

Submission  
No 224

**INQUIRY INTO PROPOSAL TO RAISE THE  
WARRAGAMBA DAM WALL**

**Name:** Dr Kelvin Knox  
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Dear Committee

Please accept this submission to the Legislative Council's Select Committee Inquiry into the Proposal to Raise the Warragamba Dam Wall. I consent to this submission and my name being published in full.

### **Brief introductory profile**

I have lived on Darug country in the Blue Mountains since 1998. My doctoral research, on the design and development of Aboriginal community service organisations, involved extensive fieldwork to locate Aboriginal sites in the Blue Mountains. The aim of this approach was to be physically present at the sites and obtain a vicarious sense of Aboriginal people's life, organisation and heritage. After gaining my doctorate in 2007, I undertook study in archaeology, and I continue to be mentored by a number of archaeologists. My work with Aboriginal communities and organisations spans over 30 years.

### **Heritage**

There are many reasons for society to preserve heritage. For instance, the enriching of our lives, maintaining a sense of cultural identity, conserving scarce or non-renewable historical places and objects, and as an historical record for future generations. Heritage provides a powerful sense of a people's tradition, identity and place in the world.

*Aboriginal Heritage of the Blue Mountains: Recent Research and Reflections*, a 2019 publication by respected researchers, historians, archaeologists and citizens, highlights that:

- At the foot of the Blue Mountains, New South Wales, human occupation is dated at up to 50,000 years ago.
- In 1788, the way of life for Aboriginal people living in the Mountains and surrounds irrevocably changed. However, their cultural heritage handed down from ancient generations has remained in the form of occupation sites, art, artefacts, axe-grinding grooves, scarred trees, stone arrangements and other physical traces of their presence in the landscape. Their heritage includes language, stories, memories, associations and ceremonies.
- The Greater Blue Mountains World Heritage Area (GBMWhA) is one large gallery of Aboriginal sites and culture. The Mountains' cultural landscape is rich in story and meaning. Aboriginal people's *living culture* in the Mountains has spiritual, historical, social, scientific and educational values for humanity.
- One significant reflection is that given the Blue Mountains region is part of a World Heritage listed area, it is puzzling why the Aboriginal heritage of the Mountains and surrounding places has not received greater recognition and protection.
- Places with Aboriginal cultural heritage values can be protected through declaration as an Aboriginal Place under the NSW *National Parks and Wildlife Act 1974*. The Act provides special recognition and protection to the Aboriginal cultural landscape. There is a strong case for the GBMWhA being declared as an Aboriginal Place.

Raising of the Warragamba Dam wall will have an irrecoverable and lasting adverse impact on Aboriginal people and wider society. Raising of the Dam will be particularly devastating to Gundungurra people. In their words ('Prologue' in *Aboriginal Heritage of the Blue Mountains*):

*Our ancestors lived and walked on Burragorang land for many thousands of years. We are talking about real people who made their lives in the valley; a living, breathing history and culture of Dreaming trails, paintings, carving sites, waterholes, grave sites, scarred trees, and much more.*

*Sadly, some of our culture has been lost to time and 'progress'; flooded and hidden behind the Warragamba Dam wall and beneath the waters of Lake Burragorang. Access to what culture we know of is still highly restricted, if not completely forbidden, which is truly devastating. A lot of people argue that we all need to make way for progress and development – a new story – regardless of the cost to our environment and history. Our Gundungurra country is still an important story and some of this story is included in this book, as are some of the stories of our Aboriginal neighbours.*

*Our story – the land, people and culture – is at risk again with the proposal to raise the Warragamba Dam wall. We are deeply concerned that this will be the beginning of the end of our culture and history. We have already lost access to so much of our history, much of which we can only read about in books like this one. From where we stand, and where many of my brothers and sisters stand, as contemporary Aboriginal people, we think we have already lost enough. We have sacrificed enough, and we cannot lose the precious little heritage we have left. We know that our Aboriginal neighbours, the Dharawal, Wiradjuri, Eora, Darug and Darkinjung people, and many other people, share our concerns.*

*Our place – which we share with you – is still a cultural landscape filled with story and heritage. Like our ancestors cared for country, we want it acknowledged, respected and preserved for our descendants and society. We ask that you respect our living culture.*

The NSW Government has many responsibilities including public works, conservation and management of non-renewal resources, environmental protection, and the provision of community services. In discharging its duties, such as major public works, the Government has a responsibility to practice due diligence through modelling scenarios (i.e. alternatives to raising the Dam wall) and conducting thorough economic, community, cultural and environmental impact assessments before it proceeds with projects such as raising of the Warragamba Dam. A key responsibility is to protect cultural heritage.

### **Cultural and environmental assessment**

The NSW Government's cultural and environmental assessment for raising the Warragamba Dam wall is being completed by the Snowy Mountains Engineering Corps (SMEC). I understand that SMEC has a history of breaching Indigenous people's rights across the globe (e.g. from research conducted by the Colong Foundation). These breaches have taken place as part of environmental and cultural assessments for other dam projects, notably in South East Asia. For example:

- In 2013, SMEC faced extensive criticism from the scientific community for its involvement in the Don Sahong Dam project in Laos. SMEC refused the Cambodian, Vietnamese and Thai Governments [calls for them to submit the project and the proposal to intergovernmental assessment](#). The construction of the Don Sahong Dam project is set to threaten the main source of livelihood, fishing, for those living downstream of the dam in the Cambodian-Mekong. This has further driven poverty and environmental degradation in an area [where this is already rife](#). SMEC reportedly did not consult the parties involved in the Mekong River Commission, as required under the 1995 Mekong Agreement.

- Further to this, in 2015 SMEC faced controversy for undertaking an Environmental Impact Assessment and a Social Impact Assessment for the Mong Ton (or Tasang) Dam in Myanmar, which will eventually displace as many as 300,000 Indigenous people - with over 100 villages and towns to be flooded. This dam has also threatened the existence of 104 migratory species of fish which are crucial to the livelihoods of groups living along the Salween River. Large amounts of funding for this dam came from [Chinese state-owned companies](#).
- Local villagers reported 'SMEC's consultations are entirely insufficient. The first consultation was only two hours. You cannot discuss anything in two hours. And they announced this consultation via a tiny ad in one of the last pages of the newspaper'. The activist also reported that military authorities in Shan State sent a tank through the villages ['to remind them to participate in the consultations'](#) run by SMEC.

I also note that SMEC has not completed the cultural and environmental assessment to inform the Warragamba Dam proposal. Raising the Dam will result in the loss of over 300 Aboriginal sites within the GBMWA, including the last remaining waterholes of the Gundungurra people's dreaming stories and grave sites. It is unacceptable that the draft cultural assessment undertaken by SMEC and its consultants only covered 26% of the entire area that will be submerged by the raised Dam.

Blue Mountains Aboriginal people have labelled SMEC's report 'insulting' and 'an attempt to justify the destruction of hundreds of sites' in favour of the NSW Government. [When Traditional Owners invited SMEC and Water NSW to attend a public meeting to discuss their concerns last month, they simply didn't show up.](#)

When SMEC held its first consultation meeting about the Dam wall raising project in 2018, Aboriginal custodians were given just four days' warning by SMEC of a consultation meeting being held in northern Sydney, [a long drive in peak-hour traffic from the Blue Mountains](#).

Raising of the Dam will destroy known non-renewable heritage, cultural features, historical places and objects. Further, in the absence of extensive cultural and archaeological assessments, we do not yet know the extent of Aboriginal culture at risk.

These concerns call into question how SMEC has been chosen as the lead consultant for the Warragamba Dam project by the NSW Government. To get to the bottom of how this happened, all documents and correspondence relating to the cultural and environmental assessment should be summoned to the Parliamentary inquiry so there can be full transparency surrounding the project.

### **Recommendations**

1. I urge the Committee to recommend to the NSW Government that it immediately suspends the Warragamba Dam proposal pending further investigation on the selection of SMEC and the ability of SMEC to conduct and complete an independent cultural and environmental assessment.
2. I urge the Committee to recommend that the NSW Government summons the CEO of SMEC, James Phyliss, to give evidence as to why SMEC has been ignoring the concerns of Blue Mountains Aboriginal people and not following UNESCO World Heritage ([IUCN](#) and [ICOMOS](#)) Assessment Guidelines.
3. The Committee should call on SMEC's CEO, James Phyliss, to give evidence at the Parliamentary inquiry to explain how SMEC was chosen by the NSW Government to undertake this project. And, for example, the inquiry should ask him:

- a) What did the commissioning entity ask SMEC to report on?
  - b) Whose interests is SMEC primarily serving?
  - c) How has SMEC ensured its findings will be trustworthy, independent and free from any perceived and/or actual bias?
  - d) How is SMEC managing perceived and/or actual biases and conflicts?
  - e) What assessment methodology has SMEC adopted?
  - f) How is the selected methodology sufficiently rigorous to assess the risk to Aboriginal culture in light of the scale and scope of the Dam wall raising proposal?
  - g) How is the selected methodology in keeping with current legislation, regulations, industry practice/s?
  - h) What research and impact assessment reliability and validity testing has SMEC adopted in reaching its findings?
  - i) Why is SMEC not abiding by [IUCN](#) and [ICOMOS](#) World Heritage Assessment Guidelines in writing its assessment on the flooding of the Greater Blue Mountains World Heritage Area?
4. I urge the Committee to recommend to the NSW Government that it immediately appoints an independent body (e.g. a panel of independent and experienced academics in the fields of Aboriginal heritage and archaeological assessment) to engage with traditional custodians and ultimately define what constitutes their views of significance assessment and cultural heritage values (e.g. in the areas of research potential, representativeness, rarity, historical, spiritual, social and educational dimensions and associations).

#### **Preferred position**

In conclusion, it is my preferred position that the Warragamba Dam proposal not proceed. Heritage provides a powerful sense of a people's traditions, identity and place in the world. We should not flood and destroy the remaining precious Aboriginal *living culture and landscape* within the GBMWHA that our global society has inherited, shares and is now responsible for in partnership with the traditional custodians, the Gundungurra people.

Sincerely  
Dr Kelvin Knox