023, p 6.

³⁶¹ Evidence, Mrs Alison Broinowski, President Business Mudgee, 4 October 2023, p 41.

³⁶² Evidence, Ms Lucy White, 4 October 2023, p 6.

Association stated that Mudgee's local government area hosts about 44,000 olive trees and that he is concerned about lead entering the leaves of the trees through dust or via water uptake, which would cause damage to the crop and an inferior olive oil product.³⁶³

- 3.71** Mr David Lowe of the Mudgee Wine Association raised similar concerns, indicating that lead accumulation on grape vines could disrupt photosynthesis and affect the flavour of the wine.³⁶⁴ Mr Lowe, an organic farmer who currently employs 68 people and has been making wine for 47 years, said that 'any dust or any pollution that comes from air pollution is going to make [organic certification] more difficult'.³⁶⁵
- 3.72** Regarding the possible effect of the mining project on livestock enterprises, Dr Parry-Okeden mentioned the Livestock Production Assurance Program which is an on-farm assurance program underpinning market access for Australian red meat.³⁶⁶ Dr Parry-Okeden explained that before a primary producer can sell livestock, the primary producer must sign a National Vendor Declaration (NVD) to the effect that the livestock is disease-free and chemical free.³⁶⁷
- 3.73** In the circumstances, Angus seedstock producer Mr White indicated he is anxious about whether in the future, when he sells his livestock, he will be able to tick the box on the NVD form declaring that the livestock are chemical-free if he is living close to a mine that produces lead.³⁶⁸

Property values in the Mudgee region

- 3.74** Some residents raised concerns about the potential impact of the mine on local property prices. Mudgee Region Action Group stated that there are more than 150 properties in close proximity to the project site, 55 of which are homes in the Lue Village.³⁶⁹
- 3.75** During questioning, Ms Jade Miskle who, as noted earlier, lives 10 kilometres from the project site, agreed that her property would now be hard to sell. She said that many within her community are in a state of uncertainty about whether to stay or go and it is contributing to a significant mental health burden:

There are people who are considering "Do I leave now and hopefully be able to sell my property and leave before it becomes a risk, or am I jumping the gun as such?" Or "Am I leaving and then it doesn't proceed, and then I've left my home for absolutely no reason?"³⁷⁰

³⁶³ Evidence, Mr Michael Southan, Australian Olive Association, 4 October 2023, p 8.

³⁶⁴ Evidence, Mr David Lowe, Mudgee Wine Association, 4 October 2023, p 8.

³⁶⁵ Evidence, Mr Lowe, 4 October 2023, pp 6 and 9.

³⁶⁶ Integrity Systems Red Meat Customer Assurance, *Livestock Production Assurance*, Integrity Systems Red Meat Customer Assurance website, <https://integritysystems.com.au/on-farm-assurance/livestock-product-assurance>.

³⁶⁷ Evidence, Dr Parry-Okeden, 4 October 2023, p 33.

³⁶⁸ Evidence, Mr White, 4 October 2023, pp 23-24.

³⁶⁹ Submission 72, Mudgee Region Action Group, p11.

³⁷⁰ Evidence, Ms Miskle, 4 October 2023, p 20.

- 3.76** Similarly, Mr Michael Boller who lives approximately 2.5 kilometres from the project site³⁷¹ indicated that the circle of risk that has been drawn around the mine is arbitrary. While neighbours within a two kilometre radius have had their properties acquired, Mr Boller stated 'This company has consistently said that people outside two kilometres have nothing to worry about'.³⁷² When asked if he knew what Bowdens was basing the two kilometre radius on he stated he did not know. However, he noted that the Lue village and school is not far outside the two kilometre radius so there would be a lot more expense for the mining company if it had to buy out properties within that area too.³⁷³

Bowdens' response to concerns surrounding the Bowdens Silver Project

- 3.77** Mr McClure of Bowdens provided various responses to many of the concerns raised by residents of the Mudgee region regarding Bowdens Silver Project and related approval processes.

Air quality and lead exposure

- 3.78** With regard to air quality and lead exposure, Mr McClure stated that when operational, the mine will be a silver mine with very small by-products of zinc and lead. He stated 'There has been some talk out there that we are another Mount Isa or Broken Hill or whatever. It's nothing of the sort. We have very low levels of lead'.³⁷⁴
- 3.79** Bowdens Silver elaborated on this in its supplementary submission to the inquiry, stating that Bowdens classifies the project as a silver mine because around 70 per cent of its revenues will be from silver, 20 per cent from zinc and 10 per cent from lead. Bowdens said that incorrect commentary has considered the matter from the point of view of weight of the metal extract, which it said was not comparing like for like. Silver is a precious metal while lead and zinc are base metals and lead is a very heavy metal.³⁷⁵
- 3.80** Noting that lead is a very heavy metal Bowdens also stated that, even so, the mining operation, by weight, will produce more zinc than silver and lead combined. In the circumstances Bowdens contended it was curious that the Mudgee Region Action Group refers to the project as a lead mine. Finally, Bowdens stated that witnesses to the inquiry had 'presented incorrect numbers to the committee that considerably overstate the amount of lead that will be mined'.³⁷⁶
- 3.81** Mr McClure also noted that the mine will be a small to medium mine, processing approximately two million tonnes of ore per year compared to a large mine like Cadia Mine which might process 32 to 35 million tonnes per year. He commented 'Our dust generation is miniscule compared to other operations'.³⁷⁷

³⁷¹ Evidence, Mr Boller, 4 October 2023, p 24.

³⁷² Evidence, Mr Boller, 4 October 2023, p 27.

³⁷³ Evidence, Mr Boller, 4 October 2023, p 27.

³⁷⁴ Evidence, Mr McClure, 27 October 2023, p 6.

³⁷⁵ Submission 77A, Bowdens Silver, p 10.

³⁷⁶ Submission 77A, Bowdens Silver, p 10.

³⁷⁷ Evidence, Mr McClure, 27 October 2023, p 7.

- 3.82** Notwithstanding this, Mr McClure stated that the Bowdens mine will still have a typical dust mitigation program involving watering and blast patterns. He said that Bowdens will have more information on this as part of its dust mitigation management plan being developed during the balance of this year.³⁷⁸
- 3.83** Mr McClure also stated that there will be a comprehensive set of real-time dust monitoring devices surrounding the site and that Bowdens is currently working with consultants and the EPA on how the results might be provided live to the Government and the community.³⁷⁹
- 3.84** With regard to the consent condition surrounding blood testing, Mr McClure indicated that there are no fundamental health concerns around the mining development. Rather, he said that the testing is being provided to community members – along with water tank and soil testing – for their peace of mind and is voluntary:
- The testing...was our proposal. The reason for that idea was to allow for the community to understand that, indeed, there are no issues. Now if you look at the health impact assessment, if you look at the several peer reviews that have been done, and if you look at the work that has been done by NSW Health, the EPA and the DPE following the IPC you will see that there are fundamentally no health issues resulting from this mine development. However, for us to satisfy the community, we offered the opportunity of testing water tanks, testing people and testing the soils to satisfy the community that, indeed, that is the case.³⁸⁰
- 3.85** Mr McClure also stated that it is necessary for the community to understand what lead and metals might already be in their environment and Bowdens is designing and paying for baseline health studies now.³⁸¹ It is understood that this baseline testing will also involve testing of soil and tank water.³⁸²

Water impacts

- 3.86** Regarding the water impacts of the project, Mr McClure confirmed that the mining operation will need around 1,800 megalitres of water per year and that this amount has been secured. He further stated that it is expected that closer to 1,000-1,300 megalitres will actually be used each year, so Bowdens has secured excess water for the project.³⁸³ Mr McClure also stated that 'Consideration of all predicted water use has been fully assessed and presented in the application documents,³⁸⁴ that assessments were done taking into account severe drought conditions and that Bowdens will continue to monitor water requirements.³⁸⁵

³⁷⁸ Evidence Mr McClure, 27 October 2023, p 7.

³⁷⁹ Evidence, Mr McClure, 27 October 2023, p 6.

³⁸⁰ Evidence, Mr McClure, 27 October 2023, p 4.

³⁸¹ Evidence, Mr McClure, 27 October 2023, p 4.

³⁸² Submission 77A, Bowdens Silver, p 7.

³⁸³ Evidence, Mr McClure, 27 October 2023, pp 2-3.

³⁸⁴ Answers to questions on notice, Mr Anthony McClure, Managing Director, Bowdens Silver, 13 November 2023, p 2.

³⁸⁵ Evidence, Mr McClure, 27 October 2023, p 3.

3.87 Mr McClure did confirm that 177 megalitres of water will be lost to local creeks as a result of the project but indicated that this loss was considered acceptable by expert consultants and water authorities during the assessment process:

...the removal of this runoff and the impacts to downstream waterflows was considered acceptable and WRM Environment and Water's assessment conclusion that this represents a negligible impact was supported. The loss of 177ML/year from the catchment should be considered in the context of the estimated annual flow in Lawsons Creek of 7,136 ML/year in the vicinity of the Mine Site.³⁸⁶

3.88 Mr McClure also stated that the impacts to other users, such as farmers, had been comprehensively assessed in securing water for the project. He asserted that Bowdens 'did not want to take water away from agriculture and...did not want to take water away from environmental flows and we've achieved that'.³⁸⁷ In addition, during questioning, Mr McClure confirmed that while previously there had been a plan to pipe water from the Ulan coal mine for the Bowdens Silver Project, this plan was later abandoned as Bowdens had satisfied its water requirements onsite through further assessment of groundwater and 'an optimal process of recycling water onsite'.³⁸⁸

3.89 Regarding water licences for the site, Mr McClure stated that the project had proven that it has access to all the water required for its operations and that this will be through both licensing and taking advantage of the usual water rights of landholders under New South Wales law.³⁸⁹ In this regard he advised that Bowdens intends to build seven dams on the project site with exact locations still to be determined during the design process.³⁹⁰

3.90 Bowdens also stated that expert and departmental assessments had confirmed Bowdens' modelling around water was fit for purpose:

...our groundwater and surface water assessments, independent peer reviews on groundwater, surface water and acid mine drainage plus the DPE commissioned peer reviews on groundwater (x2), surface water and acid mine drainage all concluded that our modelling is fit for purpose and impacts to downstream users from a supply and health point of view are negligible. The rigorous scientific assessment outcomes are clear.³⁹¹

3.91 In addition, Bowdens stated that the development consent for the project requires Bowdens Silver to prepare and implement a water management plan to the satisfaction of the Secretary of DPE. It stated that this will need to include a:

- site water balance
- erosion and sediment control plan
- surface water management plan
- groundwater management plan
- waste rock emplacement design and verification plan and

³⁸⁶ Answers to questions on notice, Mr McClure, 13 November 2023, p 1.

³⁸⁷ Evidence, Mr McClure, 27 October 2023, p 3.

³⁸⁸ Evidence, Mr McClure, 27 October 2023, pp 4-5.

³⁸⁹ Answers to questions on notice, Mr McClure, 13 November 2023, pp 2-3.

³⁹⁰ Answers to questions on notice, Mr McClure, 13 November 2023, pp 3-4.

³⁹¹ Submission 77A, Bowdens Silver, p 6.

- TSF liner design and verification plan.

Each of these components will be regulated and monitored by the appropriate government agencies and the mine to ensure compliance.³⁹²

Tailings Storage Facility

- 3.92** Regarding the project site's TSF, Bowdens stated that the preliminary design of the TSF involved an estimate of 94.6 megalitres of seepage per year into the Lawson Creek. It also said that the EPA confirmed the proposed clay liner would meet permeability requirements.
- 3.93** However, Bowdens also stated that it had subsequently 'committed to apply a bituminous geomembrane to the entire TSF impoundment or to the extent of the decant pond depending on the outcome of detailed design work'. Should this occur, Bowdens advised that it had confirmed that seepage from the structure would be 16.2 megalitres per year. Bowdens also advised that any seepage would be further diluted by existing groundwater and would naturally degrade or react via physical or biochemical processes. This had not been considered in the groundwater quality assessments as part of the assessment process for the Bowdens Silver Project which had made their estimates at the time 'highly conservative'.³⁹³
- 3.94** Bowdens stated that detailed design work would further update outcomes regarding the TSF but that 'modelling of water quality risks has identified no adverse impact of TSF seepage to beneficial water users locally' and that groundwater monitoring would be targeted to the TSF to allow tracking and reporting of water quality outcomes.³⁹⁴

The local economy

- 3.95** With regard to concerns about the effect of the Bowdens Silver Project on the local economy, in its supplementary submission to the inquiry Bowdens reiterated the importance of coal mining to the local economy, discussed earlier in the chapter.³⁹⁵ Bowdens urged the Government to consider what will happen to a town like Mudgee post-coal with the move to net zero emissions by 2050. As an example, it highlighted the socio-economic disadvantage in the town of Kandos, also touched upon earlier in the chapter, following the closure of the local coal mine and cement works.³⁹⁶
- 3.96** Bowdens stated that the silver project would create local, high paying jobs – 228 during operations – and probably an additional 500 or more jobs in surrounding service and supply industries.³⁹⁷ Bowdens further stated that there is no evidence at all that the project will negatively impact tourism or wineries with the much larger coal industry having operated in the region for decades with no backlash from tourists. In addition, Bowdens commented 'Our Social Impact Assessment was thorough and examined by technical experts through

³⁹² Submission 77A, Bowdens Silver, p 6.

³⁹³ Submission 77A, Bowdens Silver, pp 6-7.

³⁹⁴ Submission 77A, Bowdens Silver, p 7.

³⁹⁵ Submission 77A, Bowdens Silver, pp 2-3.

³⁹⁶ Submission 77A, Bowdens Silver, pp 3-5.

³⁹⁷ Submission 77A, Bowdens Silver, p 5.

independent peer reviews. There is just no evidence that the Project will affect other industries in a negative manner'.³⁹⁸

Complaints about the framework for assessment and approval of mines in New South Wales – the McPhillamys Gold Project

3.97 In approving the McPhillamys Gold Project, the IPC stated:

After consideration of the material and taking into account the views of the community, the commission has determined that development consent should be granted for the Application, subject to conditions. The Commission finds that the Application is consistent with the objects of the *Environmental Planning and Assessment Act 1979* and would achieve an appropriate balance between relevant environmental, economic and social considerations. The Commission finds on balance the Application is in the public interest.³⁹⁹

3.98 However, the Environmental Defenders Office stated that this approval was granted despite a significant amount of expert evidence provided by the local action group, the Belubula Headwaters Protection Group about 'the significant and potentially devastating risks of the project to surface and groundwater resources on which the community (including agricultural enterprises) relies'.⁴⁰⁰

3.99 Mr Dan Sutton, President of the Belubula Headwaters Protection Group described the IPC process as 'an absolute waste of time'. He noted that despite the group putting forward over 100 proposals for modification of the consent conditions for the project, not one of them was adopted by the IPC:

The IPC's determination was a copy and paste of the DPE's consent conditions. We literally spent hundreds of hours of our lives...putting together these submissions...and the outcome was absolutely no different to what the DPE had put to the IPC anyway. In the IPC's determination and findings report, at no point did they reference back to any of the proposed conditions we had put forward in our group submission or any of the individual submissions or the expert reports that we engaged on our own dollar to back up the items that we were putting forward.⁴⁰¹

3.100 Similarly, Mrs Claire Bennett, Operations Manager, Goldfields Honey Group, told the committee 'the recent IPC hearing in February was a waste of our valuable time and taxpayers' money. It was obvious that the approval of this mine was already determined; not one recommendation was taken into account'.⁴⁰²

³⁹⁸ Submission 77A, Bowdens Silver, p 11.

³⁹⁹ Dr Peter Williams, Clare Sykes and Professor Neal Menzies, *McPhillamys Gold Project SSD-9505 Statement of Reasons for Decision* (30 March 2023), Independent Planning Commission website, <https://www.ipcn.nsw.gov.au/resources/pac/media/files/pac/projects/2022/11/mcphillamys-gold-project/determination/230330--mcphillamys-gold-project--statement-of-reasons-for-decision.pdf>, p i.

⁴⁰⁰ Submission 88, Environmental Defenders Office, p 31.

⁴⁰¹ Evidence, Mr Sutton, 18 September 2023, p 27.

⁴⁰² Evidence, Mrs Claire Bennett, Operations Manager, Goldfields Honey Group, 3 October 2023, p 2.

- 3.101** Mr Sutton's and Mrs Bennett's observations echo the evidence of the Environmental Defenders Office, which stated that there are concerns in the community about the quality and independence of the IPC's assessments and that 'there is no real avenue for evidence provided by the proponent to be tested as part of the public hearing before the IPC'.⁴⁰³ The Environmental Defenders Office commented that this contrasts with merits review in the NSW Land and Environment Court 'where the evidence of the proponent and the objector are tested forensically'.⁴⁰⁴

Potential risks to the Belubula River

- 3.102** Chief amongst the concerns raised by residents who live near the McPhillamys Gold Project is the risk that the project poses to the Belubula River. Ms Rebecca Price, Vice President of the Belubula Headwaters Protection Group indicated that the mine will be built at the headwaters of the Belubula River, with its TSF to be built in the river. Ms Price said the concern with this is twofold: possible contamination and also blockage of natural springs that feed the river, thereby affecting the river's health. Ms Price explained:

The river initially uses those springs to feed the river in times of dry when there is no rain. It has done that for millennia. We are very concerned with not only the potential pollution of the Belubula but the blocking of what is essentially the beginning of the Lachlan system at our end of the river. It will be permanently blocked and plugged with cement.⁴⁰⁵

- 3.103** Ms Price indicated that the TSF would be enormous – a 660 acre surface area with the tailings dam wall 1.2 kilometres across the river path. Ms Price said that as a grazier, she relies on the river and said the actions of the mine will 'permanently change, damage and block' it.⁴⁰⁶
- 3.104** Mr Sutton said that this aspect of the project should not have been approved and that the proponents had themselves conceded that if the TSF fails, its contents will flow into the Carcoar Dam and then the Lachlan River catchment. He reiterated that there were over 100 variations to the consent conditions put to the IPC but that Regis' provisions around the TSF were 'the cheapest, easiest option'.⁴⁰⁷
- 3.105** Ms Beverley Smiles, President of the Inland Rivers Network raised concerns regarding where Regis Resources was getting the water from within the wider catchment and the 'capped system' within the Murray-Darling Basin. She explained:

...the Government has decided to create a special licence. The issue is, under the cap—under the sustainable diversion limit—where is that water coming from? It'd be coming from groundwater sources and surface water sources. If they're not purchasing a licence

⁴⁰³ Submission 88, Environmental Defenders Office, p 31.

⁴⁰⁴ Submission 88, Environmental Defenders Office, p 31.

⁴⁰⁵ Evidence, Ms Rebecca Price, Vice President, Belubula Headwaters Protection Group, 18 September 2023, p 28.

⁴⁰⁶ Evidence, Ms Price, 18 September 2023, p 28.

⁴⁰⁷ Evidence, Mr Sutton, 18 September 2023, p 30.

off someone else, the only other share of water in that catchment currently belongs to the environment for the environmental health of those water sources.⁴⁰⁸

Aboriginal cultural heritage

- 3.106** Ms Lisa Paton and Mr Tony Newman, local residents, also submitted that Aboriginal cultural heritage had not been adequately considered in approving the McPhillamys Gold Project. Mr Newman stated that an initial cultural survey of the McPhillamys site by Orange Aboriginal Land Council had identified it as a culturally significant site.⁴⁰⁹ Ms Paton said there is a lot of Aboriginal cultural heritage there including songlines, ring trees, scar trees and artefacts.⁴¹⁰
- 3.107** Mr Newman further stated that after the land council had done the cultural survey, it opposed the project. The land council requested three times to return to the site but Regis did not respond to their requests. As a result, Mr Newman reported that the land council only had the chance to survey about 14 per cent of the site.⁴¹¹
- 3.108** Mr Newman said that following this, Regis commissioned another group, Heritage Consulting Australia, to conduct a separate cultural heritage survey on the site. An issue of particular significance appears to have been the potential existence of scar tree significant sites near the site's pit area. However, Heritage Consulting Australia came to the conclusion that none of the trees in question were culturally significant.⁴¹²
- 3.109** Mr Newman disputed the conclusion that Heritage Consulting Australia had come to, stating that he showed traditional owners in Bathurst photos of the trees. While the Elders stated that not every tree pictured was a scar tree, they said over 50 per cent of the trees were cultural trees.⁴¹³ Ms Paton and Mr Newman are now calling for an independent cultural heritage survey to be conducted over the site with Aboriginal archaeologists involved.⁴¹⁴
- 3.110** Ms Paton also spoke of the cultural significance of the Belubula River and said that the Elders strongly oppose the blocking of the springs by the TSF as detailed above:

... "Bila Bula" means "rivers two". Historically they knew that there were springs under the headwaters of the river, so in drier times that's where they would go. That's indicated by the amount of artefacts at the headwaters...The Elders say it's a gathering place...From the perspective of the river being the start of life, blocking the springs, from a cultural perspective, is quite an impact spiritually, and the Elders feel very strongly against that.⁴¹⁵

⁴⁰⁸ Evidence, Ms Beverley Smiles, President, Inland Rivers Network, 18 September 2023, p 3.

⁴⁰⁹ Evidence, Mr Tony Newman, local resident, 3 October 2023, p 9.

⁴¹⁰ Evidence, Ms Lisa Paton, local resident, 3 October 2023, p 9.

⁴¹¹ Evidence, Mr Newman, 3 October 2023, p 9.

⁴¹² Evidence, Mr Newman, 3 October 2023, p 10.

⁴¹³ Evidence, Mr Newman, 3 October 2023, p 10.

⁴¹⁴ Evidence, Ms Paton, 3 October 2023, p 11.

⁴¹⁵ Evidence, Ms Paton, 3 October 2023, p 10.

- 3.111** It was stated by Ms Paton and Mr Newman that the local Aboriginal Land Council position regarding the mine was 'neutral' prior to the IPC hearing, and that Ms Paton no longer worked for the local Aboriginal Land Council.⁴¹⁶

Potential impacts on agriculture

- 3.112** Ms Price, of the Belubula Headwaters Protection Group, who is also a grazier who lives downstream of the McPhillamys Gold Project, stated how much her business relies upon the health of the river and the natural springs at the headwaters of the river. She said:

...that what might look like stagnant and dry times is the river staying alive through the dribbling of these springs. We rely on it not only for our production—our flats where we fatten cattle are the most productive part of our production—but there's a plethora of environmental activity. As Dr Ian Wright said, there are platypus in this river, there are fish in this river.⁴¹⁷

- 3.113** Another concern raised regarding McPhillamys Gold Project was possible impacts on a neighbouring bee-keeping operation. Mrs Claire Bennett stated that her family operates the Goldfield Honey Group of companies, with their property located two kilometres from the border of the mine site.⁴¹⁸ Mrs Bennett stated that she did not think that her family's bee-keeping operation and the mine could co-exist, owing to concerns about dust from the mine and the bees drinking from the mine's tailings dam.⁴¹⁹ Mrs Bennett also said that the destruction of native woodlands is another factor that puts stress on bee keepers as does the destruction of topsoil because this also destroys any ground flora needed for pollen, nectar and breeding of bees.⁴²⁰

- 3.114** Mrs Bennett also advised that the impacts of mining on bee-keeping operations had consequences beyond the individual businesses involved, as bees play a major role in the nation's food security:

Honey aside, pollination of our food crops is the bigger factor here. One in every three mouthfuls of food depends on pollination via honey bees...Without healthy bees, we cannot pollinate our food crops. There will be a food shortage.⁴²¹

- 3.115** In answers to questions on notice, Mrs Bennett noted that offset land had been offered to Goldfields Honey Group for bee-keeping but she indicated it is not suitable. However, she also noted that one of the consent conditions for the McPhillamys Gold Project is for Regis to prepare an apiary monitoring management plan to the satisfaction of the Planning Secretary, in consultation with experts and local apiary operators to offset any adverse impacts on local honey bee productivity associated with the mine site. Mrs Bennett acknowledged that while this was

⁴¹⁶ Evidence, Ms Paton and Mr Newman, 3 October 2023, p 13.

⁴¹⁷ Evidence, Ms Price, 18 September 2023, p 28.

⁴¹⁸ Evidence, Mrs Bennett, 3 October 2023, pp 2-3.

⁴¹⁹ Evidence, Mrs Bennett, 3 October 2023, p 3.

⁴²⁰ Evidence, Mrs Bennett, 3 October 2023, p 2.

⁴²¹ Evidence, Mrs Bennett, 3 October 2023, p 3.

positive, finding experts may be difficult in practice, given the current impact of varroa mite on the industry.⁴²²

Regis' response to potential concerns surrounding McPhillamys Gold Project

- 3.116** Regis provided responses to potential concerns raised by residents regarding the McPhillamys Gold Project, with Mr Wayne Taylor, Project Delivery Director, McPhillamys Regis Resources acknowledging that there will be some impacts for some community members, particularly in the Kings Plains area.⁴²³

General concerns

- 3.117** Speaking about general visual and noise impacts for people who live close to the mining site, Mr Taylor noted that Regis has provided willing residents with visual barriers such as tree plantings.⁴²⁴ He and Ms Danielle Wallace, Health, Safety and Environment Manager, Regis Resources, also indicated that even though modelling has shown the mine will not be hitting trigger limits around noise or air quality, Regis has offered double glazing and air conditioning on some of the properties.⁴²⁵ According to Mr Taylor, this is assessed on a case-by-case basis and, in response to dust concerns, Regis has assisted some residents with first flush systems for their water tanks.⁴²⁶
- 3.118** Ms Wallace also indicated that Regis is proposing real-time monitoring for air quality and noise blasting⁴²⁷ and that Regis is still in the process of finalising its environmental management plans. This process will involve extensive consultation with the community, and Ms Wallace noted that to date, Regis has made various amendments to its project as a result of community consultation. For example, to reduce noise impacts to the Kings Plain community it has relocated its site access road which was identified as a significant concern.⁴²⁸

Potential risks to the Belubula River

- 3.119** Regarding risks to the Belubula River Mr Taylor confirmed that the TSF will be built in the upper reaches of the Belubula catchment area. However, he was adamant that the tailings dam wall will not fail, stating: 'Our dam is constructed to handle a one-in-10,000 year rainfall event, so I think it's a pretty high level of design criteria. It is the best in the world'.⁴²⁹

⁴²² Answers to questions on notice, Mrs Claire Bennett, Operations Manager, Goldfields Honey Group, 20 October 2023, pp 1-2.

⁴²³ Evidence, Mr Taylor, 27 October 2023, p 10.

⁴²⁴ Evidence, Mr Taylor, 27 October 2023, p 11.

⁴²⁵ Evidence, Mr Taylor and Ms Wallace, 27 October 2023, pp 11-12.

⁴²⁶ Evidence, Mr Taylor, 27 October 2023, p 11.

⁴²⁷ Evidence, Ms Wallace, 27 October 2023, p 14.

⁴²⁸ Evidence, Ms Wallace, 27 October 2023, pp 12-13.

⁴²⁹ Evidence, Mr Taylor, 27 October 2023, pp 16-17.

- 3.120** Regarding evidence that the TSF would block the natural springs in the river, Mr Taylor stated that any significant land development comes across issues such as this and that the springs had been studied closely. He advised that with the development of the site, no water will actually be taken out of the ground:

If we were to cover one of these wet areas, the water stays in the ground and it continues to move through the ground and it will come out at the next point of weakness which would be further – let's call it downstream, and effectively feed back into the Belubula anyway. We're not actually taking any water out of the system, and this is a common feature when you have to work over a large tract of land.⁴³⁰

Aboriginal cultural heritage

- 3.121** When asked if representatives of the Orange Aboriginal Land Council had been denied access to the McPhillamys site to conduct cultural surveys, Ms Wallace responded that that Regis has no record of any such access requests having been denied. Rather, Ms Wallace confirmed that Orange Aboriginal Land Council undertook an original field survey for the site and that, since then, representatives of the land council have attended the site on numerous occasions.⁴³¹
- 3.122** Ms Wallace explained that Regis is in the process of developing an Aboriginal cultural heritage plan and this will be done in consultation with all registered Aboriginal parties, as well as relevant government agencies.⁴³² In addition, Mr Taylor advised that the disturbance footprint for the McPhillamys site is 1,100 hectares⁴³³ and Ms Wallace stated the entire site has been assessed for Aboriginal cultural heritage:

When it comes to Aboriginal cultural heritage, we've had a number of archaeologists, anthropologists and, in some cases, a geoarchaeologist attend the site and conduct extensive field surveys with representatives of the Aboriginal community. That has covered the extent of the site. We have covered the entire disturbance footprint in the assessment for both the mine site and also the water supply pipeline aspect.⁴³⁴

- 3.123** When asked whether there needed to be a further cultural heritage impact assessment done given evidence that there were different conclusions between the first and second assessments, Ms Wallace responded that Regis had been questioned about this by DPE and Regis had provided a formal response:

In that response we articulated the reasons why some sites that were potentially identified historically were no longer shown, and the reason for that is that since that time we've had a number of experts assess previously identified sites. What we can confirm is that there are no known Aboriginal scar trees on the site.⁴³⁵

⁴³⁰ Evidence, Mr Taylor, 27 October 2023, p 16.

⁴³¹ Evidence, Ms Wallace, 27 October 2023, p 15.

⁴³² Evidence, Ms Wallace, 27 October 2023, p 15.

⁴³³ Evidence, Mr Taylor, 27 October 2023, p 15.

⁴³⁴ Evidence, Ms Wallace 27 October 2023, p 15.

⁴³⁵ Evidence, Ms Wallace, 27 October 2023, p 15.

Evidence from the Department of Planning and Environment

- 3.124** Mr Clay Preshaw, Executive Director, Energy, Resources and Industry Assessments, DPE, stated that mining projects are the most challenging part of the work done in his area of DPE – Resources and Industry Assessments – and 'There is never a project where land use conflicts don't exist'. Despite this, Mr Preshaw further stated that DPE is very confident in its processes and New South Wales has one of the strictest regimes around environmental impact assessments.⁴³⁶ He said that for every issue relevant to impacts on the community or the environment 'we leave no stone unturned' and that DPE delves into all issues that could potentially be of concern within a project.⁴³⁷
- 3.125** Mr Preshaw advised that most projects that are recommended for approval are not the same as what the applicant initially requested. The whole assessment process – from the scoping stage when a request is made for SEARS, to the point at which the IPC makes a determination – usually takes three years or more. Mr Preshaw stated that the project design changes that occur over that time are a result of the iterative nature of the assessment process – going back and forth between DPE and the applicant and requesting advice from all relevant agencies along the way. He commented, 'I probably can't think of a single mining project in New South Wales in my 15 years of experience that has gone through exactly as originally proposed to a determination in its favour'.⁴³⁸
- 3.126** Regarding expertise, Mr Preshaw stated that the assessment and approval process for mining projects relies on expertise across the government agencies involved but DPE is also willing to spend large sums to engage independent experts where necessary. He stated that in the Bowdens and McPhillamys cases, DPE engaged multiple independent experts and that 'it is not just our own expertise, it is not just the expertise of agencies; it is actually some of the world's best experts in many cases'.⁴³⁹ Mr Preshaw advised that in choosing the correct experts, DPE draws from previous projects, advice from other government agencies and also maintains an extremely strict conflict of interest policy for the engagement of these experts.⁴⁴⁰
- 3.127** Mr Preshaw was asked why DPE referred the Bowdens Silver Project application to the IPC on 22 December 2022 at a time when the Government was shortly to go into a Caretaker period prior to the 2023 New South Wales State Election. Regarding the dates in question:
- The Government went into Caretaker mode on 3 March 2023⁴⁴¹
 - The New South Wales State Election occurred on 25 March 2023⁴⁴²

⁴³⁶ Evidence, Mr Preshaw, 27 October 2023, p 35.

⁴³⁷ Evidence, Mr Preshaw, 27 October 2023, p 38.

⁴³⁸ Evidence, Mr Preshaw, 27 October 2023, p 39.

⁴³⁹ Evidence, Mr Preshaw, 27 October 2023, p 38.

⁴⁴⁰ Evidence, Mr Preshaw, 27 October 2023, p 39.

⁴⁴¹ Department of Premier and Cabinet, *M2022 11 Guidance Note: 'Caretaker' Conventions and other pre-election practices – 2023 General State Election*, 11 November 2022, p ii.

⁴⁴² NSW Electoral Commission, *2023 State Election*, NSW Electoral Commission website, <https://elections.nsw.gov.au/elections/state-elections/2023-nsw-state-election>.

- The Honourable Chris Minns MP was commissioned to form Government on 28 March 2023, thereby ending the Caretaker period⁴⁴³
- As noted earlier, the IPC determination regarding the Bowdens project was made on 3 April 2023.⁴⁴⁴

3.128 Mr Preshaw was asked, having regard to the significant public interest in the project, why putting it to the IPC was not delayed and whether DPE had received any directions around that timing. Mr Preshaw stated in reply that there were no external directions and DPE's referrals of the Bowdens and McPhillamys applications to the IPC simply came at the end of a very long process:

...our assessment of these types of projects comes to an end usually after many, many years – in this case these projects were known about in the community for really a decade or more – we become quite aware of the tension between doing an extremely comprehensive process but also giving the community some certainty that it is drawing to a close...But in terms of the actual timing [of the referral to the IPC] that was just the point at which we finally came to a conclusion on our assessments.⁴⁴⁵

3.129 Mr Preshaw was also asked about concerns from residents in the Mudgee region that water quality was not sufficiently assessed as part of the Bowdens Silver Project, and in particular that issues raised by DPE's independent expert Earth Systems had not been addressed. In response Mr Preshaw stated that in DPE's view, they were thoroughly and comprehensively assessed and that DPE had relied on a number of experts, both independent and within Government. He also said that it was not unusual for further information to be required:

...it's not unusual in the case of groundwater and surface water issues for further information to be required after the EIS is exhibited because these matters are highly technical. It's not a binary question of "Has water quality been addressed or not?" it often becomes a question of "How well has water quality been addressed?"⁴⁴⁶

3.130 In addition, he stated that outstanding technical issues such as how water monitoring will be undertaken can be dealt with in the detailed management plans that must be drawn up as part of the development consent for projects.⁴⁴⁷

3.131 Finally, Mr Preshaw mentioned that in setting limits or performance standards for how a project can operate New South Wales has a policy, or in some cases legislation, for nearly every issue and that when working through assessment reports 'whether it is air quality, noise, water, heritage, Aboriginal cultural heritage...there will be a very clear policy that tells you what the limit should be for a particular type of project'.⁴⁴⁸

⁴⁴³ *NSW Government Gazette*, No 142, 28 March 2023, p 1; see also Department of Premier and Cabinet, *M2022 11 Guidance Note: 'Caretaker' Conventions and other pre-election practices – 2023 General State Election*, 11 November 2022, p ii.

⁴⁴⁴ Independent Planning Commission website, <https://www.ipcn.nsw.gov.au/cases/2022/12/bowdens-silver>.

⁴⁴⁵ Evidence, Mr Preshaw, 27 October 2023, pp 35-36.

⁴⁴⁶ Evidence, Mr Preshaw, 27 October 2023, p 36.

⁴⁴⁷ Evidence, Mr Preshaw, 27 October 2023, p 37, see also p 40.

⁴⁴⁸ Evidence, Mr Preshaw, 27 October 2023, p 40.

Evidence from the Independent Planning Commission

- 3.132** Witnesses from the IPC also provided evidence relevant to complaints about the assessment and approval process for mining projects in New South Wales, and complaints that the current framework is not fit for purpose.
- 3.133** Regarding the way in which the IPC operates generally, Professor Mary O'Kane, Chair of the IPC stated that in 2019 there was a review of the IPC by the State Productivity Commissioner, Mr Peter Achterstraat. She indicated that a key element of this review was efficiency within the IPC and that the Government accepted all of the review's recommendations. As a result, the IPC must now make its determinations within certain time limits and Professor O'Kane stated that 'the overall process in terms of speed and quality of decision' has improved.⁴⁴⁹
- 3.134** Professor O'Kane also stated that since becoming Chair of the IPC in February 2018, she has implemented a move to a very high transparency model with a focus on community consultation:
- ...every meeting is transcribed and...on site visits, we invite the community to come. We can't have everybody who wants to come because the applicant can't accommodate it but we do invite representatives of community groups. We've tried to be very transparent, very open and very rigorous in noting...checking what is done in the assessment report and talking to people, making sure we have a very good consultation process, giving people plenty of time to get their submissions in and to talk within that very tight timeframe.⁴⁵⁰
- 3.135** On transparency, Mr James Innes, Legal Director, IPC, stated that – with some very limited exceptions – everything that the IPC panel considers in making its determinations, for example submissions and expert reports commissioned by agencies or by the IPC itself, is made publicly available on the IPC's website.⁴⁵¹
- 3.136** Professor O'Kane also provided an insight into the IPC's decision-making processes stating that commissioners must be comprehensive and act in line with relevant legislation and regulations. DPE's assessment report on the project in question will particularly guide the matters that the IPC focusses on, as will site visits and interviews with the applicant. In addition, Professor O'Kane stated that each mining project is different so for certain mines, for example, there may be a particular focus on noise limits while for others it may be dust. Professor O'Kane said there is no rigid checklist 'But we have an internal, effective checklist of processes and good practice'.⁴⁵²
- 3.137** On the Bowdens and McPhillamys projects in particular, IPC witnesses were also questioned about whether the IPC had enough time in these matters to consider all of the evidence and all the communities' concerns given the tight timelines from the point the matters were referred to the IPC by DPE to the point at which a determination needed to be made. As noted earlier, the Bowdens project was referred to the IPC for determination on 22 December 2022 and

⁴⁴⁹ Evidence, Professor Mary O'Kane, Chair, NSW Independent Planning Commission, 27 October 2023, p 19.

⁴⁵⁰ Evidence, Professor O'Kane, 27 October 2023, p 19.

⁴⁵¹ Evidence, Mr Innes, 27 October 2023, p 23.

⁴⁵² Evidence, Professor O'Kane, 27 October 2023, p 20.

determined on 3 April 2023; while the McPhillamys project was referred to the IPC on 17 November 2022 and determined on 30 March 2023.⁴⁵³

3.138 The IPC indicated that the time limits within which the IPC must deal with matters is set down in the Planning Minister's statement of expectations for the IPC. In short, from the time DPE provides its assessment report to the IPC, the IPC must generally meet a time frame of 12 weeks (84 calendar days) in making its determination on an SSD project, including mining projects, where that determination also involves a public hearing. However, this timeframe excludes:

- any time where the IPC has requested further information from DPE or the applicant
- the period from 20 December to 26 January each year, and
- any time DPE is considering, as the IPC's delegate, an application to amend a development application or modification that is before the IPC for determination (including any time needed to publicly exhibit any amendment to a development application or modification application).⁴⁵⁴

3.139 Where determinations involve a public meeting rather than a public hearing the timeframes are shorter – 50 days but this timeframe also excludes the above items.⁴⁵⁵

3.140 Professor O'Kane stated that 'We are given a limited time to do things' and agreed that receiving referrals of both the Bowdens and McPhillamys projects close to Christmas was 'not ideal'.⁴⁵⁶ In addition, Professor O'Kane noted that there was a further complication because the original Panel Chair for the McPhillamys case, Professor Chris Fell, passed away on the way to the hearing.⁴⁵⁷

3.141 However, Professor O'Kane also noted the exceptions to the time requirements around the Christmas break and the stop-the-clock mechanism in cases where the IPC needs to go back to DPE and clarify something.⁴⁵⁸ In addition, Dr Peter Williams, former IPC Commissioner and the Panel Chair in the McPhillamys matter, stated that the IPC did have enough time to consider all the evidence and all of the community's concerns in that case. Dr Williams commented:

We actually started with our site inspection on 28 November. The matter was sent to us a couple of weeks earlier than that... We had community representatives along with us at the site inspection... we did have to use stop the clock a couple of times for various reasons and we also used our discretion to extend the time for submissions, particularly for later submissions from various parties, to give them time to make their point but also to give us time to consider them. In the end I think we did [have enough time].⁴⁵⁹

⁴⁵³ Independent Planning Commission website, <https://www.ipcn.nsw.gov.au/cases/2022/12/bowdens-silver>; and <https://www.ipcn.nsw.gov.au/cases/2022/11/mcphillamys-gold-project>.

⁴⁵⁴ Answers to questions on notice, Independent Planning Commission, 13 November 2023, p 14.

⁴⁵⁵ Answers to questions on notice, Independent Planning Commission, 13 November 2023, p 14.

⁴⁵⁶ Evidence, Professor O'Kane, 27 October 2023, p 21.

⁴⁵⁷ Evidence, Professor O'Kane, 27 October 2023, p 21.

⁴⁵⁸ Evidence, Professor O'Kane, 27 October 2023, p 21.

⁴⁵⁹ Evidence, Dr Peter Williams, Former Commissioner and Panel Chair for NSW Independent Planning Commission's assessment of the McPhillamys Gold Project, 27 October 2023, pp 21-22.

- 3.142** The IPC witnesses also answered questions concerning complaints from the Belubula Headwaters Protection Group that the IPC process was a waste of time, that its submission was not properly considered by the IPC and that not one of its recommendations for amendment to conditions of consent for the McPhillamys project was adopted by the IPC in its determination. Professor O'Kane stated that she was sorry that people felt that way and noted that it may be something for the IPC to consider. She further stated that every submission to the IPC in a matter is read and that a process for improvement adopted in the last few years means that the IPC encourages people to specifically comment on the conditions which 'has led, in certain cases, to quite a change in the conditions'.⁴⁶⁰
- 3.143** However, Professor O'Kane also noted that as part of the Achterstraat review, the IPC was encouraged to make its statements of reasons more concise and easy to read so particular submissions may not always be covered. In addition, she indicated that a submission can influence the IPC to make a change to a condition even though that change may not be exactly the same as what someone put to the IPC.⁴⁶¹
- 3.144** Regarding the McPhillamys case specifically, Dr Williams advised that there were over a thousand submissions made to the IPC in that matter and all were read. Dr Williams stated that 'we take that all on board as best we can' and noted recent case law in the NSW Land and Environment Court to the effect that not every matter received by the IPC has to be referred to in its statement of reasons. He said that while the IPC cannot refer to over a thousand submissions it does take 'particular notice...of suggestions and recommendations that might help us'.⁴⁶²
- 3.145** On the process followed in the McPhillamys matter, Dr Williams also stated that the panel had made an active effort to try to incorporate the concerns of the community in its determination:

...we had several meetings of...two, three hours each, as a panel working through conditions. We had time outside of those meetings working through conditions. We went with a number of ideas, proposals, for example, with how some of the recommendations given to us by some of the members of the community might be able to be incorporated into our conditions of consent. Generally, we were satisfied we could find that they were either unworkable, or that they were already incorporated in draft conditions...or in some cases [we] were able to modify some of the conditions to incorporate some of those concerns.⁴⁶³

Committee comment

- 3.146** The committee notes the number of issues raised in this chapter regarding certain mining projects. The committee further notes the mining projects were subject to rigorous evaluation in accordance with the current robust legislative framework for the assessment and approval of proposed mines. The committee has found that the regulatory bodies and the detailed frameworks they administer are fundamentally sound.

⁴⁶⁰ Evidence, Professor O'Kane, 27 October 2023, p 22.

⁴⁶¹ Evidence Professor O'Kane, 27 October 2023, p 22.

⁴⁶² Evidence, Dr Williams, 27 October 2023, p 22.

⁴⁶³ Evidence, Dr Williams, 27 October 2023, p 22.

Finding 8

That a number of regulatory bodies work across the mining sector – including the Department of Planning and Environment, the Independent Planning Commission, the Environment Protection Authority, the Resources Regulator and NSW Health. These regulatory bodies, and the detailed frameworks they administer, are fundamentally sound.

- 3.147** Having made this finding, and in light of matters considered throughout this report, the committee also emphasises that health and safety issues related to mining projects and operations must be addressed effectively and community concerns must be addressed promptly. For this reason, the committee also recommends that the Environment Protection Authority be funded to have additional environmental health experts as part of their team who can conduct community outreach and link up with the Environmental Protection Branch of NSW Health to address health and safety issues and community concerns effectively and promptly.
-

Recommendation 10

That the Environment Protection Authority should be funded to have additional environmental health experts as part of their team who are able to participate in community outreach and link up with the Environmental Protection Branch of NSW Health to ensure health and safety issues are addressed effectively and that community concerns are addressed earlier.

Bowdens Silver Project

- 3.148** In the case of Bowdens Silver Project, the IPC determined that the proposed mine would be in the public interest, and approved it, despite the stated concerns around health, environmental and economic impacts raised by some in the local community.
- 3.149** The committee notes that there will be a comprehensive set of real-time dust monitoring devices surrounding the site and that Bowdens is working with consultants and the EPA on how the results might be provided live to the Government and the community. In this regard it notes recommendation 3 in chapter 2 of this report that the Government consider amending the *Protection of the Environment Operations Act 1997* to require publicly accessible air quality monitoring at all mining operations in NSW, using best available technology as determined by the Environment Protection Authority. This condition should be additional to any planning approval conditions. The committee notes that Bowdens is funding baseline testing of water and soil in the area surrounding the mine.

McPhillamys Gold Project

- 3.150** The committee notes the evidence of concerned local residents and action groups in relation to the McPhillamys Gold Project. The committee further notes that Regis is working with these residents to address their concerns. The committee understands the consent conditions for the project including monitoring and management plans in relation to some local agricultural industries.
-

- 3.151** The committee also acknowledges evidence that Regis is proposing real-time air quality monitoring for the project site and noise monitoring for the project.

Chapter 4 Mine rehabilitation

This chapter considers issues pertinent to mine rehabilitation. It outlines the role of the Resources Regulator and discusses the Government's strategy of progressive rehabilitation, the use of Rehabilitation Security Deposits, and the administration of the Legacy Mines Program. It also notes evidence received concerning some non-operational mine sites including Sunny Corner, Captains Flat and the Broula King Gold Mine.

Resources Regulator

- 4.1** Under the *Work Health and Safety (Mines and Petroleum Sites) Act 2013*, the Secretary of the Department of Regional NSW is the 'regulator'. In practice, however, the powers and functions of the regulator are delegated to officers in the Resources Regulator. The Resources Regulator is a division of Mining Exploration and Geoscience, which is a group within the Department of Regional NSW (the Department).⁴⁶⁴
- 4.2** The Resources Regulator's role is to regulate the state's work health and safety at mines and petroleum sites and compliance and enforcement activities. It is also the responsibility of the Resources Regulator to ensure that land disturbed by exploration and mining activities is returned to a safe, stable and sustainable land use.⁴⁶⁵
- 4.3** The Resources Regulator performs probity and compliance checks on applicants, regulates exploration activities, and conducts audits, site inspections and investigations.⁴⁶⁶ It employs a risk-based approach where low-risk non-compliances are 'addressed through a collaborative process with industry, involving education through advisory services'.⁴⁶⁷ Non-compliances assessed as moderate or high-risk trigger an escalating response and enforcement action.⁴⁶⁸
- 4.4** Mining, Exploration and Geoscience is responsible for administering the *Mining Act 1992*, legislation integral to the regulating of mining activity in New South Wales. The Act provides for land access arrangements for activities like exploration, and enables mining leases to be issued.⁴⁶⁹ The Act requires the effective rehabilitation of land and water impacted by mining and provides for a security deposit to be obtained before the commencement of any mining activity. It also provides a framework for compensation to landholders for loss or damage from mining operations.⁴⁷⁰
- 4.5** In 2021, rehabilitation reforms were introduced by the Resources Regulator that now require mining operations to adopt a progressive rehabilitation approach, rather than an end-of-mine

⁴⁶⁴ Submission 106, NSW Government, p 9.

⁴⁶⁵ Submission 106, NSW Government, p 9.

⁴⁶⁶ Resources Regulator, *Rehabilitation and environmental management activities, NSW Resources Regulator*, Resources Regulator website, <https://www.resourcesregulator.nsw.gov.au/rehabilitation>.

⁴⁶⁷ Submission 106, NSW Government, p 9.

⁴⁶⁸ Submission 106, NSW Government, p 9.

⁴⁶⁹ Evidence, Ms Georgina Beattie, Chief Executive Officer, Mining, Exploration and Geoscience, Department of Regional NSW, 27 October 2023, pp 30-31.

⁴⁷⁰ *Mining Act 1992* (NSW).

approach.⁴⁷¹ This change has been reflected in mining leases, with operators now required to update their rehabilitation objectives, submit three-year rehabilitation plans and set out very clear completion criteria. According to Ms Georgina Beattie, Chief Executive Officer, Mining, Exploration and Geoscience, Department of Regional NSW, the aim is to ensure companies are progressively rehabilitating their disturbance as they mine so as to meet their final end land use, a condition of their development consent.⁴⁷²

- 4.6 A further reform has been a revision of the Resources Regulator's rehabilitation cost estimate tool, to capture the rising costs of remediation. The tool is benchmarked with advice from industry experts, with the aim of ensuring the required bond payment continues to cover the full costs of remediation.⁴⁷³

Rehabilitation security deposits

- 4.7 Before any mining activity can begin, all exploration and mining title holders are required to pay a bond, known as a security deposit, to the Department that covers the full rehabilitation costs. The purpose of the bond is to ensure that the Government does not incur financial liabilities in the event of a title holder defaulting on their rehabilitation obligations.⁴⁷⁴
- 4.8 The title holder is required to provide an estimate of rehabilitation costs for consideration by the Resources Regulator when determining the security deposit amount. The amount must be consistent with the stage of the exploration project or mine. The bond amount is reviewed annually so that it maintains currency.⁴⁷⁵
- 4.9 The Government advised that currently about \$3.7 billion is held in security deposits for mine site remediation and rehabilitation. It also noted that in certain circumstances, the Environment Protection Authority (EPA) may require such financial assurances as a condition of an environmental protection licence to manage environmental liabilities. The EPA's Financial Assurance Policy makes clear that a financial assurance is not intended to duplicate any other financial security already provided to the NSW Government, for example a rehabilitation security deposit.⁴⁷⁶
- 4.10 The Environmental Defenders Office stated there is 'clear evidence from around the country, including NSW, that the current approach to security deposits is an insufficient guarantee that the community will not be left to foot the bill for mine rehabilitation'.⁴⁷⁷ It also drew the committee's attention to the 2017 NSW Auditor-General's Report Performance Audit, *Mining*

⁴⁷¹ Evidence, Mr Stephen Galilee, Chief Executive Officer, NSW Minerals Council, 18 September 2023, p 42.

⁴⁷² Evidence, Ms Beattie, 18 September, 2023, p 48.

⁴⁷³ Evidence, Ms Beattie, 18 September, 2023, p 49.

⁴⁷⁴ Resources Regulator, *Rehabilitation security deposits*, Resources Regulator website, <https://www.resourcesregulator.nsw.gov.au/rehabilitation/rehabilitation-security-deposits>.

⁴⁷⁵ Submission 106, NSW Government, p 16.

⁴⁷⁶ Submission 106, NSW Government p 16.

⁴⁷⁷ Submission 88, Environmental Defenders Office, p 38.

Rehabilitation Security Deposits which canvassed some of the issues regarding the rehabilitation and decommission of mines in New South Wales.⁴⁷⁸

Legacy Mines Program

- 4.11** The Legacy Mines Program (LMP) seeks to reduce various risks from legacy mine sites.⁴⁷⁹ Ms Georgina Beattie of Mining, Exploration and Geoscience advised that the LMP focuses on public safety and improving the environment through remediation of historic and abandoned mines.⁴⁸⁰
- 4.12** According to Ms Beattie 'the majority of historical sites have little impact' and priority is given according to demonstrated need (such as public safety risk, environmental risk, end use of the land, long-term benefit to the community, and the cost effectiveness of rehabilitation or remediation works).⁴⁸¹
- 4.13** Mr Peter Day, Executive Director, NSW Resources Regulator, further explained that 'Our job generally is rehabilitation of those legacy sites. In terms of any impacts on public health, that would either be under the health department or under the EPA itself'.⁴⁸²
- 4.14** The range of remediation works funded by the LMP include:
- detailed site assessments and preparation of remediation action plans
 - engineering design work
 - physical safety works (for example, fencing, grating or filling shafts)
 - erosion and sediment control works
 - management of acid mine drainage and contamination
 - stabilisation and revegetation of sites
 - continued monitoring and review of sites.⁴⁸³
- 4.15** Ms Claire Doherty, Director, Policy, NSW Minerals Council, acknowledged that there are legacy mines around New South Wales that continue to have a negative impact. Ms Doherty noted that part of the money for the LMP comes from industry and asserted that tighter and more evolved regulation would help mitigate the types of ongoing issues associated with some of the legacy mines approved under previous regulatory schemes.⁴⁸⁴

⁴⁷⁸ Submission 88, Environmental Defenders Office, p 38.

⁴⁷⁹ Resources Regulator, *Legacy Mines Program*, Resources Regulator website, <https://www.resourcesregulator.nsw.gov.au/rehabilitation/legacy-mines-program>.

⁴⁸⁰ Evidence, Ms Beattie, 18 September 2023, p 53.

⁴⁸¹ Evidence, Ms Beattie, 18 September 2023, p 53.

⁴⁸² Evidence, Mr Peter Day, Executive Director, NSW Resources Regulator, 18 September 2023, p 53.

⁴⁸³ Resources Regulator, *Legacy mines program*, Resources Regulator website, <https://www.resourcesregulator.nsw.gov.au/rehabilitation/legacy-mines-program>.

⁴⁸⁴ Evidence, Ms Claire Doherty, Director, Policy, NSW Minerals Council, 18 September 2023, p 45.

- 4.16 In response to questioning about resourcing for mining remediation, Ms Beattie noted that the previous Government a couple of years ago 'allocated \$107 million over 10 years to deliver remediation works. That has been a significant boost, and we are busy rolling out a program of works'.⁴⁸⁵ In contrast it was the position of Dr Ian Wright, Associate Professor, Western Sydney University, that 'NSW has very limited funds available for remediating closed mines'.⁴⁸⁶

Rehabilitation and management of land disturbed by mining

- 4.17 According to the Resources Regulator, the objective of mine rehabilitation is to ensure an environment is safe and stable once mining operations are completed.⁴⁸⁷
- 4.18 As noted earlier, regulation in this area has evolved and the Government is now more actively involved in managing rehabilitation issues during a mine's life.
- 4.19 The committee received evidence about some legacy mine sites which raised issues about the efficacy of particular rehabilitation practices. These legacy mine sites included Sunny Corner, Captains Flat and Broula King.⁴⁸⁸ With regard to Broula King Gold Mine, the concerns about rehabilitation were raised by adjacent land owners, Ms Catherine Sullivan and Mr Craig Day.⁴⁸⁹ Remediation at all of these sites is ongoing and the Department of Regional NSW, including the Resources Regulator is involved.⁴⁹⁰
- 4.20 Sunny Corner is a derelict mining area. Mining operations here ceased over 100 years ago.⁴⁹¹ Captains Flat ceased operations in 1962.⁴⁹² Broula King ceased operating more recently, and the new owner, Broula King Enterprises, apparently has plans to recommence mining at this site.⁴⁹³

Committee comment

- 4.21 The committee acknowledges the positive regulatory reforms that have occurred to promote progressive mine rehabilitation during the operating life of a mine, rather than all rehabilitation occurring at the end of the mine's life. The committee also acknowledges that modern mining

⁴⁸⁵ Evidence, Ms Beattie, 18 September 2023, p 50.

⁴⁸⁶ Submission 68, Dr Ian Wright, p 5.

⁴⁸⁷ Evidence, Mr Peter Day, 18 September 2023, p 50.

⁴⁸⁸ See Submission 68, Dr Ian Wright, pp 1-6; Submission 95, Ms Catherine Sullivan and Mr Craig Day; Evidence, Ms Catherine Sullivan and Mr Craig Day, 3 October 2023, pp 20-29; Submission 183, Broula King Enterprises Pty Ltd; Submission 157, Captains Flat Community Association.

⁴⁸⁹ Submission 95, Ms Catherine Sullivan and Mr Craig Day; and Evidence, Ms Catherine Sullivan and Mr Craig Day, 3 October 2023, pp 20-29.

⁴⁹⁰ See Evidence, Ms Beattie, 18 September 2023, p 53; Department of Regional NSW, *Captains Flat*, NSW Government website, <https://www.nsw.gov.au/captains-flat>; and Evidence, Mr Peter Day, 27 October 2023, p 32.

⁴⁹¹ Submission 68, Dr Ian Wright, p 1.

⁴⁹² Resources Regulator, 'Captains Flat (Lake George) Mine' Resources Regulator website, <https://www.resourcesregulator.nsw.gov.au/rehabilitation/legacy-mines-program/case-studies/captains-flat-lake-george-mine>.

⁴⁹³ See Evidence, Ms Sullivan, 3 October 2023, p 20; and Submission 183, Broula King Enterprises Pty Ltd, p 2.

methods may produce fewer impacts on the environment than methods which have been used historically. But of course all mines create environmental impacts which need to be managed and often rehabilitated.

- 4.22** The committee is also aware that it received evidence that there are still some problems at legacy mine sites. The committee notes that this is a very complex area and is complicated by changing methods of rehabilitation over time. The committee is conscious that it has not received detailed evidence about all legacy sites or had a chance to test the evidence it did receive against competing viewpoints.
- 4.23** The committee understands that the Resources Regulator is engaged in the rehabilitation process and encourages it to further engage in this work – especially in relation to Broula King Gold Mine.

Recommendation 11

That the NSW Resources Regulator continue to observe the Broula King Gold Mine site and collaborate with the Environment Protection Authority to work to rectify the issues experienced by Mr Craig Day and Ms Catherine Sullivan.

Appendix 1 Submissions

No.	Author
1	Malcolm and Prudence Sinclair
2	Name suppressed
3	Clarence Environment Centre Inc
4	Name suppressed
5	Ian Simmons
6	P & J Smith Ecological Consultants
7	Goldfield Honey Aust Pty Ltd
8	Name suppressed
9	Name suppressed
10	Kristina Robinson
11	Name suppressed
12	Miss Juliet Makin
13	Mrs Maureen Boller
14	Dr Alison Ziller
15	Miss Annika Robinson
16	Ms Gabrielle Bates
17	Dr Peter Roberts
18	Professor Warwick Giblin
19	Name suppressed
20	Mr Anthony McIntosh
21	Watershed Landcare
22	Name suppressed
23	Confidential
24	Central West Environment Council
25	Mr Carl Jefferys
26	Mr Michael Boller
27	Dr Anthea Nicholls
28	Healthy Rivers Dubbo
29	Name suppressed
30	Confidential
31	Australian Olive Association

No.	Author
32	K2W Link Incorporated
33	Yerranderie Arts Culture & Community Association
34	Environmentally Concerned Citizens of Orange (ECCO)
35	Name suppressed
36	Dubbo Environment Group Inc.
37	Confidential
38	David Parry-Okeden
39	Des Bowden
40	Mr Derek Finter
41	Lithgow Environment Group Inc
42	Susan and Michael Pridmore
43	Colleen Wysser-Martin
44	Mrs Lisa Price
45	Mr Edward Armstrong
46	Ms Judith Brown
47	Ms Lyn Coombe
48	Janine Modaro
49	Name suppressed
50	Ms Cathy Merchant
51	Name suppressed
52	Mr Phillip Cameron
53	Mr Bruce Christie
54	Mrs Sonia Christie
55	Cheryl Nielsen
56	Name suppressed
57	Inland Rivers Network
58	Mr Alex Kalkman
59	Mr Bill Brown
60	Name suppressed
61	Name suppressed
62	Ms Stephanie Luke
63	Mr Edward Robinson
64	Rylstone District Environment Society
64a	Rylstone District Environment Society
65	Summer Hill Creekcure Inc

No.	Author
66	Name suppressed
67	Dr Ann Finegan
68	Dr Ian Wright
69	Regis Resources
70	Dr Dora Pearce and Dr Rachael Martin
71	National Parks Association of NSW
72	Mudgee Region Action Group
73	Alkane Resources Ltd
74	Evolution Mining
75	NSW Minerals Council
76	Newcrest Mining Limited
77	Bowdens Silver Pty Ltd
77a	Bowdens Silver Pty Ltd
78	Belubula Headwaters Protection Group
79	Running Stream Water Users Association
80	Mudgee District Environment Group
81	Aurelia Metals
82	Bathurst Community Climate Action Network
83	Association of Mining Exploration Companies
84	Wellington Valley Wiradjuri Aboriginal Corporation
85	The Wilderness Society
86	CMOC-Northparkes Mines
87	Orange City Council
88	Environmental Defenders Office
89	Blayney Shire Council
90	Orange and Region Water Security Association
91	Cadia District Protection Group Inc (CDPG)
92	Cadia Community Sustainability Network
93	Mrs Sally Green
94	Mrs Daphne Mendham
95	Ms Catherine Sullivan and Mr Craig Day
96	Mr Sam Hamilton
97	Name suppressed
98	Name suppressed
99	Mr Rob Wannan

No.	Author
100	Name suppressed
101	Name suppressed
102	Name suppressed
103	Mr Alex Wisser
104	Name suppressed
105	Mr David Anderson
106	NSW Government
107	Ms Lara Altimira
108	Ms Lisa Paton and Mr Tony Newman
108a	Confidential
109	Mr Ian Pearce
110	Mrs Sarah Onions
111	Miss Julie Hunter
112	Name suppressed
113	Name suppressed
114	Mrs Bronwyn Wannan
114a	Mrs Bronwyn Wannan
114b	Mrs Bronwyn Wannan
114c	Mrs Bronwyn Wannan
114d	Mrs Bronwyn Wannan
115	Mrs Sue Ann White
116	Name suppressed
117	Mrs Jayne Bentivoglio
117a	Confidential
117b	Mrs Jayne Bentivoglio
118	Environmental Risk Sciences Pty Ltd
119	Name suppressed
120	Name suppressed
121	Confidential
122	Mudgee Wine Association
123	Sally Neaves
124	Elephant Mountain Wine
125	Mr Michael White
126	Name suppressed
127	Barry Hadaway

No.	Author
128	Cameron Scott-Fell
129	Name suppressed
130	Name suppressed
131	Name suppressed
132	Confidential
133	Name suppressed
134	Mr Bruce Reynolds
135	Linda and Rick Field
136	Garry I Martin
137	Ian Manning
138	Janet Walk
139	Confidential
140	Mrs Margot White
141	Confidential
142	Ms Yasmin Hannouf
143	Mr Andrew White
144	Mrs Susan Barry
145	Mr Tim Slade
146	Name suppressed
147	Mr Angus Armstrong
148	Name suppressed
149	Confidential
150	Name suppressed
151	Ms Sharelle Fellows
152	Name suppressed
153	Ms Jade Miskle
154	Mrs Joanne Miskle
155	Name suppressed
156	Ms Hilary Crawford
157	Captains Flat Community Association Inc
158	Ms Julie Watt
159	Tom Combes
160	Miss Bethany Ellis
161	Mr Allan Leonard
162	Mr Anthony Miskle

No.	Author
163	Ms Lucy White
164	Name suppressed
165	Mrs Sarah Inglis
166	Dr Peter Bentivoglio
166a	Dr Peter Bentivoglio
167	Ms Fiona Sim
168	David Clarke
169	Name suppressed
170	Ms Bridie Kramer
171	Confidential
172	Mrs Eliza Miskle
173	Virginia King
174	Miss Maree O'Connell
175	Mr Robert Bleach
176	Roberta White
177	Mr James Inglis
178	Mr Richard Inglis
179	Mr Hunter White
180	Name suppressed
181	Liz Rogers
182	Name suppressed
183	Broula King Enterprises Pty Ltd
184	Lead Education and Abatement Design (LEAD) Group Incorporated
185	Name suppressed
186	Confidential
187	Ms Robin Gunning
188	Confidential
189	Dr Martin Scurrah
190	Name suppressed
191	Mr Dan Endicott
192	Mr Peter Swain
192a	Mr Peter Swain
193	Ms Kerry Sutherland
194	Name suppressed
195	Name suppressed

No.	Author
196	Julia Tierney
197	Name suppressed
198	Mr Richard Stanford
199	Mr Anthony Ward
200	Name suppressed
201	Ms Megan Hyatt
202	Confidential
203	Dr Jim Blackwood
204	Confidential
205	Mr Norbert Mjadwesch
206	Name suppressed
207	Ms Elizabeth Varcoe
208	Christopher Kennedy
209	Name suppressed
210	Confidential
211	Name suppressed
212	Name suppressed
213	Name suppressed
214	Mrs Barbara Duff
215	Name suppressed
216	Name suppressed
217	Mrs Katie Thompson
218	Mrs Anita Hood
219	Name suppressed
220	Ms Jennifer More
221	Mr John Dash
222	Name suppressed
223	Mr Hamish Christie
224	Name suppressed
225	Kerry Ferroni
226	Mr Harry White
227	Miss Georgina White
228	Mrs Rebecca Price
229	Mr David Price
230	Confidential

Appendix 2 Witnesses at hearings

Date	Name	Position and Organisation
Monday, 18 September 2023 Macquarie Room Parliament House, Sydney	Ms Beverley Smiles	President – Inland Rivers Network
	Mr Ross McDonnell	NPA Executive, National Parks Association
	Mr Warwick Pearse	NPA Landscape Conservation Forum, National Parks Association
	Ms Sherry Duhe	Interim CEO, Newcrest Mining Limited
	Mr Michael Dewar	General Manager, Cadia Valley Operations, Newcrest Mining
	Ms Gem Green	Chair, Cadia Community Sustainability Network
	Ms Frances Retallack	Vice Chair, Cadia Community Sustainability Network
	Dr Ian Wright	Associate Professor, Environmental Science, Western Sydney University
	Ms Susannah White	Angus seedstock producer, Mudgee Region Action Group
	Ms Shireen Baguley	Environmental Consultant, Mudgee Region Action Group
	Mr Dan Sutton	President, Belubula Headwaters Protection Group
	Ms Rebecca Price	Vice President, Belubula Headwaters Protection Group
	Mr Tony Chappel	CEO, NSW Environment Protection Authority
	Mr Stephen Beaman	Executive Director Regulatory Practice & Services, NSW Environment Protection Authority
Mr Stephen Galilee	CEO, NSW Minerals Council	
Ms Claire Doherty	Director, Policy, NSW Minerals	

Date	Name	Position and Organisation
		Council
	Ms Georgina Beattie	CEO, Mining Exploration and Geoscience, NSW Resources Regulator
	Mr Peter Day	Executive Director, NSW Resources Regulator
Tuesday, 3 October 2023 Coral Sea Room, Orange Ex-Services Club Orange	Mrs Claire Bennett	Operations Manager, Goldfields Honey Group
	Ms Lisa Paton	Local resident
	Mr Tony Newman	Local resident
	Mr David Waddell	Chief Executive Officer, Orange City Council
	Ms Catherine Sullivan	Local resident
	Mr Craig Day	Local resident
	Mr Ian Pearce	PFT Agriculture
	Mr Bruce Reynolds	Local resident
Wednesday 4 October 2023 Auditorium, Club Mudgee Mudgee	Mr Jack Ayoub	Organiser, Australian Workers Union, NSW Branch
	Mr David Lowe	Mudgee Wine Association
	Dr Michael Southan	Australian Olive Association
	Ms Lucy White	Local resident
	Dr Peter Bentivoglio	Emeritus Consultant Neurosurgeon
	Ms Jade Miskle	Local resident
	Ms Maree O'Connell	Local resident
	Mr Michael Boller	Local resident
	Mr Jack White	Local resident
	Dr David Parry-Okeden	Local veterinarian

Date	Name	Position and Organisation
	Ms Fiona Sim	Vice-President, Running Stream Water Users Association
	Ms Christine Moloney	Running Stream Water Users Association
Friday 27 October 2023	Mr Anthony McClure	Managing Director, Bowdens Silver
Macquarie Room	Mr Wayne Taylor	Project Delivery Director, McPhillamys, Regis Resources Ltd
Parliament House, Sydney	Ms Danielle Wallace	Health, Safety and Environment Manager, Regis Resources Ltd
	Professor Mary O'Kane AC	Chair, NSW Independent Planning Commission
	Dr Peter Williams	Former Commissioner and Panel Chair for NSW Independent Planning Commission's assessment of the McPhillamys Gold Project
	Mr James Innes	Director, Legal, NSW Independent Planning Commission
	Ms Georgina Beattie	CEO, Mining Exploration and Geoscience
	Mr Peter Day	Executive Director, NSW Resources Regulator
	Mr Clay Preshaw	Executive Director, Energy, Resources and Industry Assessments, NSW Department of Planning and Environment
	Mrs Alison Broinowski	President, Business Mudgee
	Mr Mitch Colton	Vice-President, Business Orange
	Cr Phyllis Miller OAM	Country Mayors Association and Mayor, Forbes Shire Council
	Mr Steve Loane, OAM	Country Mayors Association and General Manager, Forbes Shire Council

Date	Name	Position and Organisation
	Dr Jeremy McAnulty	Executive Director, Health Protection NSW, NSW Health
	Professor Andrew Dawson	Clinical Toxicologist and Pharmacologist; Director National Poisons Register and Clinical Toxicology, Royal Prince Alfred Hospital, Sydney; Senior Visiting Medical Officer, NSW Poisons Information Centre, Sydney Childrens Hospital Network
	Dr Thanjira Jiranantakan	Medical Advisor, Centre for Alcohol and Other Drugs, NSW Ministry of Health
	Mr Tony Chappel	CEO, NSW Environment Protection Authority
	Mr Stephen Beaman	Executive Director Regulatory Practice and Services, Environment Protection Authority

Appendix 3 Minutes

Minutes no. 3

Tuesday 25 July 2023

Portfolio Committee No. 2 - Health

Room 1043, Parliament House, Sydney, 2.32 pm

1. Members present

Dr Cohn, Chair

Mr Rath (substituting for Mrs Carter)

Ms Kaine (substituting for Mr Buttigieg)

Mr Donnelly

Ms Faehrmann

Ms Suvaal

Mr Fang (substituting for Mrs Taylor)

2. Acknowledgement of Country

3. Previous minutes

Resolved, on the motion of Ms Suvaal: That:

- item 5.4 of the draft minutes be amended to insert the words 'or online questionnaires' after the word 'proformas'
- draft minutes no. 2, as amended, be confirmed.

4. Correspondence

The committee noted the following items of correspondence:

Received

- 21 July 2023 – Letter from Dr Amanda Cohn MLC, Ms Cate Faehrmann MLC and Hon Emily Suvaal MLC requesting a meeting of Portfolio Committee No. 2 - Health to consider a proposed self-reference into current and potential future impacts of gold, silver, lead and zinc mining on human health, land, air and water quality in New South Wales
- 16 June 2023 – Email forwarded from Portfolio Committee No. 4 regarding correspondence received on 9 May 2023 from an individual raising concerns about Sydney Water
- 9 May 2023 – Email from an individual to committee, raising concerns about Sydney Water.

Resolved, on the motion of Mr Donnelly: That the email from an individual to the committee raising concerns about Sydney Water, dated 9 May 2023, be:

- forwarded to the Hon. Rose Jackson, MLC, Minister for Water for consideration
- kept confidential, as per the recommendation of the secretariat, as it contains identifying and/or sensitive information and is not related to an inquiry.

5. Consideration of terms of reference

The Chair tabled a letter proposing the following terms of reference:

1. That Portfolio Committee No. 2 inquire into and report on current and potential future impacts of gold, silver, lead and zinc mining on human health, land, air and water quality in New South Wales, in particular:
 - a. the impact on the health of local residents and mine workers, including through biomagnification and bioaccumulation
 - b. the impact on catchments and waterways, affecting both surface and groundwater destined for,

- local and town water supplies, including rainwater tanks, and on aquatic biodiversity
- c. the impact on land and soil, crops and livestock, including through biomagnification and bioaccumulation
 - d. the adequacy of the response and any compliance action taken by the regulatory authorities in response to complaints and concerns from communities affected by mining activities
 - e. the effectiveness of the current regulatory framework in terms of monitoring, compliance, risk management and harm reduction from mining activities
 - f. the effectiveness of current decommissioning and rehabilitation practices in safeguarding human health and the environment
 - g. the effectiveness of New South Wales Government agencies to regulate and improve outcomes including:
 - i. the measurement, reporting and public awareness
 - ii. the provision of various protective materials
 - iii. the ability to ensure the health of at-risk groups
 - iv. the suitability of work health and safety regulations, and
 - v. the capacity to respond within existing resources
 - vi. the adequacy of existing work, health and safety standards for workers
 - h. whether the regulatory framework for heavy metals and critical minerals mining is fit for purpose and able to ensure that the positive and negative impacts of heavy metals and critical minerals mining on local communities, economies (including job creation) and the environment are appropriately balanced
 - i. any other related matters.

2. The committee reports on its findings by 21 November 2023.

Resolved, on the motion of Ms Faehrmann: That:

- the terms of reference be amended by omitting the word 'future' from the first line of paragraph 1
- the committee adopt the terms of reference, as amended.

6. Conduct of inquiry into current and potential impacts of gold, silver, lead and zinc mining on human health, land, air and water quality in New South Wales

6.1 Closing date for submissions

Resolved, on the motion of Ms Faehrmann: That the closing date for submissions be Tuesday 5 September 2023.

6.2 Stakeholder list

Resolved, on the motion of Ms Faehrmann: That the secretariat circulate to members the Chairs' proposed list of stakeholders to provide them with the opportunity to amend the list or nominate additional stakeholders, and that the committee agree to the stakeholder list by email, unless a meeting of the committee is required to resolve any disagreement.

6.3 Approach to submissions

Resolved, on the motion of Ms Suvaal: That, to enable significant efficiencies for members and the secretariat while maintaining the integrity of how submissions are treated, in the event that 50 or more individual submissions are received, the committee adopt the following approach to processing short submissions:

- All submissions from individuals 250 words or less in length will:
 - have an individual submission number, and be published with the author's name or as name suppressed, or kept confidential, according to the author's request
 - be reviewed by the secretariat for adverse mention and sensitive/identifying information, in accordance with practice
 - be channelled into one single document to be published on the inquiry website
- All other submissions will be processed and published as normal.

6.4 Online questionnaire and proformas

Resolved, on the motion of Mr Donnelly: That the committee not accept proformas or online questionnaires.

6.5 Advertising

Resolved, on the motion of Ms Faehrmann: That, in addition to the standard approach to advertising inquiries via social media, stakeholder emails and a media release distributed to all media outlets in New South Wales, the secretariat investigate options for advertising in publications relevant to particular geographic locations.

The secretariat will circulate to members by the email the advertising budget for Legislative Council committees, for their information.

6.6 Hearing dates and site visits

Resolved, on the motion of Ms Faehrmann: That the committee hold a minimum of four hearings and site visits in locations including, but not limited to, Orange and Mudgee in September/October, the dates of which are to be determined by the Chair after consultation with members regarding their availability.

7. Adjournment

The committee adjourned at 2.57 pm, *sine die*.

Kate Mihaljek
Committee Clerk

Minutes no. 4

Monday 18 September 2023
Portfolio Committee No. 2 - Health
Macquarie Room, Parliament House, Sydney, 9.05 am

1. Members present

Dr Cohn, Chair
Mrs Carter, Deputy Chair
Mr Buttigieg (via videoconference)
Mr Donnelly (from 9 am to 1.57 pm and from 3.15 pm to 4.15 pm)
Ms Faehrmann
Mr Fang (substituting for Mrs Taylor until 1.00 pm)
Ms Suvaal
Mrs Taylor (from 1.45 pm)

2. Acknowledgement of Country

3. Previous minutes

Resolved, on the motion of Ms Suvaal: That draft minutes no. 3 be confirmed.

4. Correspondence

The committee noted the following items of correspondence:

Received

- 25 July 2023 – Email from Shannon Couper, Policy and Advocacy Adviser, Beyond Blue, advising Beyond Blue is unable to make a submission to the Mental Health inquiry, however they can share the invitation with their lived experience community on request
- 26 July 2023 – Email from an individual concerning terms of reference for mining impacts inquiry

- 27 July 2023 – Email from Ruth Das, Engagement and Partnerships Lead, Embrace Project - National Multicultural Mental Health Project, advising Embrace will not be making a submission to the Mental Health inquiry
- 5 August 2023 – Letter from Hon Rose Jackson MLC, Minister for Water, responding to Chair's letter dated 27 July 2023 which forwarded correspondence from an individual to committee raising concerns about Sydney Water, for consideration
- 17 August 2023 – Form letter from Clarence Catchment Alliance concerning mining in the Clarence Catchment, Northern Rivers, NSW
- 20 August 2023 – Email from Mr John Gerathy regarding Cadia Mine enclosing various correspondence to the EPA
- 20 August 2023 – Correspondence from Dr Peter Serov – Independent Desktop Review - Bowdens Silver Pty Ltd Environmental Impact Study Review for Lue Actions Group and Summary document
- 12 September 2023 – Email from Dr Elias Nasser, rural Generalist Trainee, Australian College of Rural and Remote Medicine to committee, enclosing correspondence to Health Minister regarding the transition to the Single Digital Patient Record and response from the Health Minister
- 14 September 2023 – Email from Mr Anthony McClure, Director, Bowdens Silver Pty Ltd, declining invitation to attend mining impacts inquiry hearing on 18 September 2023
- 14 September 2023 – Email from Regis Resources Limited, declining invitation to attend mining impacts inquiry hearing on 18 September 2023.

Sent

- 27 July 2023 – Letter to Hon Rose Jackson MLC, Minister for Water, forwarding correspondence from an individual to committee raising concerns about Sydney Water, for consideration
- 17 August 2023 – Letter to an individual conveying the substance of response to Chair from Hon Rose Jackson MLC, Minister for Water, dated 5 August 2023 about the individual's concerns about Sydney Water.

Resolved, on the motion of Ms Faehrmann: That the committee keep the following correspondence confidential as it contains identifying and/or sensitive information and is not related to an inquiry:

- 5 August 2023 – Letter from Hon Rose Jackson MLC, Minister for Water, responding to Chair's letter dated 27 July 2023 which forwarded correspondence from an individual to committee raising concerns about Sydney Water, for consideration
- 17 August 2023 – Letter to an individual conveying the substance of response to Chair from Hon Rose Jackson MLC, Minister for Water, dated 5 August 2023 about the individual's concerns about Sydney Water.

That the committee keep the following correspondence confidential as it is from an individual who has made a submission to the committee's mining impacts inquiry and the individual has asked that this submission be kept confidential:

- 26 July 2023 – Email from an individual concerning terms of reference for mining impacts inquiry.

5. Inquiry into current and potential future impacts of gold, silver, lead and zinc mining on human health, land, air and water quality in New South Wales

5.1 Public submissions

The Committee noted the following submissions were published by the committee clerk under the authorisation of the resolution appointing the committee: submissions nos: 1, 5, 6, 7, 10, 12, 13, 14, 15, 16, 17, 18, 20, 21, 24, 25, 26, 27, 28, 31, 32, 33, 34, 36, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 50, 52, 53, 57, 58, 59, 62, 63, 64, 64A, 65, 67, 68, 69, 70, 71, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85 and 106.

5.2 Partially confidential submissions

Resolved, on the motion of Ms Suvaal: That the committee keep the following information confidential, as per the request of the author: names in submissions no. 2, 4, 8, 9, 11, 19, 22, 49, 51, 56, and 66.

Resolved, on the motion of Ms Suvaal: That the committee authorise the publication of submissions no. 3, 29, 35, 48, 54, 55, 60, 61, 72 and 92 with the exception of sensitive or identifying material or potential adverse comments that have been highlighted by the secretariat.

5.3 Confidential submissions

Resolved, on the motion of Ms Suvaal: That the committee keep submissions no. 23, 30 and 37 confidential, as per the request of the authors.

5.4 Attachments to submissions

Resolved, on the motion of Mrs Carter: That the committee authorise the publication of attachments to submissions no 6, 18 and 77 as they contain material particularly pertinent to the inquiry.

5.5 Proforma submissions

The committee noted a series of hard copy pro forma submissions have been lodged and that the secretariat has not yet reviewed them as substantive submissions are being prioritised.

5.6 Transport – site visits and hearings in Orange and Mudgee

The committee noted that it had previously agreed via email to the use of a charter plane to facilitate site visits and hearings in Orange and Mudgee on 3 and 4 October 2023 at a cost of \$19,140.00.

The booking was subsequently cancelled by the charter flight provider for maintenance reasons.

The committee noted that the secretariat sought alternative quotes with the most suitable option costing approximately \$30,000.

Discussion ensued.

Resolved, on the motion of Mrs Carter: That consideration of the agenda item be deferred until later in the day, to allow the secretariat to obtain information about commercial flight and bus options.

5.7 Site visit and hearing itinerary – Orange and Mudgee

Resolved, on the motion of Ms Suvaal: That consideration of the itinerary for the committee's site visits in Orange and Mudgee on Tuesday 3 October 2023 and Wednesday 4 October 2023 also be deferred until later in the day.

5.8 Public hearing

Resolved, on the motion of Mrs Carter: That the timing and sequence of questions to be asked at the hearing on 18 September 2023 be left to the Chair to allocate between opposition, crossbench, and government members.

6. Inquiry into Budget Estimates 2023-2024 – procedural resolutions

The committee noted that the Budget Estimates timetable for 2023-2024 was agreed to by the House, with hearings generally commencing at 9.15 am and concluding by 5.30 pm. Below is a table of Portfolio Committee No. 2 hearings:

Date	Portfolio
Thursday 26 October 2023	Health, Regional Health, the Illawarra and the South Coast
Wednesday 1 November 2023	Water, Housing, Homelessness, Mental Health, Youth, the North Coast

6.1 Allocation of question time and total hearing time

The committee noted that under the Budget Estimates 2023-2024 resolution, each portfolio, except The Legislature, be examined concurrently by Opposition and Crossbench members only from 9.15 am to 10.45 am, 11.15 am to 12.45 pm, 2.00 pm to 3.30 pm and 3.45 pm to 5.15 pm, and, if required, by Government members only from 10.45 am to 11.00 am, 12.45 pm to 1.00 pm, and 5.15 pm to 5.30 pm.

6.2 Witness requests

Resolved, on the motion of Mr Fang: That:

- the secretariat write to the ministers of the relevant portfolios being examined by the committee to request that they nominate witnesses to appear at each hearing, for the committee's consideration
- upon receipt, the nominated witnesses be circulated to the committee
- members be given two days from when the nominated witnesses are circulated to make amendments or nominate additional witnesses
- the committee agree to the witness list by email, unless a meeting of the committee is required to resolve any disagreement.

Mr Fang moved: That the committee invite Dr Michael Holland MP, Parliamentary Secretary for Health and Parliamentary Secretary for Regional Health, to the hearing for the portfolios of Health, Regional Health, the Illawarra and the South Coast on Thursday 26 October 2023, from 9.15 am to 1.00 pm only.

Question put.

The committee divided.

Ayes: Mrs Carter, Dr Cohn, Ms Faehrmann, Mr Fang

Noes: Mr Buttigieg, Mr Donnelly, Ms Suvaal

Question resolved in the affirmative.

6.3 Witness appearance time

The committee noted that under the Budget Estimates 2023-2024 resolution Ministers are invited to appear for the morning sessions only, 9.15 am to 1.00 pm, unless requested by the committee to appear also for the afternoon session.

7. Inquiry into current and potential future impacts of gold, silver, lead and zinc mining on human health, land, air and water quality in New South Wales

7.1 Public hearing

Witnesses, the public and the media were admitted.

The Chair made an opening statement regarding the broadcasting of proceedings and other matters.

The following witnesses were sworn and examined:

- Ms Beverley Smiles, President – Inland Rivers Network
- Mr Ross McDonnell, NPA Executive, National Parks Association
- Mr Warwick Pearse, NPA Landscape Conservation Forum, National Parks Association

Mr Pearse tendered a document entitled 'Examples of contaminated mine waste water discharge into waterways which flow into NSW national parks'.

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined:

- Ms Sherry Duhe, Interim CEO, Newcrest Mining Limited
- Mr Michael Dewar, General Manager, Cadia Valley Operations, Newcrest Mining

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined:

- Ms Gem Green, Chair, Cadia Community Sustainability Network
- Ms Frances Retallack, Vice Chair, Cadia Community Sustainability Network
- Dr Ian Wright, Associate Professor, Environmental Science, Western Sydney University

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined:

- Ms Susannah White, Angus seedstock producer, Mudgee Region Action Group
- Ms Shireen Baguley, Environmental Consultant, Mudgee Region Action Group
- Mr Dan Sutton, President, Belubula Headwaters Protection Group
- Ms Rebecca Price, Vice President, Belubula Headwaters Protection Group

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined:

- Mr Tony Chappel, CEO, NSW Environment Protection Authority
- Mr Stephen Beaman, Executive Director Regulatory Practice & Services, NSW Environment Protection Authority

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined:

- Mr Stephen Galilee, CEO, NSW Minerals Council
- Ms Claire Doherty, Director, Policy, NSW Minerals Council

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined:

- Ms Georgina Beattie, CEO, Mining Exploration and Geoscience, NSW Resources Regulator
- Mr Peter Day, Executive Director, NSW Resources Regulator

The evidence concluded and the witnesses withdrew.

Tendered documents

Resolved, on the motion of Mr Donnelly: That the committee accept and publish the following document tendered during the public hearing:

- Document entitled 'Examples of contaminated mine wastewater discharge into waterways which flow into NSW national parks' tendered 18 September 2023 by Mr Warwick Pearse, NPA Landscape Conservation Forum, National Parks Association.

7.2 Transport – site visits and hearings in Orange and Mudgee

The committee considered the following information provided by the secretariat about transport options for the committee's site visits and hearings in Orange and Mudgee:

- commercial flights from Sydney to Orange on Tuesday 3 October 2023 for the required number of members and staff (13) would cost approximately \$5,000, and
- bus hire for Tuesday 3 and Wednesday 4 October 2023 to transport members and staff to hearings and site visits and back to Sydney would cost approximately \$5,000.

Discussion ensued.

Resolved, on the motion of Ms Faehrmann: That for the purposes of its Orange and Mudgee hearings and site visits the committee:

- take a commercial flight from Sydney to Orange on Tuesday 3 October 2023, and
- hire a bus to travel to hearings and site visits on Tuesday 3 October and Wednesday 4 October 2023 and to return to Sydney on Wednesday 4 October 2023.

7.3 Site visit and hearing itinerary – Orange and Mudgee

The committee considered the itinerary for the site visits and hearings in Orange and Mudgee on Tuesday 3 October and Wednesday 4 October 2023.

Discussion ensued.

Resolved, on the motion of Ms Faehrmann: That the committee adopt the following itinerary for the site visits and hearings in Orange and Mudgee, noting that times may need to change to accommodate witness availability and logistical details:

Tuesday 3 October 2023:

- 6.50 am to 7.45 am: commercial flight Sydney to Orange
- 7.45 am to 8.15 am: bus travel to hearing venue, Orange
- 8.15 am to 9.30 am: hearing set up and deliberative meeting
- 9.30 am to 12.00 pm: hearing, Orange
- 12 noon to 12.30 pm: lunch
- 12.30 pm to 1.30 pm: hearing, Orange
- 1.30 pm to 2.00 pm: bus travel to Cadia Mine
- 2.00 pm to 5.30 pm: site visit, Cadia Mine
- 5.30 pm to 6.00 pm: bus travel to Orange, stay in Orange overnight.

Wednesday 4 October 2023:

- 6.00 am to 8.30 am: bus travel to Mudgee
- 8.30 am to 9.30 am: breakfast and hearing set up
- 9.30 am to 12.00 pm: hearing, Mudgee
- 12.00 pm to 12.30 pm: lunch
- 12.30 pm to 2.00 pm: hearing, Mudgee
- 2.00 pm to 2.30 pm: bus travel to Bowdens Silver Project, Lue
- 2.30 pm to 4.00 pm: Bowdens presentation and site tour
- 4.00 pm to 5.30 pm: Time with Mudgee Region Action Group and landholders
- 5.30 pm to 9.30 pm (incorporating half hour dinner break): Bus travel Mudgee to Sydney.

Resolved, on the motion of Mr Donnelly, That:

- Regis Resources Limited be invited to give evidence at the Orange hearing on Tuesday 3 October 2023 or at another hearing for the inquiry.
- Bowdens Silver Pty Ltd be invited to give evidence at the Mudgee hearing on Wednesday 4 October 2023 or at another hearing for the inquiry.
- Further discussions regarding witness selection for the Orange and Mudgee hearings take place via email.

8. Adjournment

The Committee adjourned at 4.15 pm until Friday 22 September 2023 (public hearing – inquiry into the Equity, accessibility and appropriate delivery of outpatient and community mental health in New South Wales).

Elspeth Dyer
Committee Clerk

Minutes no. 5

Friday, 22 September

Portfolio Committee No. 2 - Health

Macquarie Room, Parliament House, Sydney, 9.02 am

1. Members presentDr Cohn, *Chair*Mrs Carter, *Deputy Chair*

Mr Buttigieg

Mr Donnelly

Ms Faehrmann (via videoconference) (from 9.10 am)

Ms Suvaal

Mrs Taylor (until 10.45 am)

2. Apologies**3. Previous minutes**

Resolved, on the motion of Mrs Carter: That the draft minutes no. 4 be confirmed.

4. Correspondence

The committee noted the following items of correspondence:

Received

- 15 September 2023 – Email from an individual advising that they will not be appearing before the committee as a witness for the inquiry into the equity, accessibility and appropriate delivery of outpatient and community mental health care in New South Wales.
- 15 September 2023 – Email from Lo-Shu Wen, Policy Officer, STARTTS Community Services, advising that STARTTS Community Services are unable to appear before the committee as witnesses for the inquiry into the equity, accessibility and appropriate delivery of outpatient and community mental health care in New South Wales on 22 September but would be available at another time.
- 18 September 2023 – Correspondence from Mr Chris Pavich attaching submission to Independent Planning Commission regarding Bowdens Mine.
- 19 September 2023 – Email from Kate Munro, CEO, Youth Action, advising that Youth Action are unable to appear before the committee as witnesses for the inquiry into the equity, accessibility and appropriate delivery of outpatient and community mental health care in New South Wales on 22 September but would be available at another time.
- 19 September 2023 – Email from an individual declining to appear at the hearing for the inquiry into the equity, accessibility and appropriate delivery of outpatient and community mental health care in New South Wales on 22 September, as they are unavailable, and advising that Amelia Klein (submission 88) has made a submission about the same individual and is willing to appear.
- 19 September 2023 – Email from an individual, advising she has been contacted by an invited witness, an individual, who is unable to attend the hearing for the inquiry into the equity, accessibility and appropriate delivery of outpatient and community mental health care in New South Wales on September 22, offering to attend in their place as her submission is about the same individual.
- 20 September 2023 – Email from Corinne Henderson, Principal Policy Advisor, Mental Health Coordinating Council to secretariat, advising that representatives of their organisation are unable to attend the hearing of the Inquiry into the equity, accessibility and appropriate delivery of outpatient and community mental health care in New South Wales on 22 September 2023 but would be keen to participate in future hearings.

5. Inquiry into the equity, accessibility and appropriate delivery of outpatient and community mental health care in New South Wales**5.1. Public submissions**

The committee noted that the following submissions were published by the committee clerk under the authorisation of the resolution appointing the committee: submission nos. 1, 2, 6, 9, 12, 22, 25, 31, 34 - 41, 44 - 52, 54 - 64, 66 - 69, 72, 74 - 80, 83, 86, 89, 91 - 93, 95 - 101, 103, 104, 106 - 109, 132 and 133.

5.2. Partially confidential submissions

Resolved, on the motion of Mrs Carter: That the committee keep the following information confidential, as per the request of the author: names in submissions no. 3, 4, 7, 10, 13 - 21, 26 - 30, 110 and 113.

Resolved, on the motion of Mrs Carter: That the committee authorise the publication of submissions no: 8, 42 and 45, 88 with the exception of sensitive or identifying material or potential adverse mention, which is to remain confidential, as per the recommendation of the secretariat.

5.3. Confidential submissions

Resolved, on the motion of Mrs Carter: That the committee keep submissions no: 5, 11, 23, 24, 32, 33, 53, 65, 71, 73, 116, 123 -127 confidential, as per the request of the authors.

5.4. Sequence of questions

Resolved, on the motion of Mrs Carter: That the allocation of questions to be asked at the hearing be left in the hands of the Chair.

5.5. In camera hearing

The committee previously agreed to take *in camera* evidence from individual submission authors.

The committee proceeded to take *in camera* evidence.

Persons present other than the committee: Rhia Victorino, Sarah Newlands, Gerard Rajakariar, Andrew Ratchford, Kirsty Simpson, Ryan Percy, Cameron McEwan, Natalie Tipping, and Yajun Ma.

Session 1

Witnesses were admitted.

The Chair made an opening statement regarding the proceedings and other matters.

The following witness was sworn and examined:

- Witness A, individual with lived experience
- Witness B (via videoconference), individual with lived experience
- Witness C (via videoconference), individual with lived experience

The evidence concluded and the witnesses withdrew.

Session 2

Witnesses were admitted.

The Chair made an opening statement regarding the proceedings and other matters.

The following witnesses were sworn and examined:

- Witness D, carer
- Witness E, carer
- Witness F, carer

The evidence concluded and the witnesses withdrew.

5.6. Public hearing

Witnesses, the public and the media were admitted at 11.00 am.

The Chair made an opening statement regarding the broadcasting of the proceedings and other matters.

The following witnesses were sworn and examined:

- Ms Priscilla Brice, CEO, BEING: Mental Health Consumers
- Dr Peter Schmiedgen, Policy Lead, BEING: Mental Health Consumers

- Ms Katie Thorburn, Policy Manager, Mental Health Carers NSW
- Ms Rachael Laidler, Policy Officer, Mental Health Carers NSW

The evidence concluded and the witnesses withdrew.

Mr Buttigieg and Mrs Suvaal left the meeting.

The following witnesses were sworn and examined:

- Ms Annie Crowe (via videoconference), Founder and consultant, NeuroAccess
- Dr Janelle Weise, Department of Developmental Disability Neuropsychiatry, UNSW

The evidence concluded and the witnesses withdrew.

Mr Buttigieg and Mrs Suvaal re-joined the meeting.

The following witnesses were sworn and examined:

- Ms Gen Whitlam, Associate Director, Client Services, ACON
- Ms Siobhan Hannan, Team Leader, Counselling Services, ACON
- Mx Amber Loomis, President, Sydney Bi+ Network
- Mx Georgie Fischer, Board Member, Sydney Bi+ Network.

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined:

- Ms Justine Harris, Clinical Psychologist, Head of Practice Management, Settlement Services International (SSI)
- Mr Ben Benazzouz, Provisional Psychologist, Mental Health Clinician, Settlement Services International (SSI),

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined:

- Ms Zoë Robinson, Advocate for Children and Young People
- Mr Kyzar Jing, Lived Experience Advisor, Office of the Advocate for Children and Young People
- Mr Ashley de Silva, CEO, ReachOut
- Mr Ben Bartlett, Director of Government Relations and Communications, ReachOut

The evidence concluded and the witnesses withdrew.

6. Adjournment

The committee adjourned at 4.30 pm until Tuesday 3 October (site visit and public hearing – inquiry into current and potential future impacts of gold, silver, lead and zinc mining on human health, land, air and water quality in New South Wales).

Sarah Newlands
Committee Clerk

Minutes no. 6

Tuesday 3 October 2023

Portfolio Committee No. 2 - Health

Coral Sea Room, Orange Ex-Services Club, Orange, 9.05 am

1. Members present

Dr Cohn, Chair

Mrs Carter, Deputy Chair

Mr Buttigieg (via videoconference)

Mr Donnelly

Ms Faehrmann

Ms Suvaal (via videoconference)

Mrs Taylor (via videoconference)

2. Acknowledgement of Country**3. Previous minutes**

Resolved, on the motion of Mrs Carter: That draft minutes no. 5 be confirmed.

4. Correspondence

The committee noted the following items of correspondence:

Received

- 5 September 2023 – Correspondence from Mr Mark Tutton concerning McPhillamys Gold Mine.
- 5 September 2023 – Correspondence from Ms Michelle Seagrott concerning McPhillamys Gold Mine.
- 5 September 2023 – Email from an individual attaching PowerPoint presentation by Dr Haydn Washington concerning Bowdens Mine and the problems of acid mine drainage.
- 22 September 2023 – Email from Luke Pidgeon, BlaQ Aboriginal Corporation, to the secretariat, advising BlaQ is unable to send representatives to the Inquiry into the equity, accessibility and appropriate delivery of outpatient and community mental health care in New South Wales, but would be willing to appear on another date.
- 25 September 2023 – Email from Ms Sue Varcoe, Managing Director SEC Newgate Research raising concerns regarding evidence given to the committee at its mining impacts inquiry hearing on 18 September 2023 by Belubula Headwaters Protection Group.
- 25 September 2023 – Letter from Captains Flat Community Association Inc seeking an extension to 24 October 2023 to make a submission to the mining impacts inquiry and inviting the committee to conduct a site visit at Captains Flat.
- 26 September 2023 – Email from Mr John Gerathy, Chair, Cadia District Protection Group, declining invitation to attend mining impacts inquiry hearing on 3 October 2023.
- 26 September 2023 - Email from Marianne Kearney, Senior Policy Advisor, Office of the Advocate for Children and Young People, advising that Mr Kyzar Jing, who appeared before the committee as a witness for the inquiry into the equity, accessibility and appropriate delivery of outpatient community mental health care in New South Wales wished to make an additional point in response to one of the questions asked at the hearing.
- 27 September 2023 – Email from Bowdens Silver Pty Ltd, declining invitation for Mr Anthony McClure, Director, to attend mining impacts inquiry hearing on 4 October 2023.
- 27 September 2023 – Email from Blayney Shire Council declining invitation to attend mining impacts inquiry hearing on 3 October 2023.
- 28 September 2023 – Email from CFMEU, Mining Division declining invitation to attend mining impacts inquiry hearings on 3 and 4 October 2023.
- 28 September 2023 – Email from Australian Workers' Union, NSW Branch declining invitation to attend mining impacts inquiry hearing on 3 October 2023.

- 29 September 2023 – Email from Healthy Rivers Dubbo declining invitation to attend mining impacts inquiry hearing on 4 October 2023.

Sent:

- 26 September 2023 – Letter from Chair to Mr Phil Donato MP, Member for Orange, advising of the committee's visit to Orange on 3 October 2023 for its mining impacts inquiry.
- 26 September 2023 – Letter from Chair to Mr Dugald Saunders MP, Member for Dubbo, advising of the committee's visit to Mudgee on 4 October 2023 for its mining impacts inquiry.

Resolved, on the motion of Ms Faehrmann: That Captains Flat Community Association Inc. be granted an extension for lodgement of the Captains Flat Community Association Inc. submission to the mining impacts inquiry until 24 October 2023.

5. Inquiry into current and potential impacts of gold, silver, lead and zinc mining on human health, land, air and water quality in New South Wales

5.1 Public submissions

The Committee noted the following submissions were published by the committee clerk under the authorisation of the resolution appointing the committee: submissions nos: 86, 87, 89, 90, 108, 123, 124, 125, 134, 135, 136, 137, 138, 142, 143, 144, 145, 147, 151, 153, 156, 158, 159, 161, 163, 166, 168, 172, 173, 174, 175, 176, 178, 179 and 181.

5.2 Partially confidential submissions

The committee considered partially confidential submissions to the inquiry.

Discussion ensued.

Resolved, on the motion of Mrs Carter: That the committee keep the following information confidential, as per the request of the author: names in submissions no. 120, 126, 129, 131, 133, 146, 150, 152, 164 and 180.

Resolved, on the motion of Mrs Carter: That the committee authorise the publication of submissions no. 88, 91, 95, 109, 117, 122, 127, 128, 140, 148, 154, 155, 160, 162, 165, 166A, 167, 169, 170, 177 and 182 with the exception of sensitive or identifying material or potential adverse comments.

5.3 Confidential submissions

Resolved, on the motion of Mrs Carter: That the committee keep submissions no. 108A, 121, 132, 139, 141, 149 and 171 confidential, as per the request of the authors.

5.4 Orange and Mudgee visits

The committee noted it would conduct a site visit to Cadia Mine, Orange on 3 October 2023 from approximately 1.30 pm to 6.30 pm including induction and travel time.

In addition, the committee noted that it would conduct a site visit to the property of Mr Tom Harris and Ms Sue Barry to the south of the Cadia mine site on 3 October 2023 following its site visit to Cadia Mine.

The committee also noted it would conduct the following site visits in Lue, just outside Mudgee, on 4 October 2023:

- Bowdens Silver Project, Lue, from approximately 2.30 pm to 4.00 pm.
- Consultation with Mudgee Region Action Group and local landholders from approximately 4.00 pm to 5.30 pm.

5.5 Further possible site visits and inquiry timetable

The Chair raised the possibility of a site visit to Captains Flat, NSW for the inquiry and a possible revised timetable for the inquiry to incorporate this site visit.

Discussion ensued.

The committee agreed that the secretariat would prepare for its consideration a possible revised timetable for the inquiry and that possible further site visits and a revised inquiry timetable would be discussed at the committee's next meeting on Wednesday 4 October 2023.

5.6 Sequence of questions

Resolved, on the motion of Ms Faehrmann: That the timing and sequence of questions to be asked at the hearing on 3 October 2023 be left to the Chair to allocate between opposition, crossbench, and government members, with the group of members to start the questioning to be alternated.

5.7 Public hearing – 3 October 2023, Ex Serviceman's Club Orange

Witnesses, the public and the media were admitted.

The Chair made an opening statement regarding the broadcasting of proceedings and other matters.

Mrs Claire Bennett, Operations Manager, Goldfields Honey Group, was sworn and examined.

The evidence concluded and the witness withdrew.

The following witnesses were sworn and examined:

- Ms Lisa Paton, local resident.
- Mr Tony Newman, local resident.

Mr Newman tendered the following documents:

- Document entitled 'Figure 15 Preliminary Aboriginal Heritage Sites'.
- Lisa Paton, 'Additional Evidence for the State heritage Application for the Kings Plains Cultural Landscape', 28 June 2023.
- Dr Michael Davies, 'Filtered Dry Stacked Tailings – The Fundamentals' (paper presented at Tailings and Mine Waste Conference, Vancouver, November 6 to 9, 2011).
- Biodynamic Association, 'Biodynamic Principles & Practices'.
- Tony Newman, 'Submission to DPIE'.

The evidence concluded and the witnesses withdrew.

Mr David Waddell, Chief Executive Officer, Orange City Council was sworn and examined.

The evidence concluded and the witness withdrew.

The following witnesses were sworn and examined:

- Ms Catherine Sullivan, local resident.
- Mr Craig Day, local resident.

Ms Sullivan tendered a document entitled 'Memorandum of Understanding Broula King Tailings Storage Facility'.

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined:

- Mr Ian Pearce, PFT Agriculture.
- Mr Bruce Reynolds, local resident.

The evidence concluded and the witnesses withdrew.

5.8 Cadia Mine, Orange site visit

The committee visited Cadia Mine, Orange led by Mr Simon Troeth, Manager Government and Industry Relations, Newcrest Mining Ltd; and Mr Michael Dewar, General Manager, Cadia Valley Operations, Newcrest Mining Limited; and undertook a conducted tour.

5.9 Site visit to property of private landholder

The committee visited the property of Mr Tom Harris and Ms Sue Barry to the south of the Cadia mine site and consulted with the landholders and Ms Gem Green, Chair, Cadia Community Sustainability Network; Ms Frances Retallack, Vice-Chair, Cadia Community Sustainability Network; and local residents.

6. Adjournment

The Committee adjourned at 7.30 pm until Wednesday 4 October 2023 (public hearing and site visits – inquiry into current and potential impacts of gold, silver, lead and zinc mining on human health, land, air and water quality in New South Wales).

Elsbeth Dyer
Committee Clerk

Minutes no. 7

Wednesday 4 October 2023
Portfolio Committee No. 2 - Health
Auditorium, Club Mudgee, Mudgee, 9.05 am

1. Members present

Dr Cohn, Chair
Mrs Carter, Deputy Chair
Mr Buttigieg (via videoconference) (until 2.15 pm)
Mr Donnelly
Ms Faehrmann
Ms Suvaal (via videoconference) (until 2.15 pm)

2. Acknowledgement of Country

3. Inquiry into current and potential impacts of gold, silver, lead and zinc mining on human health, land, air and water quality in New South Wales.

3.1 Attachments to submission 95

The committee noted the following items of correspondence referred to during the committee's public hearing on Tuesday 3 October 2023 by Ms Catherine Sullivan and Mr Craig Day. These items of correspondence were attachments to Ms Sullivan and Mr Day's submission to the inquiry (submission 95):

- Attachment 8A to submission 95: 14 August 2020 – Letter to the Hon Matt Kean MP, Minister for Energy and Environment from Mr Craig Day and Ms Catherine Sullivan regarding Broula King Gold Mine.
- Attachment 8B to submission 95: 29 October 2020 – Letter from Ms Steph Cooke MP, Member for Cootamundra, to Ms Catherine Sullivan attaching a response from the Hon Matt Kean MP, Minister for Energy and Environment regarding Broula King Gold Mine, dated 13 October 2020.
- Attachment 8C to submission 95: 6 November 2020 – Letter from Ms Steph Cooke MP, Member for Cootamundra, to Ms Catherine Sullivan attaching a response from Mr Anthony Keon, Deputy Director, Resources Regulator on behalf of the Hon John Barilaro MP, Deputy Premier regarding Broula King Gold Mine, dated 9 September 2020.

Resolved, on the motion of Mr Donnelly: That the committee authorise the publication of attachments 8A, 8B and 8C to submission 95.

3.2 Tended documents – public hearing, Tuesday 3 October 2023

Resolved, on the motion of Mr Donnelly: That the committee accept and publish the following documents tendered by Mr Tony Newman during the public hearing:

- Document entitled 'Figure 15 Preliminary Aboriginal Heritage Sites'.
- Lisa Paton, 'Additional Evidence for the State heritage Application for the Kings Plains Cultural Landscape', 28 June 2023.
- Dr Michael Davies, 'Filtered Dry Stacked Tailings – The Fundamentals' (paper presented at Tailings and Mine Waste Conference, Vancouver, November 6 to 9, 2011).
- Biodynamic Association, 'Biodynamic Principles & Practices'.
- Tony Newman, 'Submission to DPIE'.

Resolved, on the motion of Mr Donnelly: That the committee accept and publish the document tendered by Ms Catherine Sullivan during the public hearing, entitled 'Memorandum of Understanding Broula King Tailings Storage Facility' with the exception of deposited plan and lot numbers and signatures.

3.3 Bowdens Silver Pty Ltd

The committee had previously noted that Mr Anthony McClure, Director, Bowdens Silver Pty Ltd had declined invitations to appear at public hearings on 18 September 2023 and 4 October 2023.

The committee also noted that its site visit to the Bowdens Silver Project at Lue was scheduled for 2.30 pm to 4.00 pm on 4 October 2023 and that Bowdens Silver Pty Ltd had advised that Mr McClure would be on site for that site visit.

The Chair noted that in the circumstances she had directed the secretariat to email Bowdens Silver Pty Ltd on the evening of 3 October 2023 to re-invite Mr McClure to appear at the public hearing on 4 October 2023 between 2.30 pm and 3.15 pm, and to propose that this be followed by a much shorter site visit to the Bowdens Silver Project.

The Chair further noted that by email on the morning of 4 October 2023, Bowdens Silver Pty Ltd responded that Mr McClure was unavailable for the hearing but that the Bowdens Silver Pty Ltd team looked forward to welcoming the committee and staff to the Bowdens Silver Project site at Lue that afternoon.

Discussion ensued.

Resolved, on the motion of Mrs Carter, That:

- the visit to Bowdens Silver Project at Lue on the afternoon of Wednesday 4 October 2023 not proceed
- the Chair write to Mr Anthony McClure, Director, Bowdens Silver Pty Ltd on behalf of the committee inviting him to appear to give evidence at the public hearing on 27 October 2023 and setting a one week deadline for a response
- if Mr McClure declines the invitation to appear at the public hearing or does not respond by the deadline, the Chair write to Mr McClure reminding him of the committee's powers to compel witnesses to attend to give evidence, and re-inviting him to appear at the hearing.

3.4 Further possible site visits and inquiry timetable

The committee agreed to defer consideration of this item until after the public hearing.

3.5 Sequence of questions

Resolved, on the motion of Ms Faehrmann: That the timing and sequence of questions to be asked at the hearing on 4 October 2023 be left to the Chair to allocate between opposition, crossbench, and government members, with the group of members to start the questioning to be alternated.

3.6 Public hearing

Witnesses, the public and the media were admitted.

The Chair made an opening statement regarding the broadcasting of proceedings and other matters.

Mr Jack Ayoub, Organiser, Australian Workers Union, NSW Branch was sworn and examined.

The evidence concluded and the witness withdrew.

The following witnesses were sworn and examined:

- Mr David Lowe, Mudgee Wine Association.
- Dr Michael Southan, Australian Olive Association.
- Ms Lucy White, local resident.

The evidence concluded and the witnesses withdrew.

Dr Peter Bentivoglio was sworn and examined.

Dr Bentivoglio tendered the following documents:

- Photograph entitled 'Bowdens Dust Plume Lue, May 2017-May 2018'.
- Photograph entitled 'Diamond Core drilling rig'.
- Photograph entitled 'Dust Storm Canowindra 2019'.
- Photograph entitled 'Dust Storm Parkes 2019'.
- Photograph entitled 'Dust Storm Sydney'.
- Photograph entitled 'Dust Storm Sydney 2020'.
- Medicolegal report of Bruce J. Brew AM, Professor of Medicine (Neurology).
- Document entitled 'The Spirit of our Region'.

The evidence concluded and the witness withdrew.

The following witnesses were sworn and examined:

- Ms Jade Miskle, local resident
- Ms Maree O'Connell, local resident.

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined:

- Mr Michael Boller, local resident
- Mr Jack White, local resident.

Mr Boller tendered a document entitled 'Figure 14 Lead exposure to adults at privately owned residences'.

The evidence concluded and the witnesses withdrew.

Dr David Parry-Okeden, local veterinarian, was sworn and examined.

Dr Parry-Okeden tendered the following documents:

- Map of major Australian lead deposits (Megatonnes).
- Map of Blue Mountains World Heritage Area.
- Louise J. Kristensen, Mark Patrick Taylor, Kingsley O. Odigie, Sharon A. Hibdon, A. Russell Flegal, 'Lead isotopic compositions of ash sourced from Australian bushfires – Abstract'.
- Document entitled 'Mad as Mudgee'.
- Document entitled 'Fou comme Mudgee'.

The evidence concluded and the witness withdrew.

The following witnesses were sworn and examined:

- Ms Fiona Sim, Vice-President, Running Stream Water Users Association
- Ms Christine Moloney, Running Stream Water Users Association.

The evidence concluded and the witnesses withdrew.

3.7 Tendered documents – public hearing, Wednesday 4 October 2023

Resolved, on the motion of Mr Donnelly: That the committee accept and publish the following documents tendered during the public hearing by Dr Peter Bentivoglio:

- Photograph entitled 'Bowdens Dust Plume Lue, May 2017-May 2018'.

- Photograph entitled 'Diamond Core drilling rig'.
- Photograph entitled 'Dust Storm Canowindra 2019'.
- Photograph entitled 'Dust Storm Parkes 2019'.
- Photograph entitled 'Dust Storm Sydney'.
- Photograph entitled 'Dust Storm Sydney 2020'.
- Document entitled 'The Spirit of our Region'.
- Medicolegal report of Bruce J. Brew AM, Professor of Medicine (Neurology).

Resolved, on the motion of Mr Donnelly: That the committee accept and publish the document tendered during the public hearing by Mr Michael Boller entitled 'Figure 14 Lead exposure to adults at privately-owned residences' with the exception of individuals' names.

Resolved, on the motion of Mr Donnelly: That the committee accept and publish the following documents tendered during the public hearing by Dr David Parry-Okeden:

- Map of major Australian lead deposits (Megatonnes)
- Map of Blue Mountains World Heritage Area
- Louise J. Kristensen, Mark Patrick Taylor, Kingsley O. Odigie, Sharon A. Hibdon, A. Russell Flegal, 'Lead isotopic compositions of ash sourced from Australian bushfires – Abstract'.
- Document entitled 'Mad as Mudgee'.

Resolved, on the motion of Mr Donnelly: That the committee accept but not publish the document tendered during the public hearing by Dr David Parry-Okeden entitled 'Fou comme Mudgee' as it is written in a language other than English.

3.8 Further possible site visits and inquiry timetable

The Chair raised the matter of further possible site visits and the inquiry timetable.

The Committee noted that it had granted an extension for Captains Flat Community Association Inc to lodge its submission to the inquiry until 24 October 2023.

Discussion ensued.

The committee agreed to defer consideration of whether to conduct a site visit to Captains Flat until after the submission of Captains Flat Community Association Inc had been lodged.

Mr Donnelly noted that he was making enquiries about a suitable remediated mine site at which to conduct a possible site visit.

Resolved, on the motion of Ms Faehrmann:

- 13 October 2023 to be vacated and no longer held as a reserve date for hearings or site visits for the mining impacts inquiry.
- 27 October 2023 to continue to be held for a Sydney hearing for the mining impacts inquiry.
- 15-17 November 2023, which was being held for the committee's mental health inquiry to be used instead for hearings/site visits for the mining impacts inquiry with details to be confirmed.
- Report consideration deliberative for the mining impacts inquiry to occur during the reserve sitting week 5-7 December 2023 provided the reserve sittings are not activated.
- Report for mining impacts inquiry to be tabled 15 December 2023.

3.9 Site visit, Lue

The committee conducted a site visit at Lue NSW organised by Mr Gary Rush, Mudgee Region Action Group. The committee viewed country surrounding the Bowdens Silver Project, accompanied by local residents.

4. Adjournment

The Committee adjourned at 4.15 pm until Monday 16 October 2023 (public hearing – inquiry into the Equity, accessibility and appropriate delivery of outpatient and community mental health in New South Wales).

Elsbeth Dyer
Committee Clerk

Minutes no. 8

Monday 16 October 2023

Portfolio Committee No. 2 - Health

Macquarie Room, Parliament House, Sydney, 9.01 am

1. Members present

Dr Cohn, *Chair*

Mrs Carter, *Deputy Chair*

Mr Buttigieg (via videoconference)

Mr Donnelly

Ms Faehrmann

Mr Fang (substituting for Mrs Taylor)

Ms Suvaal

2. Acknowledgement of Country

3. Apologies

4. Previous minutes

Resolved, on the motion of Ms Suvaal: That draft minutes nos. 6 and 7 be confirmed.

5. Correspondence

The committee noted the following items of correspondence:

Received:

- 26 September 2023 – Email from Marianne Kearney, Senior Policy Advisor, Office of the Advocate for Children and Young People, to the committee, providing additional information following the public hearing for the inquiry into mental health on Friday 22 September 2023.
- 29 September 2023 – Email from Office of Mrs Bronnie Taylor, to the secretariat, providing a report entitled 'Wellbeing and Health In-Reach Nurse (WHIN) Coordinator Model Pilot Evaluation Report' for the inquiry into mental health.
- 30 September 2023 – Email from Dr Peter Roberts, declining the invitation to appear at the public hearing into the impacts of mining on Wednesday 4 October 2023.
- September and October 2023 – Emails between Bowdens Silver and committee secretariat concerning Bowdens Silver appearing at a hearing of the impacts of mining inquiry to give evidence.
- 4 October 2023 – Email from Mr Simon Troeth, Manger Government and Industry Relations, Newcrest Mining Limited, to the committee, regarding EPA report into metal in soil around Cadia for the impacts of mining inquiry.
- 4 October 2023 – Email from Ms Gem Green, Chair, Cadia Community Sustainability Network, to the committee, providing information concerning Cadia Mine for the impacts of mining inquiry.
- 5 October 2023 – Email from Ms Sallie Bennett, Executive Assistant to CEO, Relationships Australia NSW, to the secretariat, declining the invitation to make a submission to the mental health inquiry.

Sent:

- 10 October 2023 – Letter to Mr Anthony McClure, Bowdens Silver, inviting him to give evidence at a public hearing for the impacts of mining inquiry on 27 October 2023.

6. Inquiry into the equity, accessibility and appropriate delivery of outpatient and community mental health care in New South Wales

6.1 Public Submissions

The committee noted that the following submissions were published by the committee clerk under the authorisation of the resolution appointing the committee: submissions nos 4, 43, 52, 128, 134–136, 138–140, 142, 143 and 146–149.

6.2 Partially confidential submissions

Resolved, on the motion of Mr Fang: That the committee keep the following information confidential, as per the request of the author: names in submissions nos: 70, 105, 111, 115, 117 – 122 and 129.

Resolved, on the motion of Ms Suvaal: That the committee authorise the publication of submissions nos: 81 and 131 with the exemption of sensitive or identifying material or potential adverse mention that have been highlighted by the secretariat.

Resolved, on the motion of Ms Carter: That the committee authorise the publication of submission 130, with the exception of identifying information, as identified by the submission author.

6.3 Confidential submissions

Resolved, on the motion of Mr Fang: That the committee keep submissions nos: 137, 144 and 145 confidential, as per the request of the authors.

6.4 Sequence of questions

Resolved, on the motion of Mr Fang: That the allocation of questions to be asked at the hearing be left in the hands of the Chair.

6.5 Public Hearing

Witnesses, the public and the media were admitted at 9.17 am.

The Chair made an opening statement regarding the broadcasting of the proceedings and other matters.

The following witnesses were sworn and examined:

- Mr Graham Brereton, Registered Nurse and Psychologist
- Dr Tim Senior, General Practitioner.

The evidence concluded and the witnesses withdrew.

The following witness was sworn and examined:

- Dr Angelo Virgona, Chair, NSW Branch, The Royal Australian and New Zealand College of Psychiatrists (RANZCP).

The evidence concluded and the witness withdrew.

The following witnesses were sworn and examined:

- Ms Helen Boardman, Registered Nurse, Clinical Nurse Consultant, NSW Nurses and Midwives Association
- Ms Victoria Norris, Registered Nurse, Perinatal and Infant Mental Health Service Nurse Manager, North Sydney Local Health District, NSW Nurses and Midwives Association.

The evidence concluded and the witnesses withdrew.

The following witness was sworn and examined:

- Dr Vicki Mattiazzo, Deputy Chair, Royal Australian College of General Practitioners (RACGP) Rural Faculty.

The evidence concluded and the witness withdrew.

The following witnesses were sworn and examined:

- Ms Kylie Coventry, Head of Policy, Australian Psychological Society (APS)
- Ms Anita McGregor, APS Member and Member of College of Forensic Psychologists, Australian Psychological Society (APS)
- Ms Sahra O'Doherty, Acting President, Australian Association of Psychologists Inc.
- Mrs Amanda Curran, Chief Services Officer, Australian Association of Psychologists Inc.

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined:

- Ms Deb Willcox, Deputy Secretary, Health System Strategy and patient Experience, NSW Ministry of Health
- Dr Brendan Flynn, Executive Director, Mental Health Branch, NSW Ministry of Health
- Dr Michael Bowden, A/Chief Psychiatrist, NSW Ministry of Health.

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined:

- Mrs Marjorie Anderson, National Manager, 13Yarn
- Mr Shane Sturgiss, CEO, BlaQ Aboriginal Corporation.

The evidence concluded and the witnesses withdrew.

7. Adjournment

The committee adjourned at 4.44 pm until Thursday 19 October (committee meeting – inquiry into current and potential future impacts of gold, silver, lead and zinc mining on human health, land, air and water quality in New South Wales)

Holly Rivas Perdomo

Committee Clerk

Minutes no. 9

Thursday 19 October 2023

Portfolio Committee No. 2 - Health

Room 1254, Parliament House, 6.48 pm

1. Members present

Dr Cohn, Chair
 Mrs Carter, Deputy Chair
 Mr Buttigieg
 Mr Donnelly
 Ms Faehrmann
 Ms Suvaal
 Mr Fang (substituting for Mrs Taylor)

2. Acknowledgement of Country

3. Inquiry into current and potential impacts of gold, silver, lead and zinc mining on human health, land, air and water quality in New South Wales

3.1 Witness schedule

The committee considered:

- the Chair's proposed witness schedule for the mining impacts inquiry public hearing on 27 October; and
- changes to the Chair's proposed witness schedule proposed by Ms Faehrmann.

Mr Donnelly tabled an amended proposed witness schedule.

Mr Donnelly moved: That his amended proposed witness schedule be endorsed and adopted.

Discussion ensued.

Ms Faehrmann moved: That the motion be amended as follows:

- Professor Deborah Yates and Professor Mark Taylor to give evidence at 2.15pm.
- The Country Mayors Association and Local Business Chambers to give evidence together at 5.15pm.

Question put: That the amendment of Ms Faehrmann be agreed to.

The Committee divided.

Ayes: Dr Cohn and Ms Faehrmann.

Noes: Mrs Carter, Mr Buttigieg, Mr Donnelly, Ms Suvaal and Mr Fang.

Question resolved in the negative.

Question put: That the original motion be agreed to.

The committee divided.

Ayes: Mrs Carter, Mr Buttigieg, Mr Donnelly, Ms Suvaal and Mr Fang.

Noes: Dr Cohn and Ms Faehrmann.

Question resolved in the affirmative.

3.2 Other business/any related matters

Mr Donnelly moved, That:

- The committee hold no further hearings as part of this inquiry, after the hearing on 27 October 2023, and that the committee chair prepare a draft report in accordance with Standing Order 234.
- Furthermore, the Chair's draft report be submitted to committee members at least 14 days prior to the date scheduled for the report deliberative meeting.

Question put: That the motion be agreed to.

The committee divided.

Ayes: Mrs Carter, Mr Buttigieg, Mr Donnelly, Ms Suvaal and Mr Fang.

Noes: Dr Cohn and Ms Faehrmann.

Question resolved in the affirmative.

Resolved, on the motion of Mrs Carter: That the report deliberative meeting be held on 7 December 2023.

4. Other business

Resolved, on the motion of Ms Faehrmann, That:

- 15-17 November 2023, which were being held for the committee's mining impacts inquiry, be made available instead for the committee's mental health inquiry.
- 1 December 2023, which was being held for the committee's mental health inquiry, be vacated.

5. Adjournment

The committee adjourned at 7.10 pm until Thursday 26 October 2023 – Budget Estimates 2023-2024 hearing – Health, Regional Health, the Illawarra and the South Coast (Park).

Elsbeth Dyer
Committee Clerk

Minutes no. 12

Friday 27 October 2023
Portfolio Committee No. 2 - Health
Macquarie Room, Parliament House, 8.47 am

1. Members present

Dr Cohn, Chair (from 8.47 am to 1.01 pm and from 2.16 pm to 4.34 pm)
Mrs Carter, Deputy Chair
Mr Donnelly
Ms Faehrmann
Ms Suvaal (from 8.57 am)
Mrs Taylor (until 11.16 am)

2. Acknowledgement of Country

3. Draft minutes

Resolved, on the motion of Mr Donnelly: That draft minutes no. 8 and no. 9 be confirmed.

4. Correspondence

- 12 October 2023 – Email from Mr Michael Boller clarifying evidence he gave at the committee's mining impacts hearing on 4 October 2023, page 27 of transcript.
- 16 October 2023 – Letter from Mr Tony Chappel, Chief Executive Officer, NSW Environment Protection Authority, clarifying evidence that he gave at the committee's mining impacts hearing on 18 September 2023 and providing additional information.
- 16 October 2023 – Letter from Mr Stephen Beaman, Executive Director Regulatory Practice and Services, NSW Environment Protection Authority, clarifying evidence he gave at the committee's mining impacts hearing on 18 September 2023.
- 16 October 2023 – Letter from Mr Anthony McClure, Managing Director, Bowdens Silver, responding to invitation to give evidence at the committee's 27 October 2023 mining impacts inquiry hearing.
- 17 October 2023 – Email from Mr Warwick Pearse, NPA Conservation Forum, National Parks Association, attaching information concerning mine wastewater treatment.
- 17 October 2023 – Email from an individual concerning mining impacts inquiry, MND, blue-green algae and heavy metal concerns.
- 23 October 2023 – Email from Ms Jackie Woods, CFMEU, Mining Division, declining invitation for CFMEU, Mining Division to appear at mining impacts inquiry hearing on 27 October 2023.
- 23 October 2023 – Email from Independent Planning Commission advising that Mr Peter Duncan AM cannot appear at the committee's mining impacts inquiry hearing on 27 October 2023.
- 23 October 2023 – Letter from Mr Stephen Galilee, Chief Executive Officer, NSW Minerals Council, clarifying evidence that he gave at the committee's mining impacts inquiry hearing on 18 September 2023 regarding input of the NSW Minerals Council into the NSW Government's Critical Minerals Strategy.
- 24 October 2023 – Correspondence from Cadia Community Sustainability Network containing proposed recommendations for mining impacts inquiry.

- 25 October 2023 – Email from Office of the NSW Chief Scientist and Engineer advising that NSW Chief Scientist and Engineer is unavailable to appear at the committee's mining impacts inquiry hearing on 27 October 2023.
- 25 October 2023 – Email from Office of former Australian Chief Scientist, Dr Alan Finkel, advising Dr Finkel is unavailable to appear at the committee mining impacts inquiry hearing on 27 October 2023.

Resolved, on the motion of Mr Donnelly: That the committee authorise the publication of:

- the email from Mr Michael Boller, dated 12 October 2023, clarifying evidence he gave at the committee's mining impacts inquiry hearing on 4 October 2023 at page 27 of the transcript;
- the letter from Mr Tony Chappel, Chief Executive Officer, NSW Environment Protection Authority, dated 16 October 2023, clarifying evidence he gave at the committee's mining impacts inquiry hearing on 18 September 2023 and providing additional information;
- the letter from Mr Stephen Beaman, Executive Director, Regulatory Practice and Services, NSW Environment Protection Authority, dated 16 October 2023, clarifying evidence he gave at the committee's mining impacts inquiry hearing on 18 September 2023;
- the letter from Mr Stephen Galilee, Chief Executive Officer, NSW Minerals Council, dated 23 October 2023, clarifying evidence he gave at the committee's mining impacts inquiry hearing on 18 September 2023.

5. Inquiry into current and potential impacts of gold, silver, lead and zinc mining on human health, land, air and water quality in New South Wales

5.1 Public submissions

The committee noted the following submissions were published by the committee clerk under the authorisation of the resolution appointing the committee: submissions no: 93, 96, 99, 103, 105, 107, 110, 111, 114C, 114D, 115, 117B, 118 and 157.

5.2 Partially confidential submissions

The committee noted that the following submissions were partially published by the committee clerk under the authorisation of the resolution appointing the committee: submissions no: 97, 98, 100, 101, 102, 104, 116, 119 and 130.

Resolved, on the motion of Ms Faehrmann: That the committee keep the following information confidential as per the request of the authors: names in submissions no. 97, 98, 100, 101, 102, 104, 116, 119 and 130.

The committee considered the following submissions for partial confidentiality: submissions no. 94, 112, 114, 114A and 114B.

Resolved, on the motion of Ms Faehrmann: That the committee authorise the publication of submissions no. 94, 112, 114, 114A and 114B with the exception of sensitive or identifying material or potential adverse comments.

5.3 Sensitive submissions

The committee noted it had received two particularly sensitive submissions to the inquiry.

The committee considered submission 113 and noted that the author had requested that their name be kept confidential but that there be no material redacted from the submission.

Resolved, on the motion of Mr Donnelly: That the committee authorise the publication of submission no. 113 with the exception of the author's name, as per the request of the author.

The committee also considered submission 117A, and five attachments. The committee noted that the author had requested that this submission be published but that this submission contains potential adverse mention.

Discussion ensued.

Resolved, on the motion of Mr Donnelly: That the committee keep submission 117A confidential.

5.4 Attachments to submissions

The committee noted:

- An attachment had been received to submission 155, circulated in the meeting papers, and that the individual who lodged the attachment had requested that the attachment be treated as confidential.
- 30 attachments had been received via Australia Post to submission 92, Cadia Community Sustainability Network, and they are available on request.

5.5 Answers to questions on notice and supplementary questions – public

The following answers to questions on notice were published by the committee clerk under the authorisation of the resolution appointing the committee:

- Answers to questions on notice from Mr Stephen Galilee, Chief Executive Officer, NSW Minerals Council, received 12 October 2023.
- Answers to questions on notice from Mr Tony Chappel, Chief Executive Officer, NSW Environment Protection Authority, received 16 October 2023.
- Answer to supplementary question from Mr Stephen Beaman, Executive Director Regulatory Practice and Services, NSW Environment Protection Authority, received 16 October 2023.
- Answers to questions on notice and supplementary questions from Newcrest Mining Limited, received 19 October 2023.
- Answers to questions on notice from Ms Georgina Beattie, CEO, Mining Exploration and Geoscience, NSW Resources Regulator; and Mr Peter Day, Executive Director, NSW Resources Regulator, received 19 October 2023.
- Answer to question on notice from Ms Catherine Sullivan, local resident, received 20 October 2023.
- Answers to questions on notice from Mrs Claire Bennett, Operations Manager, Goldfields Honey Group, received 20 October 2023.
- Answers to questions on notice from Mr Jack Ayoub, Organiser, Australian Workers Union, NSW Branch, received 23 October 2023.
- Answer to question on notice from Ms Fiona Sim, Vice President, Running Stream Water Users Association, received 23 October 2023.
- Answer to question on notice from Ms Susannah White, Mudgee Region Action Group, received 25 October 2023.

5.6 Answers to questions on notice – partially confidential

The committee considered the following answers to questions on notice for partial confidentiality:

- Answers to questions on notice from Mr Michael Boller received on 12 October 2023.
- Answers to questions on notice from Cadia Community Sustainability Network received on 19 October 2023.

Resolved, on the motion of Ms Faehrmann: That the committee authorise the publication of answers to questions on notice from Mr Michael Boller and the Cadia Community Sustainability Network with the exception of sensitive or identifying material.

5.7 Answer to questions on notice – confidential

The committee considered the following answer to a question on notice for confidentiality:

- Answer to question on notice from Mrs Claire Bennett – document entitled 'Report – Goldfields Honey – Final – 20 December 2022'.

Discussion ensued.

Resolved, on the motion of Ms Faehrmann: That the secretariat contact Mrs Claire Bennett to clarify why there was a request for the document entitled 'Report – Goldfields Honey – Final – 20 December 2022' to be kept confidential.

5.8 Timeframe for answers to questions on notice and supplementary questions

The committee noted that the constrained timeframe between the return of the transcript for the 27 October 2023 hearing and drafting the report for the deliberative may affect any written response to questions on notice/supplementary questions being included in the final report.

Resolved, on the motion of Ms Faehrmann: That:

- members provide any supplementary questions to the secretariat within 24 hours of receiving the transcript of evidence
- witnesses be required to provide answers to questions on notice/supplementary questions within 7 days.

5.9 Public hearing

Sequence of questions

Resolved, on the motion of Ms Faehrmann: That the sequence of questions to be asked at the hearing on 27 October 2023 is to alternate between opposition, crossbench and government members with equal time allocated to each, and the group of members to start the questioning to be alternated.

Witnesses, the public and the media were admitted.

The Chair made an opening statement regarding the broadcasting of proceedings and other matters.

Mr Anthony McClure, Managing Director, Bowdens Silver was sworn and examined.

The evidence concluded and the witness withdrew.

The following witnesses were sworn and examined:

- Mr Wayne Taylor, Project Delivery Director, McPhillamys, Regis Resources Ltd.
- Ms Danielle Wallace, Health, Safety and Environment Manager, Regis Resources Ltd.

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined:

- Professor Mary O'Kane AC, Chair, NSW Independent Planning Commission.
- Dr Peter Williams, Former Commissioner and Panel Chair for NSW Independent Planning Commission's assessment of the McPhillamys Gold Project.
- Mr James Innes, Director, Legal, NSW Independent Planning Commission.

The evidence concluded and the witnesses withdrew.

The following witnesses were examined on their former oath:

- Ms Georgina Beattie, CEO, Mining Exploration and Geoscience.
- Mr Peter Day, Executive Director, NSW Resources Regulator.

The evidence concluded and the witnesses withdrew.

Mr Clay Preshaw, Executive Director, Energy, Resources and Industry Assessments, NSW Department of Planning and Environment was sworn and examined.

The evidence concluded and the witness withdrew.

At 1.48 pm, in the absence of the Chair, the Deputy Chair took the Chair, pursuant to Standing Order 218(3).

The following witnesses were sworn and examined:

- Mrs Alison Broinowski, President, Business Mudgee.
- Mr Mitch Colton, Vice-President, Business Orange.

The evidence concluded and the witnesses withdrew.

At 2.16 pm the Chair returned and took the Chair.

The following witnesses were sworn and examined:

- Cr Phyllis Miller, OAM, Country Mayors Association and Mayor, Forbes Shire Council.
- Mr Steve Loane, OAM, Country Mayors Association and General Manager, Forbes Shire Council.

Cr Miller tendered a document entitled 'Mayor Phyllis Miller OAM and Mr Steve Loane OAM Country Mayors Association'.

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined:

- Dr Jeremy McAnulty, Executive Director, Health Protection NSW, NSW Health.
- Professor Andrew Dawson, Clinical Toxicologist and Pharmacologist; Director National Poisons Register and Clinical Toxicology, Royal Prince Alfred Hospital, Sydney; Senior Visiting Medical Officer, NSW Poisons Information Centre, Sydney Childrens Hospital Network.
- Dr Thanjira Jiranantakan, Medical Advisor, Centre for Alcohol and Other Drugs, NSW Ministry of Health.

The evidence concluded and the witnesses withdrew.

The following witnesses were examined on their former oath:

- Mr Tony Chappel, CEO, NSW Environment Protection Authority.
- Mr Stephen Beaman, Executive Director Regulatory Practice and Services, Environment Protection Authority.

The evidence concluded and the witnesses withdrew.

5.10 Tendered documents

The committee considered the following document tendered during the public hearing:

- Document entitled 'Mayor Phyllis Miller OAM and Mr Steve Loane OAM Country Mayors Association' tendered 27 October 2023 by Cr Phyllis Miller OAM.

Discussion ensued.

The committee agreed that the secretariat should check with Cr Phyllis Miller OAM whether she would like the document entitled 'Mayor Phyllis Miller OAM and Mr Steve Loane OAM Country Mayors Association' which was tendered at the committee's mining impacts inquiry hearing on 27 October 2023 processed as a submission to the inquiry and, if so, whether Cr Miller would like the submission registered in the name of the Country Mayors Association, or in the name of Forbes Shire Council.

6. Adjournment

The committee adjourned at 4.34 pm until Monday 30 October 2023 – (public hearing – inquiry into the Equity, accessibility and appropriate delivery of outpatient and community mental health in New South Wales).

Elsbeth Dyer
Committee Clerk

Minutes no. 13

Monday 30 October 2023

Portfolio Committee No. 2 – Health

Macquarie Room, Parliament House, Sydney, 9.01 am

1. Members presentDr Cohn, *Chair*Mrs Carter, *Deputy Chair*

Mr Murphy (substituting for Mr Buttigieg until 9.34 am)

Mr Donnelly

Ms Suvaal

Mr Fang (via video conference from 9am – 9.07 am) (from 9.31 am)(substituting for Mrs Taylor)

2. Apologies

Ms Higginson (substituting for Ms Faehrmann)

3. Previous minutes

Resolved, on the motion of Mr Donnelly: That draft minutes nos. 8 and 10 be confirmed.

4. Correspondence

The committee noted the following items of correspondence:

Received

- 6 October 2023 - Email from submission author 154, to the committee, providing a copy a complaint regarding Royal Prince Alfred Hospital, in relation to the mental health inquiry.
- 12 October 2023 - Email from Ms Naomi Levack, Faculty Officer, The Royal Australian College of General Practitioners (RACGP) NSW & ACT, to the secretariat, declining the invitation to appear at public hearing for the mental health inquiry on 16 October 2023.
- 18 October 2023 - Email from Ms Amanda Curran, Chief Services Officer, Australian Association of Psychologists Inc, to the committee, providing a document entitled 'ANU Psychology Workforce Preliminary Report' and accompanying media release, in relation to the mental health inquiry.
- 25 October 2023 – Email from Mr Jaspar McCahon-Boersma, Australian Paramedics Association NSW, to the secretariat, declining the invitation to appear at public hearing for the mental health inquiry on 30 October 2023.
- 25 October 2023 – Email from Mr Brian Diplock, ACT Policing, declining the invitation to appear at public hearing for the mental health inquiry on 30 October 2023 and providing a document entitled 'PACER Evaluation FINAL Evaluation Report'.
- 25 October 2023 – Email from Mr Paul Lemmer ASM, SA Ambulance Service, declining the invitation to appear at public hearing for the mental health inquiry on 30 October 2023.
- 25 October 2023 – Email from Ms Katie McKenzie, Canberra Health Services, ACT Government, declining the invitation to appear at public hearing for the mental health inquiry on 30 October 2023.
- 26 October 2023 – Email from Ms Catherine Sullivan attaching correspondence from Mr Tony Chappel, Chief Executive Officer, NSW Environment Protection Authority regarding Broula King Gold Mine for the impacts of mining inquiry.

Resolved, on the motion of Mr Donnelly, that the email from submission author 154, dated 6 October 2023, be kept confidential.

5. Inquiry into the equity, accessibility and appropriate delivery of outpatient and community mental health care in New South Wales**5.1 Public submissions**

The committee noted that the following submissions were published by the committee clerk under the authorisation of the resolution appointing the committee: submissions nos. 94, 141, 151-152, 155 and 156.

Resolved, on the resolution of Mr Murphy, that submission no. 158 be published.

5.2 Partially confidential submissions

The committee noted that the following submissions were partially published by the committee clerk under the authorisation appointing the committee: submissions nos. 82, 102, 153 and 154.

Resolved, on the motion of Mr Murphy, that the committee keep the following information confidential, as per the request of the author: names in submissions nos. 82, 102, 153 and 154.

Resolved, on the motion of Mr Murphy, that the committee authorise the publication of submissions nos. 84, 85, 90, 112, 114 and 150 with the exception of sensitive or identifying material or identifying material or potential adverse mention that have been highlighted by the secretariat.

5.3 Confidential submissions

Resolved, on the motion of Mr Murphy, that the committee keep submissions nos. 87 and 157 confidential, as per the request of the author.

5.4 Update on publication of submission no. 144

The secretariat provided an update to the committee on the publication status of submission no. 144.

5.5 Public Hearing

Sequence of questions

Resolved, on the motion of Mrs Carter: that the allocation of questions to be asked at the hearing be left in the hand of the Chair.

5.6 In camera hearing

The committee previously agreed to take *in camera* evidence from Witness G.

The committee proceeded to take *in camera* evidence.

Persons present other than the committee: Alex Stedman, Holly Rivas, Gerard Rajakariar, Tina Mrozowska, Jaelyn Lyas, Paul Hoad, Julia Drake-Broadman and Janice Herne.

Session 1

The witness was admitted.

The Chair made an opening statement regarding the proceedings and other matters.

The following witness was sworn and examined:

- Witness G individual with lived experience.

The evidence concluded and the witness withdrew.

5.7 Public Hearing

Witnesses, the public and the media were admitted at 10.06 am.

The Chair made an opening statement regarding the broadcasting of the proceedings and other matters.

The following witness was sworn and examined:

- Mr Cooper Smeaton, individual with lived experience.

The evidence concluded and the witness withdrew.

The following witness was sworn and examined:

- Dr Fiona Kumfor, Associate Professor, School of Psychology, University of Sydney, Clinical Neuropsychologist and Co-Founder of the Dementia Law Network

The evidence concluded and the witness withdrew.

The following witnesses were sworn and examined:

- Mr Kevin Morton, President, Police Association of NSW
- Mr Tony Bear, Manager, Strategy and Relationships, Police Association of NSW

The evidence concluded and the witness withdrew.

The following witness was sworn and examined:

- Magistrate Carolyn Huntsman, President, Mental Health Review Tribunal

The evidence concluded and the witness withdrew.

6. Inquiry into current and potential impacts of gold, silver, lead and zinc mining on human health, land, air and water quality in New South Wales

6.1 Public submissions

The committee noted that submission no. 183 was published by the committee clerk under the authorisation of the resolution appointing the committee.

6.2 Partially confidential submissions

Resolved, on the motion of Mr Donnelly, that the committee authorise the publication of submission no. 184 with the exception of sensitive or identifying information or potential adverse comments.

7. Adjournment

The committee adjourned at 12.31 pm until Wednesday 1 November 2023 (Budget Estimates 2023 – 2024 hearing – Water, Housing, Homelessness, Mental Health, Youth, the North Coast).

Holly Rivas

Committee Clerk

Minutes no. 15

Friday, 17 November 2023

Portfolio Committee No. 2 - Health

Macquarie Room, Parliament House, Sydney, 9.02 am

1. Members present

Dr Cohn, *Chair*

Mr Farlow (substituting for Mrs Carter, from 9.00 am until 12.30 pm)

Mrs Carter, *Deputy Chair* (from 1.30 pm until 4.30 pm)

Mr Buttigieg (via videoconference)

Mr Donnelly, until 9.15 am

Ms Faehrmann (via videoconference)

Ms Suvaal (*Deputy Chair* until 1:30 pm)

Mrs Taylor (via videoconference from 2:00 pm until 2.30 pm)

2. Apologies

Mrs Taylor, until 2.00 pm

3. Acknowledgement of Country

4. Election of Deputy Chair

The Chair called for nominations for the Deputy Chair for the morning session, noting Mrs Carter's absence.

Mr Farlow moved: That Ms Suvaal be elected Chair of the committee.

There being no further nominations, the Chair declared Ms Suvaal elected Deputy Chair from 9.00 am until 12.30 pm.

5. Previous minutes

Resolved, on the motion of Mr Donnelly: That the draft minutes nos. 13 and 14 be confirmed.

6. Correspondence

The committee noted the following items of correspondence:

Received

- 26 October 2023 - Email from Mr Howard Wren, ACT Ambulance Service, declining the invitation to appear at a public hearing for the mental health inquiry on 30 October 2023.
- 27 October 2023 – Email from Ms Catherine Sullivan attaching correspondence regarding Broula King Gold Mine.
- 1 November 2023 – Email from Dr Peter Bentivoglio attaching additional information following his appearance at the committee's mining impacts inquiry hearing on 4 October 2023; a Department of Planning study on environmental lead risks; and a study by Mark P. Taylor on environmental lead risks.
- 2 November 2023 – Email from Ms Maree O'Connell providing additional information following her appearance at the committee's mining impacts inquiry hearing on 4 October 2023 and attaching a study by Mark P. Taylor concerning environmental lead risks.
- 2 November 2023 – Email from Ms Jade Miskle providing additional information following her appearance at the committee's mining impacts inquiry hearing on 4 October 2023 and attaching a study by Mark P. Taylor concerning environmental lead risks.
- 3 November 2023 – Email from Cadia Community Sustainability Network attaching minutes of a Cadia Community Consultative Committee meeting, August 2023.
- 10 November 2023 – Email from Mr Brian Diplock, ACT Policing, declining the invitation to appear at public hearing for the mental health inquiry on 17 November 2023.
- 10 November 2023 - Email from Mr Howard Wren, ACT Ambulance Service, declining the invitation to appear at a public hearing for the mental health inquiry on 17 November 2023.
- 13 November 2023 – Email from Ms Anna Brooks, Lifeline, declining the invitation to appear at public hearing for the mental health inquiry on 17 November 2023.
- 13 November 2023 - Email from Mr Brian Diplock, ACT Policing, advising that a document entitled 'PACER Evaluation FINAL Evaluation REPORT' is authorised to be published for the purposes of the mental health inquiry.

7. Inquiry into current and potential impacts of gold, silver, lead and zinc mining on human health, land, air and water quality in New South Wales

7.1 Answers to questions on notice – public

The following answers to questions on notice were published by the committee clerk under the authorisation of the resolution appointing the committee:

- Answer to question on notice from Ms Lucy White received 3 November 2023.
- Answer to question on notice from NSW Resources Regulator, Mining Exploration and Geoscience, Department of Regional NSW received 10 November 2023.
- Answers to questions on notice from Mr Tony Chappel, CEO, NSW Environment Protection Authority received 13 November 2023.
- Answers to questions on notice from Mr Stephen Beaman, Executive Director, Regulatory Practice and Services, NSW Environment Protection Authority.
- Answers to questions on notice from the NSW Independent Planning Commission received 13 November 2023.

- Answers to questions on notice from Mr Anthony McClure, Managing Director, Bowdens Silver received 13 November 2023.

7.2 Answers to questions on notice – partially confidential

Resolved, on the motion of Ms Faehrmann: that the committee authorise the publication of the answers to questions on notice from Ms Lisa Paton and Mr Tony Newman with the exception of sensitive or identifying information.

7.3 Answers to questions on notice – confidential

Resolved, on the motion of Ms Faehrmann: That the answers to questions on notice from Mr Bruce Reynolds be kept confidential at the request of the witness.

Resolved, on the motion of Ms Faehrmann: That the answer to a question on notice from Mrs Claire Bennett – document entitled 'Report – Goldfields Honey – Final – 20 December 2022' be kept confidential as per the request of the witness.

7.4 Public submission

The following submission was published by the committee clerk under the authorisation of the resolution appointing the committee: submission no. 77A.

8. Inquiry into the equity, accessibility and appropriate delivery of outpatient and community mental health care in New South Wales

8.1 Public submissions

The following submissions were published by the committee clerk under the authorisation of the resolution appointing the committee: submission nos. 159 and 160.

8.2 Confidential submissions

Resolved, on the motion of Ms Faehrmann: That submission no. 162 be kept confidential, as per the request of the author.

8.3 Consideration of submission no. 161

The secretariat updated the committee on discussions with the author, with the committee to consider publication at a subsequent meeting.

8.4 Answers to questions on notice and supplementary questions – public

The following answers to questions on notice and supplementary questions were published by the committee clerk under the authorisation of the resolution appointing the committee:

- Answers to questions on notice and supplementary questions from Dr Janelle Weise, UNSW Department of Developmental Disability Neuropsychiatry, received 23 October 2023.
- Answers to supplementary questions from BEING: Mental Health Consumers, received 25 October 2023.
- Answers to questions on notice and supplementary questions from SSI received on 26 October 2023.
- Answers to supplementary questions from Sydney Bi+ Network, received 27 October 2023.
- Answers to questions on notice and supplementary questions from ACON, received 27 October 2023.
- Answers to supplementary questions from ReachOut, received on 30 October 2023.
- Answers to supplementary questions from Mental Health Carers NSW, received on 31 October 2023.
- Answers to supplementary questions from the Office of the Advocate for Children and Young People, received 2 November 2023.

8.5 Answers to questions on notice and supplementary questions – confidential

Resolved, on the motion of Mr Donnelly: That the following answers to questions on notice and supplementary questions be kept confidential:

- Answers to questions on notice and supplementary questions from Witness B, received 6 October 2023.
- Answers to supplementary questions from Witness A, received 22 October 2023.

- Answers to supplementary questions from Witness E, received 19 October 2023.
- Answers to supplementary questions from Witness F, received 15 October 2023.
- Answers to supplementary questions from Witness C, received 7 November 2023.

8.6 Consideration of committee activity in 2024

Committee activity for the mental health inquiry in early 2024 was confirmed for:

- Tuesday 13 February 2024
- Wednesday 14 February 2024
- Thursday 15 February 2024.

8.7 Public hearing

Sequence of questions

Resolved, on the motion of Ms Suvaal: That the sequence of questions to be asked at the hearing be left in the hands of the Chair.

8.8 Publication of PACER Evaluation FINAL Evaluation Report from ACT Policing

Resolved, on the motion of Mr Donnelly, that the committee authorise the publication of document entitled 'PACER Evaluation FINAL Evaluation Report'.

8.9 In camera hearing

The committee previously agreed to take *in camera* evidence from individual submissions authors.

The committee proceeded to take *in camera* evidence.

Persons present other than the committee: Laura Ismay, Holly Rivas, Gerard Rajakariar, Reeti Pandharipande, Andrew Ratchford, Claire Morgan, Jaymie Pope and Jaelyn Lyas.

Session 1

Witnesses were admitted.

The Chair made an opening statement regarding the proceedings and other matters.

The following witness was sworn and examined:

- Witness H
- Witness I
- Witness J
- Witness K

The evidence concluded and the witnesses withdrew.

Session 2

Witnesses were admitted.

The Chair made an opening statement regarding the proceedings and other matters.

The following witnesses were sworn and examined:

- Witness L
- Witness M

The evidence concluded and the witnesses withdrew.

8.10 Public hearing

Witnesses, the public and the media were admitted at 11.00 am.

The Chair made an opening statement regarding the broadcasting of the proceedings and other matters.

The following witness was sworn and examined:

- Mr Paul Lemmer (via videoconference), Executive Director, Metropolitan Operations – South Australia Ambulance.

The evidence concluded and the witness withdrew.

The following witness was sworn and examined:

- Ms Katie McKenzie, Executive Director, Mental Health, Justice Health, Alcohol and Drug Services (MHJHADS) Canberra Health Services, ACT Government.

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined:

- Mr Lawrence Muskitta, Head of Government Relations, Black Dog Institute
- Ms Nicole Cockayne, Director, Policy & Research Operations, Black Dog Institute.

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined:

- Mr Simon Dodd, Head of Workforce Development and Planning, headspace
- Ms Annie Hong, Youth National Reference Group Member, headspace.

The evidence concluded and the witnesses withdrew.

The following witness was sworn and examined:

- Ms Nicola Rabbitte (via videoconference), Wellness Health In-reach Nurse Coordinator Program.

The evidence concluded and the witnesses withdrew.

The following witness was sworn and examined:

- Ms Catherine Lourey, Commissioner, Mental Health Commission of NSW.

The evidence concluded and the witnesses withdrew.

The following witness was sworn and examined:

- Ms Lizz Reay, Chief Executive Officer, Nepean Blue Mountains Primary Health Network and Chair, NSW/ACT PHN CEO Network.

The evidence concluded and the witnesses withdrew.

The following witness was sworn and examined:

- Mr Craig Parsons, General Manager, Partnerships & Innovation, Sydney North PHN and Chair, NSW/ACT Mental Health Network.

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined:

- Mr Brett Simpson, President, Australian Paramedics Association (NSW), Intensive Care Paramedic
- Ms Jessica Whittaker, Delegate, Australian Paramedics Association (NSW) Paramedic
- Mr Jeffrey Andrew (via videoconference), Delegate, Australian Paramedics Association (NSW), Critical Care Paramedic.

The evidence concluded and the witnesses withdrew.

9. Post-hearing deliberative

Resolved, on the motion of Ms Suvaal: That the Chair write to Mr Brian Diplock, ACT Policing, on behalf of the committee, requesting responses to questions directed in the hearing to Ms Katie McKenzie, Executive Director, Mental Health, Justice Health, Alcohol and Drug Services, Canberra Health Services.

10. Adjournment

The committee adjourned at 4.32 pm until 7 December 2023 (Mining Impacts Inquiry – Report Deliberative).

Holly Rivas
Committee Clerk

Draft minutes no. 16

Thursday 7 December 2023
Portfolio Committee No. 2 - Health
Room 1254, Parliament House, 9.34 am

1. Members present

Dr Cohn, Chair
Mrs Carter, Deputy Chair
Mr Buttigieg
Mr Donnelly
Ms Faehrmann
Ms Suvaal
Mrs Taylor (via videoconference)

2. Apologies

3. Acknowledgement of Country

4. Previous minutes

Resolved on the motion of Ms Faehrmann: That draft minutes no. 12 and 15 be confirmed.

5. Correspondence

The committee noted the following items of correspondence:

Received

- 6 December 2023 – Email from Ms Kathryn Logan, External Affairs Manager, Regis Resources Ltd, attaching correspondence containing Regis' responses to certain content in transcripts of evidence and written submissions for the mining impacts inquiry.
- 3 September 2023 – Ms Shireen Baguley forwarding publicly available documents regarding the Bowdens Silver Project: her presentation to the Independent Planning Commission, 15 February 2023 and her surface water submission report to the Independent Planning Commission.
- 31 August 2023 – Australia Post package from Ms Janet Walk containing 14 forms from members of the public on which they ticked boxes and included brief handwritten comments about their main concerns with the Bowdens Silver Project.

Resolved, on the motion of Mrs Carter That the committee keep the following correspondence confidential, as per the recommendation of the secretariat, as consent for publication is not clear:

- 31 August 2023 – Australia Post package from Ms Janet Walk containing 14 forms from members of the public on which they ticked boxes and included brief handwritten comments about their main concerns with the Bowdens Silver Project.

Resolved, on the motion of Mrs Carter: That the committee publish the correspondence from Regis Resources Ltd, received 6 December 2023, responding to certain content in transcripts of evidence and written submissions for the mining impacts inquiry.

6. Inquiry into current and potential impacts of gold, silver, lead and zinc mining on human health, land, air and water quality in New South Wales

6.1 Public submissions

The committee noted the following submissions were published by the committee clerk under the authorisation of the resolution appointing the committee: submissions no 187, 189, 191, 192, 192A, 193, 196, 198, 199, 201, 203, 205, 207, 208, 214, 217, 218, 220, 221, 223, 225, 226, 227, 228 and 229.

6.2 Partially confidential submissions

The committee noted the following submissions were partially published by the committee clerk under the authorisation of the resolution appointing the committee: submissions no: 185, 190, 194, 195, 197, 200, 206, 209, 211, 212, 213, 215, 216, 219, 222 and 224.

Resolved, on the motion of Ms Faehrmann: That the committee keep the following information confidential as per the request of the authors: names in submissions no. 185, 190, 194, 195, 197, 200, 206, 209, 211, 212, 213, 215, 216, 219, 222 and 224.

6.3 Confidential submissions

Resolved, on the motion of Ms Faehrmann: That the committee keep submissions no 186, 188, 202 and 204 confidential, as per the request of the authors.

Resolved, on the motion of Ms Faehrmann: That the committee keep submissions no 210 and 230 confidential, as there has been no response concerning a publication request from the author.

6.4 Consideration of Chair's draft report

The Chair submitted her draft report entitled *Current and potential impacts of gold, silver, lead and zinc mining on human health, land, air and water quality in New South Wales* which, having been previously circulated, was taken as having been read.

Chapter 1

Resolved, on the motion of Mrs Carter: That paragraph 1.35 be amended by omitting all words after 'authority' and inserting instead: 'this public hearing takes the place of the merit based appeals process'.

Mrs Carter moved: That paragraph 1.66 be amended by omitting 'Cadia Mine has been the subject of some controversy in recent years' before 'In 2018'.

Question put.

The committee divided.

Ayes: Mrs Carter, Mr Buttigieg, Mr Donnelly, Ms Suvaal and Mrs Taylor.

Noes: Ms Faehrmann and Dr Cohn.

Question resolved in the affirmative.

Resolved, on the motion of Mrs Carter: That the following new paragraph be inserted after paragraph 1.70:

'Testing of water tanks has been conducted by both the EPA and Cadia mine which indicate that contaminants present in these tanks may be from other sources or poor tank maintenance, which raises a possible state-wide health risk.

Citation: See NSW Environment Protection Authority, *An investigation into metals in domestic tank water around the Newmont gold mine in Cadia* (2023) p 9; see also Newcrest Mining Limited, 'Isotope Report Fact Sheet' (19 July 2023), Newcrest Mining Limited website, <https://media.caapp.com.au/pdf/3tit2x/a3821a62-91e8-4b46-821b-56541f40f79a/Isotope%20Report%20Fact%20sheet.pdf>.'

Resolved, on the motion of Mr Donnelly: That the following new paragraph be inserted after paragraph 1.71:

'We acknowledge however that studies carried out as recently as a few months ago by the EPA have consistently shown that the water in tanks and the town water supply have met safe drinking levels and is safe to consume. Recent EPA point of use testing has met the current National Safe Water Guidelines.

Citation: NSW Environment Protection Authority, *An investigation into metals in domestic tank water around the Newmont gold mine in Cadia* (2023) p 9'.

Mr Donnelly moved: That paragraph 1.77 be amended by omitting 'strong opposition' and inserting instead 'vocal opposition'.

Question put.

The committee divided.

Ayes: Mrs Carter, Mr Buttigieg, Mr Donnelly, Ms Suvaal and Mrs Taylor.

Noes: Ms Faehrmann and Dr Cohn.

Question resolved in the affirmative.

Mrs Carter moved: That paragraph 1.77 be amended by:

- (a) omitting 'residents stating that' and inserting instead 'residents believing that'
- (b) omitting 'According to the World Health Organisation there is no safe level of lead for humans.' and inserting instead 'According to the World Health Organisation there is little information on base lead levels across communities'

Citation: See World Health Organisation, 'Lead Poisoning' (11 August 2023), World Health Organisation website: <https://www.who.int/news-room/fact-sheets/detail/lead-poisoning-and-health#:~:text=WHO%20has%20developed%20guidelines%20on,to%20reduce%20and%20term%20exposure.>

Question put.

The committee divided.

Ayes: Mrs Carter, Mr Buttigieg, Mr Donnelly, Ms Suvaal and Mrs Taylor.

Noes: Ms Faehrmann and Dr Cohn.

Question resolved in the affirmative.

Mrs Carter moved: That paragraph 1.81 be amended by omitting 'stating' and instead inserting 'believing'.

Question put.

The committee divided.

Ayes: Mrs Carter, Mr Buttigieg, Mr Donnelly, Ms Suvaal and Mrs Taylor.

Noes: Ms Faehrmann and Dr Cohn.

Question resolved in the affirmative.

Mr Donnelly moved: That the following paragraph 1.88 be omitted: 'While a detailed regulatory framework exists for mining in New South Wales, evidence received during the inquiry from many witnesses was that this framework could be strengthened to better protect human health and the environment. This will be examined in later chapters.' and the following new paragraph be inserted instead:

'While a robust regulatory framework exists for mining in New South Wales, steps should be taken to continually improve the framework to ensure best practice outcomes'.

Question put.

The committee divided.

Ayes: Mrs Carter, Mr Buttigieg, Mr Donnelly, Ms Suvaal and Mrs Taylor.

Noes: Ms Faehrmann and Dr Cohn.

Question resolved in the affirmative.

Mr Donnelly moved: That the following paragraph 1.89 be amended by omitting ‘The committee also recognises the anxiety held within certain communities that more needs to be done to ensure mining projects are conducted – and proposed mining projects are assessed – in a manner that is environmentally, socially and economically responsible’ and inserting instead ‘The committee also notes the apprehension held within sections of communities that continual improvement and innovation should be front of mind to ensure mining projects are conducted – and proposed mining projects are assessed – in a manner that is environmentally, socially and economically responsible’.

Question put.

The committee divided.

Ayes: Mrs Carter, Mr Buttigieg, Mr Donnelly, Ms Suvaal and Mrs Taylor.

Noes: Ms Faehrmann and Dr Cohn.

Question resolved in the affirmative.

Ms Suvaal moved: That the following new finding be inserted after paragraph 1.89:

‘Finding X

That mining is a significant industry for the New South Wales economy; employing 4,000 workers, contributing \$28.8 billion in Gross State Product and providing \$4.65 billion in government revenue from royalties. Mining plays a significant role in regional economies in local employment and supporting local community groups’.

Question put.

The committee divided.

Ayes: Mrs Carter, Mr Buttigieg, Mr Donnelly, Ms Suvaal and Mrs Taylor.

Noes: Ms Faehrmann and Dr Cohn.

Question resolved in the affirmative.

Ms Suvaal moved: That the following new finding be inserted after paragraph 1.89:

‘Finding X

That metals and minerals mining is of particular importance for the transition to net zero and for Australia’s sovereign capability. Metals and minerals mined in New South Wales are necessary for key components in electronics, electric vehicles, solar panels, batteries, solder, wind turbines and galvanized steel. Use of New South Wales’ mineral resources provides significant export opportunities as well as the potential to develop and expand domestic processing and manufacturing of these minerals’.

Question put.

The committee divided.

Ayes: Mrs Carter, Mr Buttigieg, Mr Donnelly, Ms Suvaal and Mrs Taylor.

Noes: Ms Faehrmann and Dr Cohn.

Question resolved in the affirmative.

Chapter 2

Resolved, on the motion of Mr Donnelly: That the opening paragraph of chapter 2 be amended by omitting ‘significant’ and instead inserting ‘noteworthy’.

Ms Suvaal moved: That paragraph 2.2 be amended by:

- (a) omitting 'It is noted that the New South Wales Critical Minerals and High-Tech Metals Priority List includes copper although gold is not listed' and inserting instead 'It is noted that the New South Wales Critical Minerals and High-Tech Metals Strategy is currently under review. The current Priority List includes copper although gold is not listed'.
- (b) omitting 'Neither gold nor copper are listed on the Australian Critical Minerals List' and inserting instead 'It is also worth noting neither gold nor copper are currently included on the Australian Critical Minerals List'.

Question put.

The committee divided.

Ayes: Mrs Carter, Mr Buttigieg, Mr Donnelly, Ms Suvaal and Mrs Taylor.

Noes: Ms Faehrmann and Dr Cohn.

Question resolved in the affirmative.

Resolved, on the motion of Mrs Carter: That paragraph 2.4 be omitted: 'When asked what proportion of the copper that Cadia Mine is producing is used in the manufacture of electric vehicles, Ms Duhe responded that the way in which copper is sold is very globally commoditised. Newcrest sells it in two formats doré and concentrate, and Newcrest does not see which end customer it goes to. However, Ms Duhe stated 'there are many studies out there that talk about the fact that copper is essential for the electrification for electric vehicles and for many other applications'.

Resolved, on the motion of Mr Donnelly: That paragraph 2.18 be omitted: 'Dr Wright summarised the concerns residents living close by to the mine (within a 20 to 25 kilometre radius) had raised with him. These concerns related to the safety of their drinking water given dust emissions from the mine:

Their concerns were due to frequent dust emissions observed from Cadia mine and subsequent observation of fine particulate material settling on cars, garden furniture, verandas etc... Since their water supplies are fed from water harvested from building roofs, they had justifiable concerns that their water tank supplies were enriched with dust containing metals that has dropped out in dust from the mine or other sources'.

Resolved, on the motion of Ms Suvaal: That the heading before paragraph 2.45 be amended by omitting '**Concerns that Government agencies did not take residents' complaints seriously**' and inserting instead '**Government agencies' response to residents complaints**'.

Resolved, on the motion of Ms Suvaal: That paragraph 2.45 be amended by omitting 'The situation with the EPA changed following a 12 May 2023 meeting between that agency's CEO, Mr Tony Chappel, and the CCSN, which Dr Ian Wright helped to arrange' and inserting instead 'On 12 May 2023 the EPA CEO, Tony Chappel met with the CCSN'.

Mr Donnelly moved: That the paragraph 2.49 be amended by omitting 'This is detailed further in their case study below.', and the Case study that follows entitled: 'Cadia Valley Operations – reproduced from the Environmental Defenders Office submission'.

Question put.

The committee divided.

Ayes: Mrs Carter, Mr Buttigieg, Mr Donnelly, Ms Suvaal and Mrs Taylor.

Noes: Ms Faehrmann and Dr Cohn.

Question resolved in the affirmative.

Resolved, on the motion of Mr Donnelly: That the heading before paragraph 2.53 '**Agency responses to concerns that pollution complaints and related health anxieties were not taken seriously**' be omitted.

Ms Suvaal moved: That the paragraph 2.53 be omitted: 'Dr Jeremy McAnulty, Executive Director, Health Protection NSW, NSW Health stated that there was never any recommendation to local doctors not to proactively test residents. His evidence to the committee was that NSW Health advised doctors to use their clinical judgment. Dr McAnulty also observed that 'in the absence of exposure or symptomatology, broad screening of the whole community wasn't recommended at this time'. This is discussed later in the chapter.' and the following new paragraph be inserted instead:

'Dr Jeremy McAnulty, Executive Director, Health Protection NSW, NSW Health gave evidence that when the EPA wrote to NSW Health in May, NSW Health requested all relevant information to be provided by the EPA in respect to pollutants as well as any health results they have received. These results informed discussions in an expert advisory panel comprising of a range of experts from different specialties (listed later in this chapter) who met in June. The panel agreed that early communication and engagement with local GPs is important to address concerns raised by patients and most appropriately respond in line with toxicology and other specialist advice and resolved that Health Protection NSW and health experts should meet with local GPs to ensure they have the best available evidence and guidance to support them in assessing and managing their patients' health concerns, as well as information to support them.

Citation: See Evidence, Dr Jeremy McAnulty, Executive Director, Health Protection NSW, NSW Health, 27 October 2023, p 51; and Evidence, Dr Thanjira Jiranantakan, Medical Advisor, Centre for Alcohol and Other Drugs, NSW Ministry of Health, 27 October 2023, p 53.'

Question put.

The committee divided.

Ayes: Mrs Carter, Mr Buttigieg, Mr Donnelly, Ms Suvaal and Mrs Taylor.

Noes: Ms Faehrmann and Dr Cohn.

Question resolved in the affirmative.

Resolved, on the motion of Mr Donnelly: That paragraph 2.56 be amended by omitting "appeared to concede" and inserting instead "acknowledged".

Mrs Carter moved: That paragraph 2.56 be amended by omitting: 'The EPA also appeared to concede that there could be improvement to its Environment Line for the reporting of pollution incidents'.

Question put and negated.

Mr Donnelly moved: That the paragraph 2.62 be amended by omitting 'though large sections of it are not used much'

Question put.

The committee divided.

Ayes: Mr Buttigieg, Mr Donnelly, Ms Suvaal, Mrs Taylor and Mrs Carter.

Noes: Ms Faehrmann and Dr Cohn.

Question resolved in the affirmative.

Resolved, on the motion of Mrs Carter: That paragraph 2.70 be amended by inserting at the end: 'However Dr. Wright did acknowledge that all samples of water taken from taps did not exceed National Water Safety Guidelines'.

Resolved, on the motion of Mr Donnelly: That paragraph 2.74 be omitted:

'Key observations from the report on the EPA's investigation into metals in tank water included:

- Concentrations of key metals found in the investigation are within typical concentrations found in Australian water tanks. It is likely that many or all of the exceedences found are from local and domestic sources of contamination such as roofing, plumbing and other atmospheric fallout such as that from aircraft emissions, industrial and roadside dust.

- Exceedences of the Australian Drinking Water Guidelines were most common for lead however the percentage of exceedences for lead found in the investigation were within typical levels found in Australian rainwater tanks.
- No statistically significant relationship was found between concentrations of metals in water samples (from water tanks and kitchen taps) and distance or direction from the mine'.

and the following new paragraph be inserted instead:

'On 8 November 2023 the EPA published the reports titled *An investigation into metals in domestic tank water around the Newmont gold mine in Cadia* and *An investigation into metals in sediments from domestic rainwater tanks around Newmont gold mine in Cadia*. The reports outline inter alia the results of tank water and sediment samples collected by the EPA between June and August 2023. The key observations from the results of the EPA's tank water testing in the Cadia valley area are as follows:

1. There were exceedences based on the National Health and Medical Research Council Australian Drinking Water Guidelines (ADWG) values for lead (2.7% at kitchen tap, 14% in tanks), nickel (0.9% at kitchen tap) and cadmium (1.7% in tanks);
2. Concentrations of key metals found in this investigation are within typical concentrations found in Australian rainwater tanks. It is likely that many or all of the exceedences found are from domestic and local sources of contamination such as roofing, plumbing and other atmospheric fallout such as that from aircraft emissions, industrial and roadside dust;
3. Exceedences of the ADWG were most common for lead; however, the percentage of exceedences for lead found in this investigation were within typical levels found in Australian rainwater tanks;
4. These results indicate the importance of maintaining catchments, tanks and tank water distribution systems in accordance with guidance provided by NSW Health, including first-flush diverters, regular tank cleaning and flushing. Property owners may also consider installing filtration to reduce potential contamination of their drinking water; and
5. No statistically significant relationship was found between concentrations of metals in water samples (from water tanks and kitchen taps) and distance or direction from the mine. No statistically significant relationship was found between concentrations of metals in soil samples and distance or direction from the mine.

Citation: NSW Environment Protection Authority, *An investigation into metals in domestic tank water around the Newcrest gold mine in Cadia* (2023) p 9'.

Mrs Carter moved: That the paragraph 2.78 be amended by omitting: 'As noted in chapter 1, according to the World Health Organisation, there is no safe level of lead for humans'.

Question put.

The committee divided.

Ayes: Mr Buttigieg, Mr Donnelly, Ms Suvaal, Mrs Taylor and Mrs Carter.

Noes: Ms Faehrmann and Dr Cohn.

Question resolved in the affirmative.

Resolved, on the motion of Mr Donnelly: That paragraph 2.88 be amended by inserting ' , as part of an hour long consultation session between NSW Health and local GPs,' after 'that NSW Health'.

Ms Suvaal moved: That the paragraph 2.92 be omitted:

'Dr Wright's submission elaborated on this stating that the EPL for Cadia Mine:

- Contained inadequate provisions for monitoring and controlling dust emissions from the mine.
- Contained no clear or specific provisions for ongoing monitoring of dust and metal content in that dust.

- Failed to fully document and regulate the fall out of dust emissions onto the local environment and community'.

Question put.

The committee divided.

Ayes: Mr Buttigieg, Mr Donnelly, Ms Suvaal, Mrs Taylor and Mrs Carter.

Noes: Ms Faehrmann and Dr Cohn.

Question resolved in the affirmative.

Ms Suvaal moved: That the paragraph 2.93 be omitted: 'Dr Wright stated that as the EPL is hard to understand, particularly with regard to the way in which it protects air quality, this 'contributes to current the uncertainty about the scale and nature of the dust emissions on the local community and environment' near Cadia Mine'.

Question put.

The committee divided.

Ayes: Mr Buttigieg, Mr Donnelly, Ms Suvaal, Mrs Taylor and Mrs Carter

Noes: Ms Faehrmann and Dr Cohn.

Question resolved in the affirmative.

Ms Suvaal moved: That the paragraph 2.95 be omitted:

'The CCSN also made a suggestion for change arguing that buffer zones around mines seem to be 'totally inadequate' with lead from Cadia being fingerprinted in water tanks 13km from the mine'.

Question put.

The committee divided.

Ayes: Mr Buttigieg, Mr Donnelly, Ms Suvaal, Mrs Taylor and Mrs Carter

Noes: Ms Faehrmann and Dr Cohn.

Question resolved in the affirmative.

Mr Donnelly moved: That the paragraph 2.97 be amended to omit: 'Having said this, it is not clear from evidence provided to the committee by Newcrest exactly how much of the copper produced at Cadia Mine is sold for use in clean energy products such as the manufacture of electric vehicles'.

Question put.

The committee divided.

Ayes: Mr Buttigieg, Mr Donnelly, Ms Suvaal, Mrs Taylor and Mrs Carter

Noes: Ms Faehrmann and Dr Cohn.

Question resolved in the affirmative.

Resolved, on the motion of Mr Donnelly: That paragraph 2.98 be omitted: 'In any case, and regardless of the positive aspects of Cadia Mine, all mines in New South Wales must be regulated appropriately to protect human health and the environment. Having regard to the response to dust lift-off and emission incidents, and to health concerns raised by nearby residents, it is clear that government agencies have not struck the right balance in regulating Cadia Mine' and the following new paragraph be inserted instead:

'The committee notes that all mines in New South Wales must be regulated appropriately to protect human health and the environment'.

Mr Donnelly moved: That the paragraph 2.99 be amended by:

- (a) omitting 'is very concerned at' and inserting instead 'notes'.
- (b) omitting 'were ignored' and inserting instead 'did not feel heard'.
- (c) omitting 'It is unacceptable that residents who were worried that dust could have carried heavy metals into the tank water that they drink were left to conduct water tests at their own expense.' and in inserting instead 'The committee notes that some residents took steps to have their water tested at their own expense.'

Question put.

The committee divided.

Ayes: Mr Buttigieg, Mr Donnelly, Ms Suvaal, Mrs Taylor and Mrs Carter

Noes: Ms Faehrmann and Dr Cohn.

Question resolved in the affirmative.

Mrs Carter moved: That paragraph 2.100 be omitted: 'Having regard to the sequence of events, it appears the EPA did not adequately respond to residents' concerns regarding pollution events at Cadia Mine until after the issue received media attention. This is unacceptable'.

Question put.

The committee divided.

Ayes: Mr Buttigieg, Mr Donnelly, Ms Suvaal, Mrs Taylor and Mrs Carter

Noes: Ms Faehrmann and Dr Cohn.

Question resolved in the affirmative.

Mr Donnelly moved: That the paragraph 2.101 be omitted: 'The committee is also concerned at evidence that even though the results of these water tests, showing elevated levels of metals, were supplied to NSW Health in March 2023 – and even though the results of preliminary blood tests were also handed over – residents were later left to conduct blood and hair testing for heavy metals at their own expense without assistance from NSW Health', and the following new paragraph be inserted:

'In March 2023, the Western NSW Local Health District Public Health Unit (PHU) followed up community investigations into the water sampling in their tanks and collected samples of household drinking water supplied from rainwater tanks at several residences in the Cadia region. These samples were tested to assist residents in identifying potential contamination that could pose a health risk. Tests were carried out for lead, selenium and more than 20 other elements. All results from the testing by NSW Health were below the health-related guideline values in National Health and Medical Research Council Australian Drinking Water Guidelines. This indicated that for the characteristics tested the water did not pose a health risk. Concerned residents went on to conduct independent blood and hair testing for heavy metals. The blood and hair testing results for heavy metals was not received by NSW Health until after 20 May 2023'.

Question put.

The committee divided.

Ayes: Mr Buttigieg, Mr Donnelly, Ms Suvaal, Mrs Taylor and Mrs Carter.

Noes: Ms Faehrmann and Dr Cohn.

Question resolved in the affirmative.

Mr Donnelly moved: That the paragraph 2.102 be amended by omitting: 'The committee simply observes that the practical effect appears to have been that many residents could not access testing through their GP and had to initiate their own hair and blood testing at appreciable expense to themselves'.

Question put.

The committee divided.

Ayes: Mr Buttigieg, Mr Donnelly, Ms Suvaal, Mrs Taylor and Mrs Carter

Noes: Ms Faehrmann and Dr Cohn.

Question resolved in the affirmative.

Mr Donnelly moved: That the paragraph 2.103 be amended by:

- (a) omitting 'finds comfort in the fact' and inserting instead 'notes'.
- (b) omitting 'Cultural change is needed at the EPA and the agency must communicate with communities – not just mine licensees – to resolve concerns around pollution incidents'.
- (c) omitting 'is also pleased at' and inserting instead 'also notes'.

Question put.

The committee divided.

Ayes: Mr Buttigieg, Mr Donnelly, Ms Suvaal, Mrs Taylor and Mrs Carter

Noes: Ms Faehrmann and Dr Cohn.

Question resolved in the affirmative.

Mrs Carter moved: That paragraph 2.104 be amended by omitting ' , of just \$15,000, is not enough to act as a deterrent for mining companies and should be substantially increased. The committee also emphasises that there must be a culture of enforcement within the EPA including using the more severe regulatory responses in appropriate cases.' and inserting instead 'is \$15,000 as an on the spot fine. However a maximum penalty of \$5 million for a corporation and \$1 million for an individual may be imposed as a result of court proceedings'.

Question put.

The committee divided.

Ayes: Mrs Taylor and Mrs Carter.

Noes: Mr Buttigieg, Mr Donnelly, Ms Suvaal, Ms Faehrmann and Dr Cohn.

Question resolved in the negative.

Mr Donnelly moved: That paragraph 2.104 be amended by:

- (a) omitting 'However, the maximum fine available under Tier 3, of just \$15,000, is not enough to act as a deterrent for mining companies and should be substantially increased.' and inserting instead 'However, the maximum fine available under Tier 3, of \$15,000, is often inadequate and can fail to act as a deterrent to large or multinational companies.'
- (b) omitting 'The committee also emphasises that there must be a culture of enforcement within the EPA including using the more severe regulatory responses in appropriate cases.' and inserting instead 'The committee also emphasises that the EPA continues to strengthen its culture of enforcement including using the full ambit of regulatory responses'.

Question put.

The committee divided.

Ayes: Mr Buttigieg, Mr Donnelly, Ms Suvaal, Ms Faehrmann and Dr Cohn.

Noes: Mrs Taylor and Mrs Carter.

Question resolved in the affirmative.

Mrs Carter moved: That Finding 1 be amended by omitting 'however the lack of enforcement let the Cadia community down'.

Question put.

The committee divided.

Ayes: Mr Buttigieg, Mr Donnelly, Ms Suvaal, Mrs Taylor and Mrs Carter

Noes: Ms Faehrmann and Dr Cohn.

Question resolved in the affirmative.

Mr Buttigieg moved: That Finding 1 be amended by inserting at the end 'The EPA has worked for many years with the Cadia mine site. A range of ongoing issues has been problematic for the environment and community and provide important information which can assist regulation into the future. The EPA has issued maximum infringement notices a number of times as well as court proceedings.'

Question put.

The committee divided.

Ayes: Mr Buttigieg, Mr Donnelly, Ms Suvaal, Mrs Taylor and Mrs Carter

Noes: Ms Faehrmann and Dr Cohn.

Question resolved in the affirmative.

Resolved, on the motion of Mrs Carter: That Recommendation 1 be amended by omitting 'strengthens its culture of enforcement within the agency so that the full ambit of regulatory responses, including prosecution, are used as appropriate' and inserting instead 'reviews and continues to strengthen its culture of engagement and communication with communities throughout New South Wales, especially regional communities, and ensures that trust is rebuilt and a culture of accountability to the community is in place'.

Resolved, on the motion of Ms Suvaal: That Finding 2 be amended by omitting 'grossly inadequate and fails to act as a deterrent' and inserting instead 'often inadequate and can fail to act as a deterrent to large or multinational companies'.

Mrs Carter moved: That Recommendation 2 be omitted: 'That the Government significantly increase the maximum penalty for Tier 3 offences under the *Protection of the Environment Operations Act 1997*'.

Question put.

The committee divided.

Ayes: Mrs Taylor and Mrs Carter.

Noes: Mr Buttigieg, Mr Donnelly, Ms Suvaal, Ms Faehrmann and Dr Cohn.

Question resolved in the negative.

Mr Donnelly moved: That Recommendation 2 be amended by omitting 'significantly increase' and inserting instead 'consider increasing'.

Question put.

The committee divided.

Ayes: Mr Buttigieg, Mr Donnelly, Ms Suvaal, Ms Faehrmann and Dr Cohn.

Noes: Mrs Taylor and Mrs Carter.

Question resolved in the affirmative.

Resolved, on the motion of Mr Buttigieg: That paragraph 2.105 be amended by omitting 'Moving forward'.

Mrs Carter moved: That paragraph 2.106 be omitted: 'Regarding the water monitoring, the committee is very concerned at evidence that the EPA found elevated levels of some metals, including lead, in point of use samples and tank water samples taken from 85 properties in the Cadia Valley area. The committee notes evidence that there is no safe level of lead for humans. It also notes that the EPA found a range of heavy metals in sediment at the bottom of tanks and advice from Dr Ian Wright that what is found in tanks, including the bottom of tanks, can enter the drinking water supply in certain conditions'.

Question put.

The committee divided.

Ayes: Mr Buttigieg, Mr Donnelly, Ms Suvaal, Mrs Taylor and Mrs Carter

Noes: Ms Faehrmann and Dr Cohn.

Question resolved in the affirmative.

Resolved, on the motion of Mrs Carter: That the following new paragraph be inserted after paragraph 2.106:

'Regarding water monitoring, the committee notes health concerns around elevated levels of some metals, including lead, in point of use samples and tank water samples taken from 85 properties in the Cadia Valley area. The committee also notes isotope testing which indicates that lead in these tanks may not be sourced from the Cadia Mine. As such this raises a concern for state-wide health in tank water quality and tank water maintenance'.

Resolved, on the motion of Mr Donnelly: That paragraph 2.107 be amended by omitting: 'It is unsatisfactory that Mr Reynolds has had to install costly water filtering equipment to protect his family at his own expense'.

Mrs Carter moved: That paragraph 2.107 be omitted: 'In addition, the committee notes that isotope testing conducted earlier in the year by Newcrest had failed to exclude the Cadia Mine as the source of some lead found in local residents' water tanks; and evidence from Mr Bruce Reynolds that gutter mud he had tested from his roof contained concentrations of metal, including copper, that did not match soil samples surrounding his property, 9.5 kilometres from the mine'.

Question put and negated.

Resolved, on the motion of Mrs Carter: That the following new paragraph be inserted after paragraph 2.107: 'While testing indicates that water at the point of use is generally not exceeding safe levels, Dr. Wright has argued that in certain circumstances metals in the tank may enter water in the taps. The committee notes it is important to gain a state-wide understanding of current lead levels in water tanks'.

Ms Suvaal moved: That paragraph 2.109 be amended by:

- (a) omitting 'Given this conflicting information, it is unsatisfactory that there is still uncertainty surrounding whether Cadia Mine is the source of lead and other metals in residents' drinking water and tanks'.
- (b) omitting 'In the circumstances' before 'the committee welcomes'.
- (c) inserting 'and notes' after the words 'committee welcomes'.

Question put.

The committee divided.

Ayes: Mr Buttigieg, Mr Donnelly, Ms Suvaal, Mrs Taylor and Mrs Carter

Noes: Ms Faehrmann and Dr Cohn.

Question resolved in the affirmative.

Mr Donnelly moved: That the following new finding be inserted after paragraph 2.109:

'Finding X

That water metal level testing conducted by the EPA concludes drinking water near the Cadia mine is within the National Safe Water Guidelines.'

Question put.

The committee divided.

Ayes: Mrs Carter, Mr Buttigieg, Mr Donnelly, Ms Suvaal and Mrs Taylor.

Noes: Ms Faehrmann and Dr Cohn.

Question resolved in the affirmative.

Resolved, on the motion of Mrs Carter: That the following further new finding be inserted after paragraph 2.109:

'Finding X

That there may be a concern for the quality of water within tanks throughout the state.'

Mr Donnelly moved: That the following further new finding be inserted after paragraph 2.109:

'Finding X

That recent soil testing conducted by the EPA drew the same results as soil testing conducted prior to Cadia's construction.'

Question put.

The committee divided.

Ayes: Mrs Carter, Mr Buttigieg, Mr Donnelly, Ms Suvaal and Mrs Taylor.

Noes: Ms Faehrmann and Dr Cohn.

Question resolved in the affirmative.

Ms Suvaal moved: That the paragraph 2.110 be amended by:

- (a) omitting 'It is reassuring' and instead inserting 'The committee notes'.
- (b) omitting 'The committee supports the notion that such monitoring is independent and industry-funded'.

Question put.

The committee divided.

Ayes: Mr Buttigieg, Mr Donnelly, Ms Suvaal, Mrs Taylor and Mrs Carter

Noes: Ms Faehrmann and Dr Cohn.

Question resolved in the affirmative.

Mrs Carter moved: That paragraph 2.111 be omitted: 'Noting the problems that Cadia residents experienced in having their concerns about dust emissions acted upon swiftly and appropriately, the committee considers such real-time publicly available monitoring should be mandated for all mining operations going forward to provide a greater level of transparency and confidence for local communities'.

Question put.

The committee divided.

Ayes: Mr Buttigieg, Mr Donnelly, Ms Suvaal, Mrs Taylor and Mrs Carter

Noes: Ms Faehrmann and Dr Cohn.

Question resolved in the affirmative.

Resolved, on the motion of Mr Donnelly: That the following new paragraph be inserted after 2.110

'Accordingly, the committee recommends that the Government consider amending the *Protection of the Environment Operations Act 1997* to require publicly accessible air quality monitoring at all mining operations in NSW, using best available technology as determined by the EPA. This condition should be additional to any planning approval conditions.'

Mrs Carter moved: That Recommendation 3 be amended by omitting 'real-time' and 'industry-funded'.

Question put.

The committee divided.

Ayes: Mrs Taylor and Mrs Carter.

Noes: Mr Buttigieg, Mr Donnelly, Ms Suvaal, Ms Faehrmann and Dr Cohn.

Question resolved in the negative.

Resolved, on the motion of Mr Donnelly: 'That Recommendation 3 be omitted: 'That the Government amend the *Protection of the Environment Operations Act 1997* and associated regulations as required to mandate publicly available, real-time, independent and industry-funded monitoring of air quality surrounding all mining operations in New South Wales.', and the following new recommendation be inserted instead:

'That the Government consider amending the *Protection of the Environment Operations Act 1997* to require publicly accessible air quality monitoring at all mining operations in NSW, using best available technology as determined by the EPA. This condition should be additional to any planning approval conditions.'

Resolved, on the motion of Mr Buttigieg: 'That paragraph 2.112 be omitted: 'On the subject of action now being taken by NSW Health to respond to residents' concerns about heavy metal levels in their blood and hair, the committee is pleased to see that following interactions with the EPA, NSW Health, in conjunction with an expert panel, is collecting clinical data from certain Cadia residents, and analysing environmental samples provided by the EPA, to map possible exposure pathways and advise as to next steps.', and the following new paragraph be inserted instead:

'On the subject of action now being taken by NSW Health to respond to residents' concerns about heavy metal levels in their blood and hair, the committee is pleased to see that following interactions with the EPA, NSW Health, is conducting a "Deep Dive" to collect in-depth information from willing residents surrounding the Cadia Mine. The Deep Dive is the mechanism by which exposure pathways can be understood and is a necessary first step to understanding whether further testing is required, and for which substances officials should be testing.'

Mr Donnelly moved: 'That paragraph 2.113 be omitted: 'However, the committee is anxious as to whether the clinical samples being gathered to perform this work will form a large enough sample from which to draw conclusions and inform any kind of epidemiological analysis. In circumstances where the EPA has seen fit to proactively collect environmental samples, NSW Health should consider doing the same as regards proactively collecting clinical samples from Cadia Valley area residents, and comparing these to a control group' and the following new paragraph be inserted instead:

'Accordingly, the committee recommends that the Minister for Health use the results of the upcoming 'Deep Dive' on the hair and blood of willing residents currently being conducted with residents surrounding Cadia Mine to inform any consideration of a need for larger, wide-scale testing and related public health responses.'

Question put.

The committee divided.

Ayes: Mr Buttigieg, Mr Donnelly, Ms Suvaal, Mrs Taylor and Mrs Carter

Noes: Ms Faehrmann and Dr Cohn.

Question resolved in the affirmative.

Mr Donnelly moved: 'That Recommendation 4 be omitted: 'That the Minister for Health consider whether NSW Health should proactively test the blood and hair of willing residents surrounding the Cadia Mine, and that of a control group, for elevated heavy metal levels to inform a full epidemiological study.', and the following new recommendation be inserted instead:

'That the Minister for Health use the results of the upcoming 'deep dive' on the hair and blood of willing residents currently being conducted with residents surrounding the Cadia Mine to inform any consideration of a need for larger, wide-scale testing and related public health responses.'

Question put.

The committee divided.

Ayes: Mr Buttigieg, Mr Donnelly, Ms Suvaal, Mrs Taylor and Mrs Carter

Noes: Ms Faehrmann and Dr Cohn.

Question resolved in the affirmative.

Resolved, on the motion of the Mrs Carter: That the new recommendation be inserted after Recommendation 4:

‘Recommendation X

That the Government run a statewide education campaign on care and maintenance of rainwater tanks and safe use of water.’

Resolved, on the motion of Mr Donnelly: That paragraph 2.114 be amended by: omitting ‘there should be a mandated move to publicly available, real-time monitoring of air quality around mines’ and inserting instead ‘it may be worth investigating publicly available, real-time monitoring of air quality around mines’.

Mr Donnelly moved: That paragraph 2.114 be amended by omitting ‘Further, the committee notes Dr Ian Wright's concerns that clean air regulations in New South Wales are not fit for purpose and that while they need to be site-specific they are actually 'one size fits all’.

Question put.

The committee divided.

Ayes: Mr Buttigieg, Mr Donnelly, Ms Suvaal, Mrs Taylor and Mrs Carter

Noes: Ms Faehrmann and Dr Cohn.

Question resolved in the affirmative.

Mrs Carter moved: That paragraph 2.115 be omitted: ‘The committee acknowledges Dr Wright's evidence that this had contributed to a lack of detail in the Cadia Mine EPL surrounding air pollution limits which contrasted with the position regarding water pollution. The committee is concerned at Dr Wright's observations that the EPL for Cadia Mine contained inadequate provisions for monitoring and controlling dust emissions from the mine; contained no specific provisions for ongoing monitoring of dust and metal content in that dust; and failed to properly regulate the fall out of dust emissions onto the local environment and community. The committee agrees with Dr Wright that clean air regulations should be site-specific with specific targets for licensees to meet’.

Question put.

The committee divided.

Ayes: Mr Buttigieg, Mr Donnelly, Ms Suvaal, Mrs Taylor and Mrs Carter.

Noes: Ms Faehrmann and Dr Cohn.

Question resolved in the affirmative.

Resolved, on the motion of Mr Donnelly: That paragraph 2.116 be omitted: ‘In this context, the committee is of the view that the Minister for Climate Change, Energy, the Environment and Heritage should institute a review of clean air regulations made under the *Protection of the Environment Operations Act 1997* to address the following concerns, namely whether:

- the cumulative impacts of existing and new projects on local and regional air quality should be considered, rather than considering each project in isolation
- targets should be set for mine licensees to meet particularly with regard to dust and heavy metal content within that dust’.

and the following new paragraph be inserted instead: 'Accordingly, the committee is of the view that the Minister for Climate Change should instruct the EPA to institute a review of the clean air regulations made under the *Protection of the Environment Operations Act 1997*. This review should consider a range of issues and should include an examination of whether licence conditions are best placed for individual mine limits or cumulative mine limits.'

Mrs Carter moved: That paragraph 2.117 be amended by omitting 'In addition, the committee agrees with Dr Wright that'.

Question put.

The committee divided.

Ayes: Mrs Taylor, Mrs Carter, Ms Faehrmann and Dr Cohn.

Noes: Mr Buttigieg, Mr Donnelly and Ms Suvaal.

Question resolved in the affirmative.

Mr Donnelly moved: That paragraph 2.117 be omitted: 'In addition, the committee agrees with Dr Wright that prior to the development of a mine there should be a requirement for a baseline reading to be taken of heavy metals and contaminants including in surrounding water tanks, creeks, farm dams and in groundwater, as part of the environmental assessment process. Such baseline testing would be invaluable in assessing the source of heavy metal exceedences in Cadia Valley area tank water today'.

Question put.

The committee divided.

Ayes: Mr Buttigieg, Mr Donnelly and Ms Suvaal.

Noes: Mrs Taylor, Mrs Carter, Ms Faehrmann and Dr Cohn.

Question resolved in the negative.

Mrs Carter moved: That paragraph 2.118 be omitted: 'The committee also agrees with evidence from the Environmental Defenders Office that a significant weakness in the regulatory framework for mining is that cumulative impacts are not considered and that current social impact assessments often focus on economic and other issues without exploring the potential health risks of a project. Health impact assessments addressing cumulative impacts should be explicitly required by state development assessment laws, for both proposed mining projects and modifications to mining projects. The health impact assessments should also be prepared by independent experts engaged directly by the assessment authority. In the Cadia Mine case such a provision may have led to questions being asked at the assessment stage about the merits of such a large mine so close to agricultural and residential land'.

Question put.

The committee divided.

Ayes: Mr Buttigieg, Mr Donnelly, Ms Suvaal, Mrs Taylor and Mrs Carter.

Noes: Ms Faehrmann and Dr Cohn.

Question resolved in the affirmative.

Mr Buttigieg moved: That paragraph 2.119 be omitted: 'In a similar vein, the committee agrees with evidence from the Cadia Community Sustainability Network that buffer zones around mines are important to protect the health of surrounding communities'.

Question put.

The committee divided.

Ayes: Mr Buttigieg, Mr Donnelly, Ms Suvaal, Mrs Taylor and Mrs Carter.

Noes: Ms Faehrmann and Dr Cohn.

Question resolved in the affirmative.

Mrs Carter moved: That Recommendation 5 be omitted: ‘That the Minister for Climate Change, Energy, the Environment and Heritage institute a review of clean air regulations made under the *Protection of the Environment Operations Act 1997* to address the following concerns, namely whether:

- the cumulative impacts of existing and new projects on local and regional air quality should be considered, rather than considering each project in isolation
- targets should be set for mine licensees to meet particularly with regard to dust and heavy metal content within that dust’.

and the following new recommendation be inserted instead:

‘That the Minister for Climate Change, Energy, the Environment and Heritage ask the EPA to investigate and report on safe and appropriate parameters for lead and other metals in dust, and advise on any changes to regulations. Such advice should take into account the underlying levels of metals in ore bodies subject to mining’.

Question put and negatived.

Resolved, on the motion of Mr Donnelly: That Recommendation 5 be omitted: ‘That the Minister for Climate Change, Energy, the Environment and Heritage institute a review of clean air regulations made under the *Protection of the Environment Operations Act 1997* to address the following concerns, namely whether:

- the cumulative impacts of existing and new projects on local and regional air quality should be considered, rather than considering each project in isolation
- targets should be set for mine licensees to meet particularly with regard to dust and heavy metal content within that dust’.

and the following new recommendation be inserted instead:

‘That the Minister for Climate Change instruct the EPA to institute a review of the clean air regulations made under the *Protection of the Environment Operations Act 1997*. This review should consider a range of issues and should include an examination of whether licence conditions are best placed for individual mine limits or cumulative mine limits.’

Mr Donnelly moved: That Recommendation 6 be omitted: ‘That the Government amend the *Environmental Planning and Assessment Act 1979* and associated regulations as required to mandate that any environmental impact assessment for the proposed development of a mine include baseline data of heavy metals in water tanks, creeks, farm dams and groundwater surrounding the proposed mine.’

Question put.

The committee divided.

Ayes: Mr Buttigieg, Mr Donnelly, and Ms Suvaal.

Noes: Mrs Taylor, Mrs Carter, Ms Faehrmann and Dr Cohn.

Question resolved in the negative.

Mr Donnelly moved: That Recommendation 7 be omitted: ‘That the Government amend the *Environmental Planning and Assessment Act 1979* to require:

- health impact assessment reports to be prepared as a standard requirement of any mining assessment or modification
- the health impact assessment reports to address cumulative impacts
- the health impact assessment reports to be prepared by independent experts engaged directly by the assessment authority.'

Question put.

The committee divided.

Ayes: Mr Buttigieg, Mr Donnelly, Ms Suvaal, Mrs Taylor, and Mrs Carter.

Noes: Ms Faehrmann and Dr Cohn.

Question resolved in the affirmative.

Mr Donnelly moved: That Recommendation 8 be omitted: 'That the Government review planning approval regimes to ensure measures such as buffer zones are established between certain mining activities and residential or agricultural areas'.

Question put.

The committee divided.

Ayes: Mr Buttigieg, Mr Donnelly, Ms Suvaal, Mrs Taylor, and Mrs Carter.

Noes: Ms Faehrmann and Dr Cohn.

Question resolved in the affirmative.

Mr Donnelly moved: That paragraph 2.127 be omitted: 'The committee is concerned at evidence that because of an agreement of indefinite duration struck 20 years ago under a load-based water licensing system that is no longer in place, treated effluent water is being diverted from the Summer Hill Creek and to Cadia Mine. The committee notes that this is impacting flows in the creek and consequently agriculture businesses in the Orange region. The committee also notes that this water could potentially be used in a variety of ways – even for drinking – and that the impacts of the agreement could be quite serious for the Orange region in times of severe drought. In the circumstances, the committee considers this agreement to divert treated effluent to Cadia Mine is no longer appropriate, if it ever was, and the Government should investigate options to end it.'

Question put.

The committee divided.

Ayes: Mr Buttigieg, Mr Donnelly, Ms Suvaal, Mrs Taylor and Mrs Carter.

Noes: Ms Faehrmann and Dr Cohn.

Question resolved in the affirmative.

Resolved, on the motion of Mrs Carter: That the following new paragraph be inserted after paragraph 2.126:

'The committee notes community concerns around water usage of mines, and that the ongoing usage of water should be considered by relevant regulatory agencies, both during and after the approval process'.

Mrs Carter moved: That Recommendation 9 be omitted: 'That the Government investigate options to end the agreement between Orange City Council and Cadia Mine in relation to the mine receiving treated water for free with a view to ensuring that a more sustainable and appropriate arrangement is put in place that takes into consideration the needs of the Orange community and the environment'.

Question put.

The committee divided.

Ayes: Mr Buttigieg, Mr Donnelly, Ms Suvaal, Mrs Taylor, and Mrs Carter.

Noes: Ms Faehrmann and Dr Cohn.

Question resolved in the affirmative.

Mrs Carter moved: That paragraph 2.144 be omitted: 'The committee is concerned at reports by the AWU that Cadia Mine has restricted its attempts to gain access to the workers at the mine'.

Question put.

The committee divided.

Ayes: Mrs Taylor and Mrs Carter.

Noes: Mr Buttigieg, Mr Donnelly, Ms Suvaal, Ms Faehrmann and Dr Cohn.

Question resolved in the negative.

Mrs Carter moved: That paragraph 2.145 be amended by omitting 'Given evidence discussed throughout this chapter about dust emission events at the mine, the committee supports legislating for industry safety and health representatives or 'check inspectors' in metalliferous mines similar to those employed in coal mines in New South Wales. This would be an important further line of defence for workers and for broader communities surrounding a mine'.

Question put.

The committee divided.

Ayes: Mrs Taylor and Mrs Carter.

Noes: Mr Buttigieg, Mr Donnelly, Ms Suvaal, Ms Faehrmann and Dr Cohn.

Question resolved in the negative.

Resolved, on the motion of Ms Suvaal: That paragraph 2.145 be amended by omitting 'supports legislating for industry safety and health representatives or 'check inspectors' in metalliferous mines similar to those employed in coal mines in New South Wales. This would be an important further line of defence for workers and for broader communities surrounding a mine'. and inserting instead 'suggests that that the government considers expanding the role of Industry Safety Health Representatives (ISHR's) outlined in the *Workplace Health and Safety (Mines & Petroleum Sites) Act 2013* to metalliferous mine sites'.

Mrs Carter moved: That paragraph 2.146 be omitted: 'The committee is relieved at evidence of low fatality rates in the metalliferous mining industry in New South Wales noting that any fatality is quite obviously one too many. The committee is also pleased that the Resources Regulator is conducting a range of proactive compliance and enforcement activity across the state, with 150 inspectors and staff located close to regionally-based mining operations. However, the committee is very concerned at evidence of a serious accident at Cadia Mine on 19 June 2023 and notes any such accident is an extremely grave circumstance for the workers, families and communities involved. Any action that can be taken to proactively avoid such occurrences in the future should be fully examined'.

Question put.

The committee divided.

Ayes: Mrs Taylor and Mrs Carter.

Noes: Mr Buttigieg, Mr Donnelly, Ms Suvaal, Ms Faehrmann and Dr Cohn.

Question resolved in the negative.

Resolved, on the motion of Ms Suvaal: That paragraph 2.146 be amended by:

- (a) omitting 'is relieved at' and inserting instead 'notes'
- (b) omitting 'is also pleased' and inserting 'also notes'.

Mrs Carter moved: That paragraph 2.147 be omitted: 'In this regard, the committee notes AWU evidence that the number of workplace inspectors available to service regional areas close to mines may still not be optimal. The committee is of the view that this matter should be considered further'.

Question put.

The committee divided.

Ayes: Mrs Taylor and Mrs Carter.

Noes: Mr Buttigieg, Mr Donnelly, Ms Suvaal, Ms Faehrmann and Dr Cohn.

Question resolved in the negative.

Mrs Carter moved: That Recommendation 10 be omitted: 'That the Government consider changes to the *Workplace Health and Safety (Mines and Petroleum Sites) Act 2013* to legislate for industry safety and health representatives (or 'check inspectors') in metalliferous mines similar to those currently in place for the coal mining industry'.

Question put.

The committee divided.

Ayes: Mr Buttigieg, Mr Donnelly, Ms Suvaal, Mrs Taylor, and Mrs Carter.

Noes: Ms Faehrmann and Dr Cohn.

Question resolved in the affirmative.

Mr Buttigieg moved: That the following new recommendation be inserted instead of Recommendation 10:

'Recommendation X

That the Government consider expanding the role of industry safety health representatives outlined in the *Workplace Health and Safety (Mines & Petroleum Sites) Act 2013* to metalliferous mine sites.'

Question put.

The committee divided.

Ayes: Mr Buttigieg, Mr Donnelly, Ms Suvaal, Ms Faehrmann and Dr Cohn.

Noes: Mrs Taylor, and Mrs Carter.

Question resolved in the affirmative.

Mrs Carter moved: That Recommendation 11 be omitted: 'That the Government review the resourcing of the NSW Resources Regulator with a view to ensuring that there are enough staff, including workplace inspectors, to service regional areas where mining operations are taking place'.

Question put and resolved in the negative.

Chapter 3

Resolved, on the motion of Ms Suvaal: that the opening paragraph in chapter 3 be amended by deleting the words 'In particular, it explores community concerns arising from the projects that the framework for assessment and approval of mining projects in New South Wales is not fit for purpose' and inserting instead 'In particular, it explores community concerns arising from the assessment and approval of the projects'.

Mr Donnelly moved: That paragraph 3.6 be amended by deleting the words 'Silver, lead and zinc are not listed on the Australian Critical Minerals List' and inserting instead 'It is noted that the New South Wales Critical Minerals and High-Tech Metals Strategy is currently under review.

Citation: Media release, Hon Courtney Houssos MLC, Minister for Natural Resources, 'New critical minerals strategy to promote domestic manufacturing, investment and net zero opportunities' 8 September 2023.'

Question put.

The committee divided.

Ayes: Mr Buttigieg, Mrs Carter, Mr Donnelly, Ms Suvaal and Mrs Taylor.

Noes: Dr Cohn, Ms Faehrmann.

Question resolved in the affirmative.

Resolved, on the motion of Mr Donnelly: That paragraph 3.14 be omitted: 'This section discusses the assessment process for the development of a mine in New South Wales and the necessary pre-approvals'.

Resolved on the motion of Mr Donnelly: That the secretariat be requested to insert footnotes for paragraphs 3.23, 3.24, 3.26 and 3.29 as per the normal practice.

Mrs Carter moved: That paragraph 3.30 be omitted: 'When the IPC holds a public hearing in relation to a development application for which it is the consent authority, merit appeal rights to the NSW Land and Environment Court in respect of any future decision on that application are extinguished. Merits review involves a court re-exercising the power previously exercised by the original decision maker. The appeal is a re-hearing of the matter and the court determines the correct or preferable decision on the merits of the case', and the following new paragraph be inserted instead:

'When the IPC holds a public hearing in relation to a development application for which it is the consent authority, this public hearing replaces the merits appeal process in the NSW Land and Environment Court'.

The committee divided.

Ayes: Mr Buttigieg, Mrs Carter, Mr Donnelly, Ms Suvaal and Mrs Taylor.

Noes: Dr Cohn, Ms Faehrmann.

Question resolved in the affirmative.

Ms Suvaal moved: That paragraph 3.32 be omitted: 'Community concerns that the framework for assessment and approval of mining projects in New South Wales is not fit for purpose – and that arise from the Bowdens and McPhillamys projects – are discussed in detail later in the chapter. However, it is noted at the outset that key objectors to these projects – the Belubula Headwaters Protection Group and the Mudgee Region Action Group – called for changes to the law to allow merit-based appeals to be brought in the NSW Land and Environment Court following an IPC determination on an SSD application where a public hearing has occurred', and the following new paragraph be inserted instead:

'In addition to the general community concerns about the assessment process for mining projects, the Belubula Headwaters Protection Group and the Mudgee Region Action Group called for changes to the law to allow merit-based appeals to be brought in the NSW Land and Environment Court following an IPC determination on an SSD application where a public hearing has occurred'.

Question put.

The committee divided.

Ayes: Mr Buttigieg, Mrs Carter, Mr Donnelly, Ms Suvaal and Mrs Taylor.

Noes: Dr Cohn, Ms Faehrmann.

Question resolved in the affirmative.

Ms Suvaal moved: That paragraph 3.33 be amended by omitting: 'The issue of merit appeal rights will be discussed in more detail later in the chapter'.

Question put.

The committee divided.

Ayes: Mr Buttigieg, Mrs Carter, Mr Donnelly, Ms Suvaal and Mrs Taylor.

Noes: Dr Cohn, Ms Faehrmann.

Question resolved in the affirmative.

Resolved, on the motion of Mr Donnelly: That paragraph 3.39 be omitted: 'This section concerns complaints made by residents of Mudgee and surrounding areas that the framework for assessment and approval of mines in New South Wales is not fit for purpose and that the process as it relates to the Bowdens Silver Project is proof of this'.

Ms Suvaal moved: That paragraph 3.45 be omitted: 'Open-cut mining is a method of mining that removes the minerals and other materials from the ground's surface. This method requires excavation of a large open pit. Open-cut methods are used to recover resources that are found closer to the surface. In contrast, underground mining occurs through the creation of tunnels. This method is used to access deeper mineral deposits'.

Question put.

The committee divided.

Ayes: Mr Buttigieg, Mrs Carter, Mr Donnelly, Ms Suvaal and Mrs Taylor.

Noes: Dr Cohn, Ms Faehrmann.

Question resolved in the affirmative.

Mr Donnelly moved: That paragraph 3.51 be omitted: 'In discussing what blood testing would be needed to ensure the health of residents close to the mine, Dr Bentivoglio indicated that a sophisticated regime of testing was necessary. This would include independent baseline tests of heavy metals in blood, with Dr Bentivoglio commenting 'You'd have to do renal function and full blood count'. He said that this baseline testing would then have to be followed up annually.'

Question put.

The committee divided.

Ayes: Mr Buttigieg, Mrs Carter, Mr Donnelly, Ms Suvaal and Mrs Taylor.

Noes: Dr Cohn, Ms Faehrmann.

Question resolved in the affirmative.

Mr Donnelly moved: That paragraph 3.52 be omitted: 'During questioning, Dr Bentivoglio advised that if routine blood testing did pick up elevated levels of lead it would be necessary to act quickly to avoid permanent damage: "...once they start to show raised levels, they need to be reviewed three monthly. Appropriate action should be taken once the level has been seen; investigation into why the lead is high. What is wrong? Is it the dust?...That should be investigated very thoroughly to try and minimise the effect on children"'.
Question put.

Question put.

The committee divided.

Ayes: Mr Buttigieg, Mrs Carter, Mr Donnelly, Ms Suvaal and Mrs Taylor.

Noes: Dr Cohn, Ms Faehrmann.

Question resolved in the affirmative.

Mr Donnelly moved: That paragraph 3.53 be omitted: 'Like the Mudgee Region Action Group, Dr Bentivoglio also questioned whether the health and air quality impacts of the Bowdens Silver Project could be determined based on modelling. He recommended real-time, independent dust monitoring at multiple points surrounding the mine and isotope studies so that it is possible to pinpoint where any lead that is found is coming from. As discussed in chapter 2, isotope testing can be used to 'fingerprint' lead.'

Question put.

The committee divided.

Ayes: Mr Buttigieg, Mrs Carter, Mr Donnelly, Ms Suvaal and Mrs Taylor.

Noes: Dr Cohn, Ms Faehrmann.

Question resolved in the affirmative.

Mr Donnelly moved: That paragraph 3.57 be omitted: 'Regarding other measures parents could take to protect their children from lead, Ms Miskle also noted that the EPA had issued a fact sheet for people who live near lead industries, entitled *Lead – your health around the home*. She indicated that this factsheet referred to a number of expensive and burdensome steps people can take around the house to protect their families. This included washing front steps and verandahs at least once a week, mopping floors using a three bucket system, using a vacuum cleaner with a HEPA filter, and removing old carpets. Ms Miskle also noted that the fact sheet stated that animal coats can catch a considerable amount of dust and stated, "So there goes our family dog; he needs to leave".'

Question put.

The committee divided.

Ayes: Mr Buttigieg, Mrs Carter, Mr Donnelly, Ms Suvaal and Mrs Taylor.

Noes: Dr Cohn, Ms Faehrmann.

Question resolved in the affirmative.

Resolved, on the motion of Mr Buttigieg: That paragraph 3.61 be omitted: Another major concern raised about the approval process for Bowdens Silver Project related to the impacts on water – both in terms of quantity and quality.

Mr Donnelly moved: That paragraph 3.65 be omitted: 'Mr White also noted original plans for the project assessed that there was not enough water onsite for it. In 2019, the original SEARs involved external water supply to the Bowdens site through a pipeline from the Ulan Coal Mine. He indicated that this was consistent with the feeling locally and anecdotally that there would not be enough water onsite for the project. However, Mr White stated that later the plans were changed and amendments made as Bowdens felt it could use water onsite more efficiently with no need to pipe it from Ulan.'

Question put.

The committee divided.

Ayes: Mr Buttigieg, Mrs Carter, Mr Donnelly, Ms Suvaal and Mrs Taylor.

Noes: Dr Cohn, Ms Faehrmann.

Question resolved in the affirmative.

Mr Donnelly moved: That paragraph 3.66 be amended by omitting: 'At metal mines the metal being mined (e.g. gold, silver etc) is often rich in sulphide minerals. The mining process then exposes the sulphides to water and they react to form sulphuric acid. Acid mine drainage can therefore be released on mine sites in places where sulphides are exposed to air and water'.

Question put.

The committee divided.

Ayes: Mr Buttigieg, Mrs Carter, Mr Donnelly, Ms Suvaal and Mrs Taylor.

Noes: Dr Cohn, Ms Faehrmann.

Question resolved in the affirmative.

Mr Donnelly moved: That paragraph 3.67 be omitted: 'Ms White stated that DPE's experts had indicated that acid mine drainage could occur for hundreds of years from the site, that the waste rock dump design was unproven and that there could be a need for water treatment in perpetuity. Waste rocks are rocks that are mined to access the ore deposit (the mineable, financially viable part of rocks). Waste rocks can be the source of toxicity such as acid rock drainage and metals like arsenic. This can impact surface and groundwaters and aquatic and other organisms so waste rock dumps at mines must be carefully designed to avoid this.'

Question put.

The committee divided.

Ayes: Mr Buttigieg, Mrs Carter, Mr Donnelly, Ms Suvaal and Mrs Taylor.

Noes: Dr Cohn, Ms Faehrmann.

Question resolved in the affirmative.

Mr Donnelly moved: That paragraph 3.68 be omitted: 'However, Ms White claimed that the expert advice on acid mine drainage was ignored by DPE and the IPC in approving the Bowdens Silver Project. Likewise, Mr White stated that there were a number of unresolved issues with regard to water quality, notwithstanding the project's approval:

There was a lack of clear due process, with very clear dot points set out in the SEARs such as site water balance, water quality impacts and trigger action plans not addressed at all but rather added as dot points to the conditions of consent. Experts such as Earth Systems, commissioned by the DPE themselves, were not asking for the designs to be finessed but rather to be entirely redone.'

Question put.

The committee divided.

Ayes: Mr Buttigieg, Mrs Carter, Mr Donnelly, Ms Suvaal and Mrs Taylor.

Noes: Dr Cohn, Ms Faehrmann.

Question resolved in the affirmative.

Mr Donnelly moved: That paragraph 3.69 be omitted: 'In the circumstances Mr White said he had fears that the design solutions needed to ensure the project is safe will either be extremely sophisticated and therefore expensive or not possible for the site.'

Question put.

The committee divided.

Ayes: Mr Buttigieg, Mrs Carter, Mr Donnelly, Ms Suvaal and Mrs Taylor.

Noes: Dr Cohn, Ms Faehrmann.

Question resolved in the affirmative.

Resolved, on the motion of Mr Donnelly: That the heading before paragraph 3.70 be amended by omitting '**Failure and leakage of the site's tailings storage facility**' and inserting instead '**Potential concerns about the site's tailings storage facility**'.

Resolved, on the motion of Mr Donnelly: That paragraph 3.70 be amended by omitting 'Tailings are the materials left over after mined ore is processed. Tailings consist of ground rock, unrecoverable and uneconomic metals, chemicals, organic matter and effluent from mining processes that are used to take out the desired products from the ore. TSFs are structures that are designed to contain the tailings produced by mining processes'.

Resolved, on the motion of Mr Donnelly: That paragraph 3.73 be amended by omitting 'Another concern' and inserting instead 'A concern'.

Mr Buttigieg moved: That paragraph 3.76 be omitted: 'In its submission P & J Smith Ecological Consultants noted that in March and April 2022, AREA Environmental & Heritage Consultants (AREA) conducted a Koala survey within the mine site and adjacent proposed biodiversity offset areas which:

...confirmed the presence of Koala activity at 17 of 67 sites surveyed (11 within proposed operational areas of the mine and 6 in adjacent proposed biodiversity offset areas). Most Koala scat records were found within the area of impact; no Koala scat records were found in the more easterly proposed offset area.'

Question put.

The committee divided.

Ayes: Mr Buttigieg, Mrs Carter, Mr Donnelly, Ms Suvaal and Mrs Taylor.

Noes: Dr Cohn, Ms Faehrmann.

Question resolved in the affirmative.

Resolved, on the motion of Ms Suvaal: That paragraph 3.81 be amended by omitting 'not to be confused with Ms Susannah White'.

Resolved, on the motion of Mr Donnelly: That paragraph 3.81 be amended by omitting 'She indicated that perceptions surrounding a lead-producing mine would instead devastate the tourism industry with a significant net loss to jobs' and inserting instead 'She said'.

Mr Donnelly moved: That paragraph 3.83 be amended by omitting the words 'Mr Southan produces about 20 million litres of extra virgin olive oil per year and stressed to the committee that "if it becomes known and if it's found that extra virgin olive oil is contaminated or the quality is affected by lead, the importers will make a lot of use with that.'"

Question put.

The committee divided.

Ayes: Mr Buttigieg, Mrs Carter, Mr Donnelly, Ms Suvaal and Mrs Taylor.

Noes: Dr Cohn, Ms Faehrmann.

Question resolved in the affirmative.

Mr Donnelly moved: That paragraph 3.85 be omitted: 'Both Mr Lowe and Mr Southan indicated that acid mine drainage was also a worry for local winemakers and olive growers should it contaminate the region's Lawson Creek and run into the Cudgegong River because grape and olive crops rely on a fair amount of water to grow'.

Question put.

The committee divided.

Ayes: Mr Buttigieg, Mrs Carter, Mr Donnelly, Ms Suvaal and Mrs Taylor.

Noes: Dr Cohn, Ms Faehrmann.

Question resolved in the affirmative.

Mr Donnelly moved: That paragraph 3.86 be omitted: 'In addition, Ms Lucy White stated that in the economic assessment of the Bowdens proposal there was no meaningful government consultation with the visitor economy or businesses in the region at all.'

Question put.

The committee divided.

Ayes: Mr Buttigieg, Mrs Carter, Mr Donnelly, Ms Suvaal and Mrs Taylor.

Noes: Dr Cohn, Ms Faehrmann.

Question resolved in the affirmative.

Mr Donnelly moved: That paragraph 3.88 be amended by omitting: 'Dr Parry-Okeden further explained the consequences for primary industry if lead were to make its way into Australian livestock:

"There is nothing that will bring more disparagement and bad reputation on this country than to have lead in our exports...If we had lead in our cattle or in our meat, that export industry would go...Our green reputation would disappear from this country overnight and yet we are proposing to put up the biggest lead mine in Australia to get the silver simply through pure greed".

Question put.

The committee divided.

Ayes: Mr Buttigieg, Mrs Carter, Mr Donnelly, Ms Suvaal and Mrs Taylor.

Noes: Dr Cohn, Ms Faehrmann.

Question resolved in the affirmative.

Resolved, on the motion of Ms Suvaal: That paragraph 3.89 be amended by omitting 'Finally, another major concern that local residents raised was the failure to take into account the effect on property prices' and inserting instead 'Some residents raised concerns about the potential impact of the mine on local property prices'.

Ms Suvaal moved: That paragraph 3.107 be amended by omitting 'leakage of'.

Question put.

The committee divided.

Ayes: Mr Buttigieg, Mrs Carter, Mr Donnelly, Ms Suvaal and Mrs Taylor.

Noes: Dr Cohn, Ms Faehrmann.

Question resolved in the affirmative.

Resolved, on the motion of Mr Buttigieg: That paragraph 3.112 be omitted: 'This section concerns complaints made by residents who live near the McPhillamys Gold Project that the framework for assessment and approval of mines in New South Wales is not for purpose and that the process as it relates to the McPhillamys project is proof of this.'

Mr Donnelly moved: That paragraph 3.116 be omitted: 'Like the Mudgee Region Action Group, Mr Sutton called for changes to the law to allow merit-based appeals to be brought in the NSW Land and Environment Court following an IPC determination on an SSD application where a public hearing has occurred. He said "If mining proposals are as good as these proponents imply, there shouldn't be any harm in having them objectively reviewed should a group decide to appeal an approved decision."'

Question put.

The committee divided.

Ayes: Mr Buttigieg, Mrs Carter, Mr Donnelly, Ms Suvaal and Mrs Taylor.

Noes: Dr Cohn, Ms Faehrmann.

Question resolved in the affirmative.

Mr Donnelly moved: That paragraph 3.119 be omitted: 'In addition, similar to the point made by Ms White of the Mudgee Region Action Group, Mr Sutton stated that the benefits of metals and metals mining for New South Wales must be appropriately balanced against other considerations. He stated:

It's all well and good to say you need gold in technology. But when their own report is saying only 7 per cent of gold that they're mining is going to go to technology, it can be done a whole lot more

efficiently with existing gold resources we have that aren't going to risk the water streams that create the Belubula River and then flow into the Lachlan catchment.'

Question put.

The committee divided.

Ayes: Mr Buttigieg, Mrs Carter, Mr Donnelly, Ms Suvaal and Mrs Taylor.

Noes: Dr Cohn, Ms Faehrmann.

Question resolved in the affirmative.

Resolved, on the motion of Mr Donnelly: That the heading before paragraph 3.120 be amended by inserting **'Potential'** before **'Risks to the Belubula River'**.

Ms Suvaal moved: That paragraph 3.123 be omitted: 'The Environmental Defenders Office expressed its concern about the ongoing impact of the mine on the region's water well after any mining operations has closed. The Environmental Defenders Office stated that:

The open cut pit is proposed to be 450m deep and will not be rehabilitated. As such, water will continue to drain from aquifers and connected surface water into the pit for at least the next 500 years. The tailings dam is proposed to be constructed in the headwaters of the Belubula River. It will hold approximately 46,700ML of tailings and span an area of 273 hectares, at capacity.'

Question put.

The committee divided.

Ayes: Mr Buttigieg, Mrs Carter, Mr Donnelly, Ms Suvaal and Mrs Taylor.

Noes: Dr Cohn, Ms Faehrmann.

Question resolved in the affirmative.

Mr Buttigieg moved: That paragraph 3.125 be omitted: 'Finally, in his evidence, Dr Ian Wright stated that the Belubula River is really valuable in an ecological sense because it houses a population of platypus of huge conservation significance.'

Question put.

The committee divided.

Ayes: Mr Buttigieg, Mrs Carter, Mr Donnelly, Ms Suvaal and Mrs Taylor.

Noes: Dr Cohn, Ms Faehrmann.

Question resolved in the affirmative.

Resolved, on the motion of Ms Suvaal: That the following new paragraph be inserted after paragraph 3.130:

'It was stated by Ms Paton and Mr Newman that the local Aboriginal Land Council position regarding the mine was 'neutral' prior to the IPC hearing, and that Ms Paton no longer worked for the local Aboriginal Land Council.

Citation: Evidence, Ms Paton and Mr Newman, 3 October 2023, p 13.'

Resolved, on the motion of Mr Donnelly: That the heading before paragraph 3.131 be amended by inserting **'Potential'** before **'Impacts on agriculture'**.

Mr Buttigieg moved: That paragraph 3.133 be omitted: 'With regard to the tailings dam, Mrs Bennett indicated that all recommendations her family submitted to the IPC to reduce the risk of the bees drinking from the tailings dam were rejected. As noted earlier, Mrs Bennett's evidence concerning the IPC process being a waste of time was similar to Mr Sutton's:

"We sat there for the full two or three days...For them to walk away, not taking any recommendations, not putting any stops on anything, I feel was just a joke and a waste of people's time. It's one thing to approve a mine to go ahead. It's another thing to approve it and not have any recommendations come out of the meeting."

Question put.

The committee divided.

Ayes: Mr Buttigieg, Mrs Carter, Mr Donnelly, Ms Suvaal and Mrs Taylor.

Noes: Dr Cohn, Ms Faehrmann.

Question resolved in the affirmative.

Resolved, on the motion of Mr Donnelly: That the heading after paragraph 3.135 be amended by inserting **'potential'** before **'concerns surrounding McPhillamys Gold Project'**.

Ms Suvaal moved: That paragraph 3.136 be amended by:

- a. omitting 'some of the concerns' and inserting instead 'potential concerns'
- b. omitting 'adverse' before 'impacts'.

Question put.

The committee divided.

Ayes: Mr Buttigieg, Mrs Carter, Mr Donnelly, Ms Suvaal and Mrs Taylor.

Noes: Dr Cohn, Ms Faehrmann.

Question resolved in the affirmative.

Resolved, on the motion of Ms Suvaal: That the heading after paragraph 3.138 be amended by inserting **'Potential'** before **'Risks to the Belubula River'**.

Resolved, on the motion of Mr Buttigieg: That paragraph 3.144 be omitted: 'Mr Clay Preshaw, Executive Director, Energy, Resources and Industry Assessments, DPE, provided evidence relevant to complaints about the assessment and approval process for mines in New South Wales, and complaints that the current framework is not fit for purpose.'

Resolved, on the motion of Mr Buttigieg: That paragraph 3.145 be amended by omitting 'Mr Preshaw' and inserting instead 'Mr Clay Preshaw, Executive Director, Energy, Resources and Industry Assessments, DPE'.

Ms Suvaal moved: That a new committee comment be inserted after paragraph 3.166:

'Committee comment

The committee notes the number of issues raised in this chapter regarding certain mining projects. The committee further notes the mining projects were subject to rigorous evaluation in accordance with the current robust legislative framework for the assessment and approval of proposed mines. The committee has found that the regulatory bodies and the detailed frameworks they administer are fundamentally sound'.

Question put.

The committee divided.

Ayes: Mr Buttigieg, Mrs Carter, Mr Donnelly, Ms Suvaal and Mrs Taylor.

Noes: Dr Cohn, Ms Faehrmann.

Question resolved in the affirmative.

Ms Suvaal moved: That paragraph 3.167 be omitted: 'The Bowdens Silver Project and the McPhillamys Gold Project demonstrate that the current framework for the assessment and approval of mining projects

in New South Wales is not fit for purpose. In short, there is evidence that health, environmental and economic impacts are not being adequately considered in assessing and approving mining projects’.

Question put.

The committee divided.

Ayes: Mr Buttigieg, Mrs Carter, Mr Donnelly, Ms Suvaal and Mrs Taylor.

Noes: Dr Cohn, Ms Faehrmann

Question resolved in the affirmative.

Mr Donnelly moved: That the following new finding be inserted after paragraph 3.167:

'Finding X

That a number of regulatory bodies work across the mining sector – including the Department of Planning and Environment, the Independent Planning Commission, the Environment Protection Authority, the Resources Regulator and NSW Health. These regulatory bodies, and the detailed frameworks they administer, are fundamentally sound’.

Question put.

The committee divided.

Ayes: Mr Buttigieg, Mrs Carter, Mr Donnelly, Ms Suvaal and Mrs Taylor.

Noes: Dr Cohn, Ms Faehrmann.

Question resolved in the affirmative.

Resolved, on the motion of Mr Donnelly: That the following new recommendation be inserted after paragraph 3.167:

'Recommendation X:

That the Environment Protection Authority should be funded to have additional environmental health experts as part of their team who are able to participate in community outreach and link up with the Environmental Protection Branch of NSW Health to ensure health and safety issues are addressed effectively and that community concerns are addressed earlier’.

Ms Suvaal moved that paragraph 3.168 be amended by:

- a. omitting 'serious concerns' inserting instead 'stated concerns'
- b. omitting 'many in the local community' and inserting instead 'some in the local community'
- c. omitting 'and a number of independent experts as detailed in this chapter. Chief amongst these concerns were lead exposure, risks to water resources, risks to biodiversity, and risks to the Mudgee region's vibrant tourism and agricultural industries, including its wine industry'.

Question put.

The committee divided.

Ayes: Mr Buttigieg, Mrs Carter, Mr Donnelly, Ms Suvaal and Mrs Taylor.

Noes: Dr Cohn, Ms Faehrmann.

Question resolved in the affirmative.

Ms Suvaal moved that paragraph 3.169 be omitted: 'While there was some disagreement between Bowdens Silver and inquiry participants who oppose the project about whether the mine should be classified as a silver mine or a lead mine, it is clear that an appreciable amount of lead will be mined at the Bowdens site once it is operational. Noting this, the site at Lue is an extraordinary location for the mine. The committee acknowledges evidence that to date, regardless of major lead deposits in Australia, there are no operating lead mines anywhere near the east coast or highly populated areas.'

Question put.

The committee divided.

Ayes: Mr Buttigieg, Mrs Carter, Mr Donnelly, Ms Suvaal and Mrs Taylor.

Noes: Dr Cohn, Ms Faehrmann.

Question resolved in the affirmative.

Ms Suvaal moved that paragraph 3.170 be omitted: 'The committee notes evidence from an emeritus consultant neurosurgeon, Dr Peter Bentivoglio, of the serious, enduring health impacts that lead can have for humans, especially children, and that there is no safe level of lead for humans. Notwithstanding this, the mine will be located approximately two kilometres from Lue Primary School. The committee was also concerned to hear that there are at least 20 children who live within 10 kilometres of the mine site. In addition, the committee acknowledges evidence that the mine is to be located on an elevated, water-constrained site and that there are serious concerns from locals with a deep understanding of conditions in the area that prevailing winds will blow lead dust over the town of Lue and beyond, regardless of what modelling has suggested.'

Question put.

The committee divided.

Ayes: Mr Buttigieg, Mrs Carter, Mr Donnelly, Ms Suvaal and Mrs Taylor.

Noes: Dr Cohn, Ms Faehrmann.

Question resolved in the affirmative.

Resolved, on the motion of Mrs Carter: That paragraph 3.171 be amended by:

- a. omitting 'In this regard it notes recommendation 3 in chapter 2 of this report that the Government amend the law to mandate publicly available, real-time, independent and industry-funded monitoring of air quality surrounding all mining operations in New South Wales' and inserting instead 'In this regard it notes recommendation 3 in chapter 2 of this report that the Government consider amending the *Protection of the Environment Operations Act 1997* to require publicly accessible air quality monitoring at all mining operations in NSW, using best available technology as determined by the Environment Protection Authority. This condition should be additional to any planning approval conditions'
- b. omitting 'The committee is also pleased to hear that Bowdens is funding baseline testing of water and soil in the area surrounding the mine and notes its recommendation 6 in chapter 2 for amendments to the law to mandate baseline testing for heavy metals in water prior to the development of a mine.' and inserting instead 'The committee notes that Bowdens is funding baseline testing of water and soil in the area surrounding the mine'.

Mr Donnelly moved *in globo*: That the following paragraphs be omitted:

- a. paragraph 3.172: 'Compounding evidence that the site at Lue is an extraordinary place for the mine is the consent condition that the IPC has placed on the project surrounding blood testing. Bowdens Silver has indicated that such testing is voluntary and unnecessary because there will be no fundamental health concerns with the mine and that it is only to give residents peace of mind. That the IPC would think it appropriate to impose such a consent condition acknowledges the levels of anxiety being experienced by those living close to the mine. It is also highly questionable whether such a consent condition does give residents peace of mind – parents are placed in the quandary of whether to subject young children to the trauma of routine blood testing or risk the effects of lead exposure.'
- b. paragraph 3.173: 'The committee also notes evidence that the loss in property values for people living close to the site is adding to the mental health impacts of the Bowdens Silver Project. Further, it is not clear what criteria Bowdens has used to decide which properties it will acquire and why it is not acquiring many that are very close to the mine site, including the school.'

- c. paragraph 3.174: 'In addition, the committee is very concerned at evidence that authorities gave insufficient regard to the possible effects of the mining project on Mudgee's thriving tourism and agricultural industries. The committee accepts evidence that even the perception of lead exposure could have deleterious impacts for Mudgee's visitor economy. The committee also notes concerns from witnesses from the wine, olive and livestock industries that if any contamination from lead dust or water pollution were to affect their products this would have deep-seated consequences for the viability of their businesses and their reputations in Australia and abroad.'
- d. paragraph 3.175: 'Having regard to the serious risks for the tourism and agricultural industries in the Mudgee area, the committee does not accept evidence from Bowdens Silver that the project will have net benefits for the local economy. The committee heard that the mine will directly employ 228 people once operational while the tourism industry currently supports 2,074 jobs. Bowdens has submitted that the tourism and wine industries have co-existed with the coal mining industry in the region for decades, but coal mining is a different proposition from establishing a mine that is producing highly toxic lead.'
- e. Paragraph 3.176: 'The committee is also particularly concerned at the evidence surrounding the quantity of water to be used at the site. The committee notes evidence from Bowdens that it has secured all its water needs for the project and that this will not impact on other water users in the area. However, 177 megalitres will still be lost to the catchment during the operation of the mine and local residents with a deep understanding of the drought prone land in the area continue to express considerable disquiet.'
- f. paragraph 3.177: 'On water quality, the committee also notes that DPE's experts had identified possible long term impacts from the project, including acid mine drainage for hundreds of years from the site, that the waste rock dump design was unproven and that water treatment could be required in perpetuity. Should such impacts eventuate there are grave implications not only for current communities but for future generations.'
- g. paragraph 3.178: 'The committee believes that the evidence that the project will have adverse impacts for Aboriginal cultural heritage in the Mudgee region is unacceptable, including evidence that land-clearing for the project will involve the destruction of Aboriginal artefacts.'
- h. paragraph 3.179: 'Finally, it is extremely concerning that the project will clear hundreds of hectares of critically endangered ecological communities and will have adverse impacts on many threatened species, including koalas. Similarly, it was disappointing to hear the evidence from environmental consultant Ms Shireen Baguley that groundwater dependent ecosystems were not adequately considered in assessing the project. Further, the committee acknowledges evidence from a local veterinarian, Dr David Parry-Okeden that, as with humans, lead has serious and permanent health impacts on animals.'
- i. paragraph 3.180: 'In the circumstances, it is difficult to understand why the Bowdens Silver Project was given approval by DPE and the IPC.'
- j. paragraph 3.181: 'Regarding the McPhillamys Gold Project, the committee is particularly concerned at evidence from the Belubula Headwaters Protection Group that the IPC process was a waste of time and despite the group putting forward over 100 proposals for modification of the consent conditions for the project not one of them was adopted by the IPC. This is compounded by the fact that the Belubula Headwaters Protection Group has raised significant concerns about the risks of the project to the Belubula River on which the local community relies.'
- k. paragraph 3.182: 'The committee finds it extraordinary that Regis is building its TSF at the headwaters of the river and finds assertions from Regis that the TSF definitely will not fail unconvincing given climate change predictions and the capacity for extreme weather events in coming years, as well as the fact that tailings dams failures are definitely not unprecedented. The committee also notes with concern evidence received that the headwaters of the river have a large amount of Aboriginal cultural significance. In particular, the committee was disappointed to learn that there are disagreements about whether a comprehensive Aboriginal cultural heritage impact assessment was carried out on the

project site and the committee also notes concerns from residents about adverse impacts to surrounding properties, including a bee-keeping business.'

Question put.

The committee divided.

Ayes: Mr Buttigieg, Mrs Carter, Mr Donnelly, Ms Suvaal and Mrs Taylor.

Noes: Dr Cohn, Ms Faehrmann.

Question resolved in the affirmative.

Mr Donnelly moved: That paragraph 3.183 be omitted: 'The committee was however pleased at evidence that Regis is working with surrounding residents to ameliorate concerns around noise, visual and air quality impacts and was relieved to hear that one of the consent conditions for the McPhillamys Gold Project is for Regis to prepare an apiary monitoring management plan to the satisfaction of the Planning Secretary, in consultation with experts and local apiary operators to offset any adverse impacts on local honey bee productivity associated with the mine site.'

Question put.

The committee divided.

Ayes: Mr Buttigieg, Mrs Carter, Mr Donnelly, Ms Suvaal and Mrs Taylor.

Noes: Dr Cohn, Ms Faehrmann.

Question resolved in the affirmative.

Resolved, on the motion of Mrs Carter: That the following new paragraph be inserted after paragraph 3.183:

'The committee notes the evidence of concerned local residents and action groups in relation to the McPhillamys Gold Project. The committee further notes that Regis is working with these residents to address their concerns. The committee understands the consent conditions for the project including monitoring and management plans in relation to some local agricultural industries'.

Mrs Carter moved: That paragraph 3.184 be amended by omitting '– and reiterates that publicly available, real-time, independent and industry-funded monitoring of air quality surrounding mining operations in New South Wales is essential' and inserting instead 'and noise monitoring for the project'.

Question put.

The committee divided.

Ayes: Mr Buttigieg, Mrs Carter, Mr Donnelly, Ms Suvaal and Mrs Taylor.

Noes: Dr Cohn, Ms Faehrmann.

Question resolved in the affirmative.

Mrs Carter moved *in globo*: That the following paragraphs be omitted:

- a. paragraph 3.185: 'From the foregoing evidence it is clear that the framework for assessment and approval of mining projects in New South Wales needs reform. Despite DPE's assertions that it is confident in its processes and the IPC's emphasis that it focusses on community consultation, it is obvious that community views are not being adequately considered and decisions are stacked too much in favour of mining project applicants.'
- b. paragraph 3.186: 'In the circumstances, the committee considers that there are two procedural changes that must be made to the assessments and approval process for mining projects. First, the IPC needs more time to consider applications that are referred to it for determination by DPE. The committee notes that the IPC must generally meet a time frame of 12 weeks (84 calendar days) from date of referral to making its determination on an SSD project, including mining projects, where that determination also involves a public hearing. These timeframes are even shorter where the

determination involves a public meeting rather than a public hearing – 50 days.'

- c. paragraph 3.187: 'Even taking into account the various 'stop the clock' features under these arrangements, the committee finds evidence from the IPC that it can adequately consider the technical detail in the assessment report for the project, enormous numbers of submissions, and consult adequately with all interested parties in such a timeframe, unconvincing. At least six months should be allocated from the time DPE makes the referral of a mining project to the time the IPC makes its determination, regardless of whether there is a public hearing involved. The committee makes no comment about SSD applications more generally, these being outside the scope of its inquiry.'
- d. paragraph 3.188: 'Secondly, the committee considers that changes should be made to the law to allow merit-based appeals to be brought in the NSW Land and Environment Court following an IPC determination on an SSD mining project application where a public hearing has occurred. In this regard, the committee notes the evidence of the Environmental Defenders Office that this provides an avenue for the evidence of the applicant – and the objector – to be forensically tested. Again, the committee makes no comment about SSD projects more generally.'

Question put.

The committee divided.

Ayes: Mr Buttigieg, Mrs Carter, Mr Donnelly, Ms Suvaal and Mrs Taylor.

Noes: Dr Cohn, Ms Faehrmann.

Question resolved in the affirmative.

Ms Suvaal moved: That recommendation 12 be omitted: 'That the Government extend the timeframes for the Independent Planning Commission to make determinations for state significant development applications for mining projects so that there is at least six months from the date of referral by the Department of Planning and Environment to the date of the Independent Planning Commission's determination, regardless of whether a public meeting or public hearing is to be involved.'

Question put.

The committee divided.

Ayes: Mr Buttigieg, Mrs Carter, Mr Donnelly, Ms Suvaal and Mrs Taylor.

Noes: Dr Cohn, Ms Faehrmann.

Question resolved in the affirmative.

Ms Suvaal moved: That recommendation 13 be omitted: 'That the Government amend the *Environmental Planning and Assessment Act 1979* to allow merit-based appeals to be brought in the NSW Land and Environment Court concerning Independent Planning Commission determinations on state significant development applications for mining projects regardless of whether the matter has involved a public hearing.'

Question put.

The committee divided.

Ayes: Mr Buttigieg, Mrs Carter, Mr Donnelly, Ms Suvaal and Mrs Taylor.

Noes: Dr Cohn, Ms Faehrmann.

Question resolved in the affirmative.

Ms Suvaal moved *in globo*: That the following paragraphs be omitted:

- a. paragraph 3.189: 'In addition to these procedural changes, the committee notes there are arguments, particularly from the NSW Minerals Council and mining companies which emphasise the importance of metals and metals mining to the clean energy transition. However, in assessing whether mining

projects should go ahead, these concerns must be appropriately balanced against the health, economic and environmental impacts of mining. In this regard the committee identifies that the gold to be mined at McPhillamys is not listed on the New South Wales Critical Minerals and High-Tech Metals Priority List or the Australian Critical Minerals List, and the silver to be mined at Bowdens is only listed on the New South Wales list, not the Australian one.'

- b. paragraph 3.190: 'The committee found the evidence by Mudgee tourism and agricultural businesses, including wine and olive growers, particularly compelling. The committee is concerned that New South Wales planning laws are not fit for purpose when the potential impacts of a mine like Bowdens on agricultural and tourism businesses are not given due consideration in the planning process.'
- c. paragraph 3.191: 'The committee supports the evidence from some witnesses that the Government should establish 'no-go zones' for mining activity to protect environmental, agricultural, cultural, and tourism so as to provide certainty for community and industry. This is important to do this before the advance of critical minerals mining across regional New South Wales.'
- d. paragraph 3.192: 'In the circumstances the committee recommends that the Government should commission an independent review to specifically examine the assessment and approval process for mining projects – including the State Environmental Planning Policy (Resources and Energy) 2021 – to consider how the need for critical minerals to reach clean energy targets should be weighted against the health, economic and environmental impacts of mining in making such assessments and providing such approvals. The review should also consider the inclusion of dedicated agricultural, tourism, cultural and environmental zones in New South Wales where mining projects are not permitted.'
- e. paragraph 3.193: 'In addition, given the extensive evidence received during the inquiry that environmental concerns are not given sufficient weight in assessing and approving mining project applications in New South Wales, the committee also considers that the *Environmental Planning and Assessment Act 1979* should be amended to:
 - require independent and accredited environmental impact assessment professionals to be allocated to assess all proposed mining projects
 - mandate independent peer review of ecological assessments.'

Question put.

The committee divided.

Ayes: Mr Buttigieg, Mrs Carter, Mr Donnelly, Ms Suvaal and Mrs Taylor.

Noes: Dr Cohn, Ms Faehrmann.

Question resolved in the affirmative.

Mrs Carter moved: That recommendation 14 be omitted: 'That the Government commission an independent review to consider:

- the assessment and approval process for mining projects – including the State Environmental Planning Policy (Resources and Energy) 2021 – to consider how the need for critical minerals to reach clean energy targets should be weighted against the health, economic and environmental impacts of mining in making such assessments and providing such approvals
- the inclusion of dedicated agricultural, tourism, cultural and environmental zones in New South Wales where mining projects are not permitted.'

Question put.

The committee divided.

Ayes: Mr Buttigieg, Mrs Carter, Mr Donnelly, Ms Suvaal and Mrs Taylor.

Noes: Dr Cohn, Ms Faehrmann.

Question resolved in the affirmative.

Mr Donnelly moved that recommendation 15 be omitted: 'That the Government amend the *Environmental Planning and Assessment Act 1979* to mandate the allocation of independent and accredited environmental impact assessment professionals to assess proposed mining projects in New South Wales and to mandate independent peer review of ecological assessments.'

Question put.

The committee divided.

Ayes: Mr Buttigieg, Mrs Carter, Mr Donnelly, Ms Suvaal and Mrs Taylor.

Noes: Dr Cohn, Ms Faehrmann.

Question resolved in the affirmative.

Chapter 4

Mrs Carter moved *in globo* that the following paragraphs be deleted:

- (a) paragraph 4.19: 'As noted in the earlier section, the regulation in this area has evolved with the Government taking a more progressive approach to managing certain issues during a mine's operating life rather than managing it all at the end of a mine's operation. However, there are examples of legacy mines throughout New South Wales continuing to have negative impacts. Two primary examples are Sunny Corner and Captain's Flat.'
- (b) paragraph 4.20: 'This section also documents the rehabilitation plans of the operator of the proposed McPhillamys project.'
- (c) paragraph 4.21: 'The Sunny Corner mining area is a derelict mining area, located between Bathurst and Lithgow. It included several gold mines and associated metal processing facilities. Most of the mines closed over 100 years ago. Metal mines are well known to generate solid and liquid wastes that contain hazardous contaminants.'
- (d) paragraph 4.22: 'Dr Wright cited Sunny Corner as a case study that showcases the risk of hazardous contaminants entering waterways from derelict mine operations.'
- (e) paragraph 4.23: 'Dr Wright informed the committee of testing he had undertaken of waterways at Sunny Corner. These included laboratory tests of leachate from Sunny Corner and water samples from Daylight Creek, downstream of the Sunny Corner mining area. They showed high concentrations of lead, cadmium, copper, nickel and zinc which greatly exceeded Australia and New Zealand Environment and Conservation Council guidelines.'
- (f) paragraph 4.24: 'Despite closing many years ago, Dr Wright contended that the mining works have continued to impair ground and surface water quality, and pose risks to human health and the environment, including aquatic life.'
- (g) paragraph 4.25: 'The Government's evidence to the committee was that it has responded to the issues associated with the Sunny Corner mining area. In 2016-17, the Department of Regional NSW undertook \$1.2 million worth of remediation works at Sunny Corner.'
- (h) paragraph 4.26: 'In detailing that rehabilitation work done to date at Sunny Corner, Ms Beattie from Mining, Exploration and Geoscience foreshadowed that the EPA will be doing water testing downstream and pending the results of that, further rehabilitation investment may occur through the Legacy Mines Fund.'

- (i) paragraph 4.27: 'According to Dr Wright, 'contaminated leachate released from operating and closed mines is a worldwide problem'. He further noted that 'Remediation of closed mines is very expensive and is often unsuccessful...[and] NSW has very limited funds available for remediating closed mines.'
- (j) paragraph 4.28: 'While welcoming the government attention given to Sunny Corner, Dr Wright argued that it is not always clear what agency within government 'has been responsible for monitoring and managing ongoing contamination from Sunny Corner'.⁵³⁰ He urged that instead of piecemeal rehabilitation projects, known issues such as Sunny Corner should be monitored and tested on an ongoing annual basis to help remind the community of the ongoing dangers and better position the Government to make better targeted repair actions.'
- (k) paragraph 4.29: 'The Lake George Mine is located at Captains Flat, approximately 50 kilometres south east of Canberra. The mine operated from 1892 until 1962, producing lead, zinc, copper, pyrite, silver and gold.'
- (l) paragraph 4.30: 'Extensive rehabilitation works have been carried out since the mine closed to manage erosion, improve safety and control tailings pollution from the site. Current and ongoing issues include seepage of Acid Mine Drainage and heavy metal contaminants spreading from the site, including through the historic use of contaminated fill on public and private land.'
- (m) paragraph 4.31: 'In February 2020, elevated levels of lead were discovered in the disused rail corridor adjacent to the Lake George Mine. In response to the detection of elevated lead levels, the Government established the Captains Flat Lead Management Taskforce in January 2021. The Taskforce includes representatives from the following government agencies:
- NSW Resources Regulator
 - NSW Environment Protection Authority
 - NSW Health
 - NSW Department of Planning and Environment – Crown Lands
 - Queanbeyan – Palerang Regional Council
 - Transport for NSW and
 - NSW Department of Education'.
- (n) paragraph 4.32: 'To date the following actions have been undertaken, including:
- the relocation of the Captains Flat pre-school
 - the development of a lead management plan and remediation action plans in order to inform a program of rehabilitation works
 - ongoing free soil and water sampling by the EPA.'
- (o) paragraph 4.33: 'The Captains Flat Community Association criticised the Government's approach' due to lack of proper investigations, disjointed coordination between agencies, inadequate funding, and failure to consult with the community.' Further, the Captains Flat Community Association noted that in August 2023 they were advised by the Department of Regional NSW that 'the Taskforce would be discontinued but there would be coordination of the [Lead Management Plan] LMP amongst the various agencies (about 7 agencies and QPRC) but no community representatives.' The Association submitted that discontinuing the taskforce was unacceptable.'
- (p) paragraph 4.34: 'Remediation at Captain's Flat work remains ongoing. The EPA's Captains Flat surface soil testing report notes that lead is present above the health investigation levels in some surface soils in public and community spaces in Captains Flat. The report states that the Government will work with the community to help people understand testing results and next steps. According

to the EPA, managing lead in Captains Flat will require actions by the Government, local council and community over several years.'

- (q) paragraph 4.35 'The Captains Flat Community Association notes that the lead contamination of private land at Captain's Flat has caused significant distress and financial cost to residents and landowners. While the EPA offers free surface soil testing for residents, any development application requires a detailed site investigation at a cost of often thousands of dollars, and the cost of any required remediation including removal and disposal of contaminated soil is borne by the landowner.'
- (r) paragraph 4.36: 'Further, the Captains Flat Community Association stressed that the August 2023 Lead Management Plan, which sets out a framework for remediation of public land in the village completed by private consultant Ramboll does not include detailed plans for the mine site, containment cells, private land, the rail precinct and disused rail corridor to Bungendore, the downstream Molonglo River and other areas of concern.'
- (s) paragraph 4.37: 'McPhillamys Gold Project is one of Australia's larger undeveloped open pit gold resources. It is located approximately 250 kilometres west of Sydney in the Central Western NSW, 8 kilometres from Blayney. The McPhillamys Gold Project is owned by Regis Resources.'
- (t) paragraph 4.38: 'The project received NSW and Australian Government approvals in the first half of 2023 and the Company has a target to commence construction in 2024.'
- (u) paragraph 4.39: 'Regis advised that detailed expert assessments relating to progressive rehabilitation were presented as part of its environmental impact assessment. According to Regis 'the rehabilitation study showed that, apart from the 70ha pit void, the entire site can be successfully rehabilitated to either agricultural grazing land or revegetated land'.
- (v) paragraph 4.40: 'Mr Wayne Taylor, Project Delivery Director, McPhillamys, Regis Resources, expanded on the mine's plans for the void. He stated that 'there is a level of rehabilitation that gets undertaken around it, but the void will remain as it is'.
- (w) paragraph 4.41: 'In response to questioning regarding why thought or consideration wasn't given to the tailings dam, at the completion of the mine, being put into the void and cleaning up that area, Mr Taylor advised that would not be a viable option and was cost prohibitive.⁵⁴⁷ Mr Taylor also noted that maintaining access to the void could allow operations to be expanded if necessary: "The other thing is that, from a mining professional point of view, you want to maintain access to something like the McPhillamys ore body. We had a comment about gold price and inputs. These operations can change over time with different inputs, so potentially it could become bigger. Resource stewardship is you want to maximise recovery of what you're starting to extract, and having that void there allows you to get access to material that continues to go deeper.'"
- (x) paragraph 4.42: 'The Broula King goldmine is located near the town of Bumbaldry in the central western region of New South Wales.'
- (y) paragraph 4.43: 'In 2004, the adjacent landowners to the site entered into an agreement with the formal mine operator, to allow it to use 10 acres of their land to build a tailings storage facility as part of the Broula King goldmine.'
- (z) paragraph 4.44: 'Mining occurred between May 2012 and June 2014. In 2014, the goldmine ceased operations and the NSW Mines Department (now the NSW Resources Regulator) allowed it to go into "care and maintenance".'
- (aa) paragraph 4.45: 'In 2020, the site was purchased by Broula King Enterprises Pty Ltd with the

intention of it becoming a regional mine waste processing and recycling centre.'

- (bb) paragraph 4.46: 'Ms Catherine Sullivan and Mr Craig Day (the landowners) have a mixed farming property at Bumbaldry, west of Cowra. In 2004, they entered into a Memorandum of Understanding for 10 acres of their land to be used for a tailing storage facility for the Broula King goldmine. Their understanding was that this would be a short-term project with rehabilitation to occur concurrently, with the land to be returned to them in approximately five years.'
- (cc) paragraph 4.47: 'The landowners noted that gold mining was part of Bumbaldry's history in the late 1800s and early 1900s, after which it became an intermittent activity. Their property had been directly impacted as the tailings produced by the historic mining were stockpiled on their land.'
- (dd) paragraph 4.48: 'Between 2000 and 2001, under the then Derelict Mines Program, the Government conducted approximately \$100,000 of remediation works, with the objective of preventing heavy metals entering the gully network leading to nearby Tyagong Creek. An additional \$22,000 was spent by the landowners for related earthworks.'
- (ee) paragraph 4.49: 'When the landowners entered into the agreement with Broula King in 2004, it was on the basis that it would be a short period. The landowners were also encouraged by the successful rehabilitation of their land that had occurred earlier:
- This agreement was on the very clear understanding that this would be a short-term project, rehabilitation would occur concurrently with mining and the land would be returned to us in approximately five years.
- We had already participated in the rehabilitation of the historic downstream area, so mistakenly believed that a modern mine with far better regulation would pose less risk than historic operations.'
- (ff) paragraph 4.50: 'The landowners advised that contrary to their agreement, the goldmine operator used lower grade lining material than agreed for the tailings dam. They also explained that this was contrary to the 2005 DA and Environmental Impact Statement for the project which stated that the tailings storage facility (TSF) should be constructed from "non-acid generating mine waste and have an impermeable clay wall lining. The clay used in the TSF construction will be obtained from insitu material within the TSF area and from Day's clay pit approximately 3 km North West of the project site..." According to the landowners, this did not occur and the material that Broula King ended up using was "sourced from an alternative and inferior source' and is 'dispersive and poses the risk of tunnel failure when wet".'
- (gg) paragraph 4.51: 'Preliminary works commenced in 2008 and the Broula King Gold Mine operated only briefly, from 2012 to 2014. The mine then went into a phase called 'care and maintenance' which enables an operation to cease temporarily if economic conditions make it unviable for the mine to continue at that time. According to the landowners the mine entered 'care and maintenance' because the resource had been depleted and it enabled the mine operator to defer any remediation works.'
- (hh) paragraph 4.52: 'According to the landowners, the NSW Resources Regulator does not have a rationale for why mining operations should be allowed to be placed in Care and Maintenance. They argue that the Broula King gold mine should not have been allowed to go into a Care and Maintenance state because the gold resource had been exhausted. By 2020 the landowners 'were deeply concerned about the ongoing issues' and began extensive representations to various government authorities seeking to address the matter.'
- (ii) paragraph 4.53: 'The heavy rains experienced between 2020-22 exacerbated their concerns. The landowners advised that the goldmine was promised to be a "nil-exit site", with no water leaving the

dam. However, heavy rains and inadequate oversight has "meant numerous outflows of contaminated water exit the mine site and flow through the rehabilitated tailings area and downstream to the Tyagong Creek". The landowners have undertaken their own testing of the water overflows with it measuring a pH of 4.4. A pH of that level is consistent with the pH of a liquid like black coffee.'

- (jj) paragraph 4.54: 'The landowners believe their property is now no longer safe for farming or a saleable asset.'
- (kk) paragraph 4.55: 'Ownership of the mine transferred to a new entity, Broula King Enterprises, in 2020. In conjunction with two Australian universities, it intends to develop a processing facility targeting critical minerals recovered from mine waste, and use new technologies.'
- (ll) paragraph 4.56: 'Broula King Enterprises has stressed that the issues experienced by Ms Day and Ms Sullivan predate their ownership.'
- (mm) paragraph 4.57: 'As part of its due diligence before purchasing the site, Broula King Enterprises commissioned Dr Alan Sullivan – 'a leading geochemist and water management expert' – to conduct a geochemical study of the dam wall. According to the Sullivan report 'there was no leakage out of the Tailings Storage Facility'. Instead, contamination was occurring from the unsuitable material used by the previous operator to rock armour the dam wall. Broula King Enterprises also cite further consultant studies which appear to indicate that there may be contamination being emitted from historic tailings.'
- (nn) paragraph 4.58: 'Broula King Enterprises state that during their tenure there has been "no release of contaminated water from the Tailings Storage Facility" and "it has only been site excess runoff in high rainfall events, in compliance with our licence conditions".'
- (oo) paragraph 4.59: 'Broula King Enterprises assert that it entered into a good relationship with the landowners but that relationship has broken down due to disagreement about the source of contaminated water.'
- (pp) paragraph 4.60: 'The Resources Regulator advised they first "identified issues with the tailing dams in relation to Broula King during inspections in 2019, where leachate was observed emanating from the tailing dam wall".'
- (qq) paragraph 4.61: 'Since that time, the Regulator has issued various notices to the new mining licence holder for assessments and works to be conducted and reported. This included a notice being issued in 2019 "to appoint a suitably qualified independent expert to complete an assessment of [the] dam wall to address the chemical and geotechnical issues".'
- (rr) paragraph 4.62: 'In response to the assessment report in November 2021, the Regulator has issued a notice to rectify the tailings dam wall. Mr Peter Day, Executive Director, NSW Resources Regulator, advised that the mining licence holder has had over 12 months to rectify the issues contained in the technical report and is subject to ongoing monitoring by the Regulator. If the deadline of 31 December 2023 is not met, Mr Day foreshadowed further action:

We've issued a notice on that company to rectify that tailings dam wall, based on that technical report that we commissioned. That would inform what had to happen to rectify the issue at the actual tailings wall itself. We issued a notice on the company in November 2021. That was to implement the recommendations of the report. Those recommendations now must be complete by the end of this year— 31 December 2023. We're actively monitoring those compliance requirements with the company. The company has to rectify the issue as per the technical report by 31 December this year, which will then address some of the chemical issues that are coming out of that dam.

...

We've had a notice on that company now for 12 months to undertake works. What that'll require the company to do is to construct a longwall-stable landform over the embankment of that tailing storage facility. That'll support the final approved land use and effectively encapsulate the acid-forming material within the actual embankment itself. We've taken action in terms of issuing the notice. That's been in place for approximately a year. It's required to be completed fully by the end of December this year. If it's not completed, then we'll be taking further action.'

- (ss) paragraph 4.63: 'However, in their evidence, the landowners said that they had become concerned about the tailings storage facility by February 2012 and worked with the EPA to arrange a meeting of "all agencies at (their) house in March 2012. This meeting included representatives from the Mining Regulator, the EPA, BKJV Pty Ltd (the previous owner), and the Weddin Shire Council.'
- (tt) paragraph 4.64: 'Mr Day also acknowledged that the recent reforms moving towards progressive rehabilitation would have required the Broula King goldmine to seek approval to go into 'care and maintenance' and not use it as a means to avoid rehabilitation. Mr Day advised that under the current regulatory arrangements, applicable since 2021, irrespective of whether a mine goes into 'care and maintenance' they are still required to meet their rehabilitation obligations.

[The] reforms to the rehabilitation framework that we implemented in 2021 [to] progressive rehabilitation stops those companies from going into care and maintenance, as they have in the past, to avoid some of those actions. Currently, under the current framework, they have to apply for approval to us. If that situation happened now, they would have to have approval, and they would still have to progressively rehabilitate. They wouldn't be able just to go into care and maintenance. That was under previous structures there in terms of that site. Under the current rehab arrangements now, the improvement is that they would need to have approval to do that and also still fulfil their rehab obligations.'

- (uu) paragraph 4.65: 'The Environmental Defenders Office (EDO) submitted that one significant area of concern is the ability of mines to use "care and maintenance" to avoid rehabilitation. They stated that the "ability to enter care and maintenance, and the timeframes over which it can be applied, are highly subjective and there is strong evidence that companies are currently using care and maintenance as a way to avoid rehabilitation liability.'"
- (vv) paragraph 4.66: 'The committee acknowledges the positive regulatory reforms that have occurred to promote progressive mine rehabilitation during the operating life of a mine, rather than it all being done at the end. That being said, having been implemented in 2021, these regulatory reforms are in their infancy. The committee urges the Government and all its relevant agencies to be proactive in this space given the desire to grow the state's critical minerals sector.'
- (ww) paragraph 4.67: 'It is clear to the committee that managing the negative environmental impact of certain legacy mines remains a significant and difficult issue. While certain actions have been taken and financial investment has been made, it is questionable whether enough has been done – both to date and presently to best manage high-risk legacy mine sites.'
- (xx) paragraph 4.68: 'The committee was persuaded by Dr Wright's suggestion for known high-risk legacy mine sites to be monitored and tested on ongoing annual basis to help make the community aware of any ongoing dangers and to better position the Government to make better targeted repair actions. It is recommended that the Government develop a program of ongoing annual testing and monitoring of known high-risk legacy mine sites. The results of testing and monitoring must be made publicly available, and also should be used to inform the allocation of funding and resources to projects made under the Legacy Mines Fund.'

- (yy) paragraph 4.69: 'The committee asserts that more can be done at the development consent process for mining projects to achieve better rehabilitation outcomes. For that reason it is recommended that the Government strengthen the rehabilitation outcomes required by the *Mining Act 1992*, by ensuring that any approvals for mining projects under the *Environmental Planning and Assessment Act 1979*, include conditions that specify the minimum geomorphological, hydrological and ecological rehabilitation requirements that must be achieved.'
- (zz) paragraph 4.70: 'It is evident that further work is required by the Government to improve safety and reduce environmental risks at the historic Lake George Mine at Captains Flat. Through no fault of their own local residents are now at risk and are being forced to bear various financial, social and health related costs.'
- (aaa) paragraph 4.71: 'The rehabilitation work being undertaken in Captain's Flat also presents an opportunity to enhance community and recreational infrastructure.'
- (bbb) paragraph 4.72: 'To that end it is recommended that the Government as part of its ongoing rehabilitation work in Captain's Flat:
- develop a financial support system to indemnify residents and local government for the costs of the historic spread of contaminated fill
 - implement clear guidelines and support for health needs, including indications for heavy metal testing and mental health
 - focus on enhancing community and recreational infrastructure.'
- (ccc) paragraph 4.73: 'Despite assurances that the McPhillamys site can be successfully rehabilitated, the committee remains concerned that a 70 hectare open void to be used by the mine will remain as it is. A void of this size would be a blight on the landscape and is not particularly compatible with the Government's commitment to regulatory improvements being made to ensure an environment is safe and stable once mining operations are completed.'
- (ddd) paragraph 4.74: 'The committee was moved by the evidence of Ms Catherine Sullivan and Mr Craig Day concerning their experience as landowners adjacent to the Broula King goldmine. It is extremely unfortunate that their decision to lease part of their land to the goldmine for a tailings dam has cost them so much. It is not the role of a parliamentary committee to arbitrate on such matters. However, what is clear is that Ms Sullivan and Mr Day have been let down by the regulatory environment that existed when they entered into the lease agreement with the goldmine. It is also clear that they have been let down by the government. Despite the previous operator, in effect, having walked away from their responsibility to remedy a defective tailings dam that they built, it's unacceptable that government agencies, including the Resources Regulator and the EPA, were unable to ensure appropriate action was taken by the companies involved.'
- (eee) paragraph 4.75: 'Ms Sullivan and Mr Day have been suffering for close to 20 years and despite their best efforts and representations to various governments actors, the matter remains unresolved. The committee notes the direction issued by the Resources Regulator for the recommendations of the technical report on the tailings dam to be implemented by year's end. This matter has gone on for long enough. If the end of 2023 deadline is not met, it is recommended that the Resources Regulator take whatever action is necessary to remedy the issues being experienced by Mr Day and Ms Sullivan.'
- (fff) paragraph 4.76: 'The committee acknowledges the Government's evidence that the recent reforms towards progressive rehabilitation prevent mines from entering 'care and maintenance' as a means to avoid rehabilitation. However, the committee contends that further work is required to amend the regulatory framework to ensure that entering care and maintenance is only permitted in exceptional circumstances and, further, that any approval to enter care and maintenance must be

based on a transparent assessment process and provide clear timeframes for the length of the care and maintenance arrangements.'

Question put.

The committee divided.

Ayes: Mr Buttigieg, Mrs Carter, Mr Donnelly, Ms Suvaal and Mrs Taylor.

Noes: Dr Cohn, Ms Faehrmann.

Question resolved in the affirmative.

Mrs Carter moved *in globo* : That the following recommendations be omitted:

- (a) Recommendation 16: 'That the Government: develop a program of ongoing annual testing and monitoring of known high-risk legacy mine sites. The results of testing and monitoring must be made publicly available, and should be used to inform the allocation of funding and resources to projects made under the Legacy Mines Fund.'
- (b) Recommendation 17: 'That the Government strengthen the rehabilitation outcomes required by the *Mining Act 1992*, by ensuring that any approvals for mining projects under the *Environmental Planning and Assessment Act 1979*, include conditions that specify the minimum geomorphological, hydrological and ecological rehabilitation requirements that must be achieved.'
- (c) Recommendation 18: 'That the Government as part of its ongoing rehabilitation work in Captain's Flat:
 - develop a financial support system to indemnify residents and local government for the costs of the historic spread of contaminated fill
 - implement clear guidelines and support for health needs, including indications for heavy metal testing and mental health
 - focus on enhancing community and recreational infrastructure.'
- (d) Recommendation 19: 'That if the Broula King Goldmine tailings dam wall is not rectified by the end of 2023, as per the notice issued by the Resources Regulator, then the Resources Regulator must take whatever action is necessary to remedy the issues being experienced by Mr Day and Ms Sullivan on their property.'
- (e) Recommendation 20: 'That the Government amend the regulatory framework to ensure that entering care and maintenance is only permitted in exceptional circumstances and, further, that any approval to enter care and maintenance must be based on a transparent assessment process and provide clear timeframes for the length of the care and maintenance arrangements'.

Question put.

The committee divided.

Ayes: Mr Buttigieg, Mrs Carter, Mr Donnelly, Ms Suvaal and Mrs Taylor.

Noes: Dr Cohn, Ms Faehrmann.

Question resolved in the affirmative.

Mrs Carter moved: That the following paragraphs and committee comment be inserted after paragraph 4.18:

- (a) 'As noted earlier, regulation in this area has evolved and Government is now more actively involved in managing rehabilitation issues during a mine's life.'
- (b) 'The committee received evidence about some legacy mine sites which raised issues about the efficacy of particular rehabilitation practices. These legacy mine sites included Sunny Corner, Captains Flat and Broula King. Remediation at all of these sites is ongoing, and the Department of Regional NSW, including the Resources Regulator is involved.'

Citation: See Submission 68, Dr Ian Wright, pp 1-6; Submission 95, Ms Catherine Sullivan and Mr Craig Day; Evidence, Ms Catherine Sullivan and Mr Craig Day, 3 October 2023, pp 20-29; Submission 183, Broula King Enterprises Pty Ltd; Submission 157, Captains Flat Community Association; and See Evidence, Ms Beattie, 18 September 2023, p 53; Department of Regional NSW, Captains Flat, NSW Government website, <https://www.nsw.gov.au/captains-flat>; Evidence, Mr Peter Day, 27 October 2023, p 32.'

- (c) 'Sunny Corner is a derelict mining area. Mining operations here ceased over 100 years ago. Captains Flat ceased operations in 1962. Broula King ceased operating more recently, and the new owner, Broula King Enterprises, apparently has plans to recommence mining at this site.'

Citation: Submission 68, Dr Ian Wright, p 1; and Resources Regulator, 'Captains Flat (Lake George) Mine' Resources Regulator website, <https://www.resourcesregulator.nsw.gov.au/rehabilitation/legacy-mines-program/case-studies/captains-flat-lake-george-mine>; and see Evidence, Ms Sullivan, 3 October 2023, p 20; and Submission 183, Broula King Enterprises Pty Ltd, p 2.'

- (d) **Committee comment:**

'The committee acknowledges the positive regulatory reforms that have occurred to promote progressive mine rehabilitation during the operating life of a mine, rather than all rehabilitation occurring at the end of the mine's life. The committee also acknowledges that modern mining methods may produce fewer impacts on the environment than methods which have been used historically. But of course all mines create environmental impacts which need to be managed and often rehabilitated.

The committee is also aware that it received evidence that there are still some problems at legacy mine sites. The committee notes that this is a very complex area and is complicated by changing methods of rehabilitation over time. The committee is conscious that it has not received detailed evidence about all legacy sites, or had a chance to test the evidence it did receive against competing viewpoints.

The committee understands that the Resources Regulator is engaged in the rehabilitation process and encourages it to further engage in this work – especially in relation to Broula King Gold Mine'.

Question put.

The committee divided.

Ayes: Mr Buttigieg, Mrs Carter, Mr Donnelly, Ms Suvaal and Mrs Taylor.

Noes: Dr Cohn, Ms Faehrmann.

Question resolved in the affirmative.

Resolved, on the motion of Mr Donnelly: That the following new recommendation be inserted after paragraph 4.76:

'Recommendation X

That the Resources Regulator continue to observe the Broula King Gold Mine site and collaborate with the Environment Protection Authority to work to rectify the issues experienced by Mr Craig Day and Ms Catherine Sullivan'.

Resolved, on the motion of Mrs Carter: That reference to the correspondence containing Regis Resources Ltd's responses to certain content in transcripts of evidence and written submissions for the mining impacts inquiry, received 6 December 2023, be included in the 'Conduct of inquiry' section of the report under the heading 'Procedural issues' with a link to the correspondence on the committee's webpage.

Mr Donnelly moved: That:

- (a) The draft report as amended be the report of the committee and that the committee present the report to the House;
- (b) The transcripts of evidence, submissions, tabled documents, answers to questions on notice and supplementary questions, and correspondence relating to the inquiry be tabled in the House with the report;
- (c) Upon tabling, all unpublished attachments to submissions be kept confidential by the committee;
- (d) Upon tabling, all unpublished transcripts of evidence, submissions, tabled documents, answers to questions on notice and supplementary questions, and correspondence relating to the inquiry, be published by the committee, except for those documents kept confidential by resolution of the committee;
- (e) The committee secretariat correct any typographical, grammatical and formatting errors prior to tabling;
- (f) The committee secretariat be authorised to update any committee comments where necessary to reflect changes to recommendations or new recommendations resolved by the committee;
- (g) Dissenting statements be provided to the secretariat within 24 hours after receipt of the draft minutes of the meeting;
- (h) The secretariat is tabling the report on Friday 15 December 2023;
- (i) The Chair to advise the secretariat and members if they intend to hold a press conference, and if so, the date and time.

Question put.

The committee divided.

Ayes: Mr Buttigieg, Mrs Carter, Mr Donnelly, Ms Suvaal and Mrs Taylor.

Noes: Dr Cohn, Ms Faehrmann.

Question resolved in the affirmative.

7. Adjournment

The committee adjourned at 2.50 pm, *sine die*.

Alex Stedman and Elspeth Dyer
Committee Clerks

Appendix 4 Dissenting statements

Dr Amanda Cohn, The Greens

As Chair, it is devastating for the committee to have produced a report from which I must dissent significantly.

The finding that the regulatory bodies responsible for mining projects and the detailed frameworks they administer “are fundamentally sound” goes against the vast majority of the detailed and convincing evidence the Committee received.

This report represents a missed opportunity to recommend strengthened regulatory frameworks to protect human health, land, air and water quality.

The extraordinary gutting of my draft report, including 47 separate motions to omit content without seeking amendment, by a majority voting block of government and opposition members is documented in the appended 57-page minutes (No. 16).

I support the dissenting statement of my Greens colleague, Ms Cate Faehrmann.

In addition, I am extremely disappointed that, in the face of a huge volume of concerns regarding the human health impacts of mining projects, from nearby residents and impacted communities as well as health and environmental experts, the Committee has not made any recommendations to change current practices regarding consideration of health impacts in the assessment of mining proposals. It is a significant weakness in the regulatory framework that cumulative impact is not considered, and that current social impact assessments often focus on economic and other issues without exploring the potential health risks of a project. This could have been addressed with a recommendation:

That the Government amend the Environmental Planning and Assessment Act 1979 to require:

- *health impact assessment reports to be prepared as a standard requirement of any mining assessment or modification*
- *the health impact assessment reports to address cumulative impacts*
- *the health impact assessment reports to be prepared by independent experts engaged directly by the assessment authority.*

Further, it is staggering that the committee has not made any recommendations to improve rehabilitation of mine sites, given its specific Term of Reference 1f: to inquire into and report on the effectiveness of current decommissioning and rehabilitation practices in safeguarding human health and the environment. The Committee received a large volume of evidence that current practices are not effective – for legacy mining projects such as Captains Flat and Sunny Corner, recently ceased mining operations such as Broula King, and those only recently approved. For example, the committee heard that the not-yet-commenced McPhillamys gold project will leave a 70 hectare open void following future cessation of mining operations because remediation is cost prohibitive for the mine proponent.

It is clear that more can be done at the development consent process for mining projects to achieve better rehabilitation outcomes. The broad recommendation that the Government strengthen the rehabilitation outcomes required by the Mining Act 1992, by ensuring that any approvals for mining projects under the

Environmental Planning and Assessment Act 1970 include conditions that specify the minimum geomorphological, hydrological and ecological rehabilitation requirements that must be achieved, was voted down by government and opposition members.

The committee heard that elevated lead levels are present in surface soils in public and community spaces in Captains Flat due to historic spread of contaminated fill, and that managing lead in Captains Flat will require action by the Government, local council and community over several years. Lead contamination of private land at Captains Flat has caused significant distress and financial cost to residents. While the EPA offers free surface soil testing for residents, development applications require a detailed site investigation at a cost of often thousands of dollars, and the cost of any required remediation, including removal and disposal of contaminated soil, is borne by the landowner - at no fault of their own. It is extraordinary, given the evidence received, that a majority of committee members voted not to undertake a site visit to Captains Flat nor to explore this evidence further at a hearing.

The following recommendation would have addressed these issues:

That the Government as part of its ongoing rehabilitation work in Captains Flat:

- *develop a financial support system to indemnify residents and local government for the costs of the historic spread of contaminated fill*
- *implement clear guidelines and support for health needs, including indications for heavy metal testing and mental health*
- *focus on enhancing community and recreational infrastructure.*

The experience of landowners adjacent to the Broula King Gold Mine, which operated 2012-14, and resulted in acidic and heavy metal contamination of water from the use of 10 acres of their land for a tailing storage facility, is further evidence that current regulatory settings are not fit for purpose.

The evidence that treated effluent water is being diverted from Summer Hill Creek to Cadia Mine because of an agreement of indefinite duration struck 20 years ago - under a load-based water licensing system that is no longer in place - is extremely concerning. The committee heard evidence that this is impacting flows in the creek and agriculture in the Orange region, that this water could potentially be used in a variety of ways, even for drinking, and that the impacts of this agreement could be serious in times of severe drought. This agreement is no longer appropriate, if it ever was. The following recommendation could have addressed this:

That the Government investigate options to end the agreement between Orange City Council and Cadia Mine in relation to the mine receiving treated water for free with a view to ensuring that a more sustainable and appropriate arrangement is put in place that takes into consideration the needs of the Orange community and the environment.

This is only a selection of the issues which this report ignores due to the 1000-word limit for dissenting statements.

I would like to express my sincere gratitude to the hundreds of members of community and environmental groups, and to experts, who gave up your time to contribute to the Inquiry.

This is not the report that you deserve.

The Greens will continue to campaign for the critical reforms regional communities across NSW need to reduce the impact of mining projects on human health, land, air, and water quality.

Cate Faehrmann, The Greens NSW

I support the dissenting statement by my Greens colleague, and inquiry chair, Dr Amanda Cohn.

The Greens resoundingly reject the findings and recommendations in this report. It does not reflect the extensive and compelling evidence received from the community and independent experts as to the very real impacts of gold, silver, lead and zinc mining on human health, land, air and water quality in New South Wales.

This final report severely downplays the contamination issues experienced by members of the community who reside near Cadia gold mine. As the demand for a wide range of minerals continues to grow, the community should at least be able to rely upon a strong regulatory framework to protect human health and the environment. This inquiry was an opportunity for all sides of politics to work together and make recommendations to do just that.

Outlined below is just some of what was removed from the Chair's draft report, in the 1,000 words afforded to dissenting statements. The minutes, included as an appendices to this report, provide a record of the recommendations, committee comment, and additional evidence that were removed from the Chair's draft by a majority voting block of government and opposition members.

Substantial evidence and committee comment was removed in relation to the three mines/mine projects that were the main focus of this Inquiry - Cadia, Bowdens and McPhillamys - including:

- The potentially significant impacts that the Bowdens mine will have on water quality and supply, including references to acid mine drainage.
- The results of a koala survey undertaken near the Bowdens mine site which found significant koala activity within the proposed operational areas of the mine site and less in the proposed biodiversity offset areas.
- Evidence from tourism and wine industries of the potential impact that the Bowdens mine would have on their businesses, including extra virgin olive oil producers and wine growers.
- Criticism of Cadia's Environmental Protection Licence by independent water scientist, Associate Professor Ian Wright, including that it contained inadequate provisions for monitoring and controlling dust emissions from the mine.
- The fact that gold, silver, lead and zinc do not appear in the federal Government's Critical Minerals list.
- Evidence that the open cut pit for the McPhillamys mine is proposed to be 450m deep and will not be rehabilitated, meaning water will continue to drain from aquifers and connected surface water into the pit for at least the next 500 years.
- Evidence that the McPhillamys tailings dam will be constructed in the headwaters of the Belubula River and will hold approximately 46,700ML of tailings and span an area of 273 hectares, at capacity.
- Evidence that a population of platypus of high conservation significance live in the Belubula River.
- Evidence from multiple witnesses from local communities that the IPC assessment process ignored their concerns and was a waste of time.
- Calls by impacted communities, and a recommendation, for a buffer zone around mines.
- Evidence that regardless of major lead deposits in Australia, there are no operating lead mines anywhere near the east coast or a highly populated area.

- Evidence from an emeritus consultant neurosurgeon and a Lue landholder of the enduring health impacts that lead can have for humans, especially children, and that there is no safe level of lead for humans.
- Compelling evidence that the response by the EPA to ongoing pollution issues experienced by residents who live near Cadia's Newcrest mine was inadequate.
- Multiple calls by the community for changes to the law to allow merit-based appeals to be brought in the NSW Land and Environment Court following a determination by the Independent Planning Commission on a project that has been declared State Significant Development, and where a public hearing has occurred.
- Committee comments expressing concern regarding the Aboriginal cultural significance of the areas to be impacted by the McPhillamys mine.

The findings and recommendations in the draft report were not radical, nor were they unachievable. In fact, they appeared to be carefully drafted by the Chair with the aim of achieving majority, if not unanimous, support by all members of the committee. This draft finding is an example of that:

The Environment Protection Authority operates under a regulatory framework which generally includes a strong toolkit with which to regulate pollution incidents, however the lack of enforcement let the Cadia community down.

From the extensive and compelling evidence received it is shameful that this simple truth was removed as a Finding in the final report by a motion from government members.

Similarly, one draft recommendation read:

That the Government commission an independent review to consider:

- *the assessment and approval process for mining projects – including the State Environmental Planning Policy (Resources and Energy) 2021 – to consider how the need for critical minerals to reach clean energy targets should be weighted against the health, economic and environmental impacts of mining in making such assessments and providing such approvals*
- *the inclusion of dedicated agricultural, tourism, cultural and environmental zones in New South Wales where mining projects are not permitted.*

A key draft recommendation regarding health impact assessments, was also removed from the final report by a government member. The Chair's dissenting statement covers this in more detail.

It is particularly galling that government members moved for a new finding that the regulatory bodies responsible for mining projects, and the detailed frameworks they administer, are fundamentally sound. This finding is a kick in the guts for the witnesses and impacted communities who told us repeatedly that the regulatory framework was letting them and the environment down, and that it was not fit for purpose.

The community expects and deserves more from Upper House inquiries.

This report fails the hundreds of members of the Cadia Community Sustainability Network, the Mudgee Region Action Group and the Belubula Headwaters Protection Group, particularly those individuals who have had the courage and commitment to speak up and fight for their local communities and environment.

You are heroes. Thank you. We continue the fight.

