

INQUIRY INTO BENEFICIAL AND PRODUCTIVE POST- MINING LAND USE

Organisation: Hunter Renewal

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Submission from Hunter Renewal to the inquiry into ‘beneficial and productive post-mining land use’

Hunter Renewal is an alliance of residents and community groups seeking to maximise the community and environmental benefits of the Hunter Valley’s transition to a post-coal economy. We thank the Committee for this opportunity to comment on the crucially important policy area of post-mining land use. Productive post-mining land use (PMLU) has the potential to bring many benefits to communities in traditional mining areas as well as to the people of New South Wales generally. Conversely, failure to properly manage the decline of coal mining and the transition of mine sites to PMLU will leave a legacy of degraded land and depressed regional economies. To avert these risks and to realise and maximise the potential benefits of PMLU will require substantial and long-term policy and funding commitments from the NSW Government. We make the following recommendations.

1 – Cost savings for leaseholders resulting from PMLU reforms should be reinvested in community and environment projects.

Term of reference (e) asks the Committee to consider how the benefits from PMLU can be shared between the community and ‘mine operators’. The interests of mine operators are at best irrelevant, and likely often antithetical to the public interest which must be the guiding purpose of these reforms. Benefiting mine operators should not be a policy objective at all. PMLU reforms should be directed solely at benefiting the communities of mining regions and the broader NSW public, including through environmental and biodiversity outcomes. Any financial benefits for mine operators arising from PMLU reforms should be mandatorily reinvested in projects for the benefit of mining communities and their regional environment.

There is a widespread perception amongst the residents of coal mining regions that mine operators unfairly enjoy the bulk of the benefits that flow from the industry, with local communities receiving comparatively little returns while paying the entire bill, socially and environmentally. Door-knocking surveys undertaken by Hunter Renewal, for example, indicate that 98% of residents in the coal-mining town of Muswellbrook believe a bigger share of mining profits should be reinvested into the local area. The top priorities for investment identified by survey respondents are social and community services; public infrastructure to support economic diversification; and landscape restoration on mine-owned land including buffer lands.¹

¹ Survey results are available at https://www.lockthegate.org.au/survey_reveals_muswellbrook_locals_want_coal_royalties_hiked_again.

Given that Muswellbrook ranks among the most socio-economically disadvantaged local government areas in the state,² and that the mammoth Mt Arthur mine which abuts the town makes \$1.8 billion in annual profit for its operator BHP,³ the sense of unfairness among local residents seems well-founded.

PMLU reforms present an opportunity to give fairer outcomes to mining communities and repair some of the social and environmental harms that mining has facilitated. Reforms must not seek to benefit mine operators, but only the public, and any incidental benefits to mine operators arising from these reforms should be mandatorily reinvested in public-interest projects, including environmental restoration.

2 – Environmental standards must be maintained or enhanced by PMLU reforms, and mine leaseholders must carry the financial risk of long-term rehabilitation failure.

The expansive open cut mining projects that characterise the industry, particularly in the Hunter Valley, have been developed in the face of widespread public alarm at the environmental and social damage these projects inflict. The impacts of landscape-scale open cut mining have been profound, and include chronic air pollution and associated health impacts; the extinction of local village communities; large-scale destruction of native ecosystems and dependent threatened species; loss of vast areas of productive agricultural land, and irreversible damage to surface and underground waterways. It is in response to these concerns of the residents of mining regions and the broader NSW public that government approvals of new and expanded coal mines have been issued with strict conditions obliging mine operators to permanently rehabilitate their sites for viable alternative uses including ecosystem and agricultural lands. It would be an abrogation of the government's responsibility to the public if these commitments were weakened or abandoned.

Issues of mine rehabilitation, landscape restoration, and productive PMLU cannot be reasonably separated. Term of reference (g) notes the need for a robust regulatory framework – this framework should guarantee environmental standards are at least maintained and ideally enhanced by the PMLU reform process. This would include:

- Rehabilitation and land restoration standards must be maintained or enhanced through any alterations to mine leases, development consents, and approved final landforms.
- Mine leaseholders must carry the risk of rehabilitation failure in the long term. The NSW Audit Office recommends that a financial mechanism be introduced to shield the taxpayer from the financial risk of 'long-term environmental degradation after mines are closed and security deposits returned'.⁴ This should be implemented.
- PMLU developments should be restricted to already-disturbed mining land. Far too much biodiversity and agricultural land has been lost to mining developments, and the transition from mining must not be the occasion for more loss.

3 – The Hunter Valley needs an integrated landscape restoration plan, and a dedicated public authority to implement it.

There are 22 coal mines in the Hunter Valley sprawling across hundreds of thousands of hectares of mine-owned land. Most are due to close in the coming two decades. The development consents for these

² Australian Bureau of Statistics (2021), *Socio-Economic Indexes for Areas (SEIFA)*.

³ BHP (2023), *Annual Report 2023*, 93.

⁴ Audit Office of New South Wales (2017), *Performance Audit: Mining Rehabilitation Security Deposits*, 15.

mining projects require mine operators to rehabilitate sites to an approved 'final landform' which achieves prescribed post-mining land use goals including areas of agricultural land and areas of functioning ecosystem. Such consent conditions were imposed in order to justify and mitigate the wholesale destruction of vast areas of productive land including threatened ecosystems, and it is imperative that they be enforced and that prescribed post-mining land uses are achieved in the real world. Big questions remain as to whether this is even possible, and certainly it will require a much bigger commitment of resources and coordination from the state government.

A 2021 study commissioned by the Australian coal industry pointed to 'a lack of knowledge and adequate research about the likely success of ecological mine rehabilitation' in the long term.⁵ The study's authors concluded that it was possible to achieve successful ecological rehabilitation but noted that this would require more time and intervention than is planned for, as well as 'regular and accurate quantitative assessment of [rehabilitation] performance'.⁶ Responsibility for the landscape-scale rehabilitation project required in the Hunter Valley must not be left to the multitude of individual mine operations across the region, each concerned only with fulfilling its legal obligations in respect of one site. The scale of the problem necessitates an integrated landscape management approach: a region-wide restoration plan overseen by a dedicated public authority. This should be the same public authority managing all aspects of the Hunter's transition away from coal, as landscape restoration cannot be separated from that larger governance challenge.

Achieving the post-mining land use domains required by existing mine approvals is essential to facilitating the beneficial and productive post-mining land use opportunities which are the focus of this inquiry. But that alone will not fully realise the potential for social, economic, and environmental renaissance which is offered by the Hunter's transition away from mining. A policy approach which seeks to achieve that must incorporate not only mine lease areas but the enormous areas of 'buffer lands' which immediately adjoin mine sites, are owned by the mine operators, but are not currently incorporated into final land use plans. About 50,000 hectares of the Hunter Valley is locked up in buffer lands;⁷ this presents an enormous opportunity for integrated landscape restoration in the region. Not only would this allow for the creation of a biodiversity corridor network which is necessary for native species to adapt to climate change, but it would double the economic potential of transitioning mine sites to other land uses.⁸ The creation of a post-mining biodiversity corridor network should also link up the more than 40,000 hectares of biodiversity offset land⁹ which is held by Hunter mining companies to increase the likelihood of these areas providing ecological functionality into the globally warmed future. These offset lands - about which many questions remain regarding their long-term management - should be incorporated into the Hunter's landscape restoration plan and into the remit of the public authority which oversees that plan.

The landscape-scale impact of mining - and the end of mining - in the Hunter call for a landscape-scale restoration plan. This plan should be developed and implemented by an independent, statutorily empowered and well-resourced public authority to ensure proper long-term coordinated management in the public interest. This is an essential element of the robust regulatory framework envisaged by term of reference (e).

⁵ Umwelt (2021), *Establishing Self-sustaining and Recognisable Ecological Mine Rehabilitation*, Australian Coal Association Research Program, i (Executive Summary).

⁶ Ibid.

⁷ EY (2022), *Diversification and Growth: Transforming Mining Land in the Hunter Valley*, Lock The Gate Alliance, 11; Upper Hunter Mining Dialogue (9 September 2020), *Agenda: Joint Environment Working Group*, 9.

⁸ EY (2022), *Diversification and Growth: Transforming Mining Land in the Hunter Valley*, Lock The Gate Alliance, 11.

⁹ Upper Hunter Mining Dialogue (9 September 2020), *Agenda: Joint Environment Working Group*, 9.

4 – Land restoration is a crucial industry in the post-mining transition.

We are concerned that policy discussions about the productive opportunities for post-mining land use are failing to recognise the value and importance of landscape restoration for achieving economic and social outcomes, in addition to the obvious environmental ones. Globally, it is recognised that landscape restoration is not only essential for mitigating and adapting to climate change, but delivers public economic returns far in excess of the value of funds invested.¹⁰ In Germany's Ruhr Valley landscape restoration programs have been central to the region's managed transition to a post-mining economy.¹¹ The same must be so in NSW and in particular the Hunter.

Unlike some other industries, landscape restoration is not mentioned in the terms of reference for this inquiry, nor in the government's Issues Paper on its proposed Future Jobs and Investment Authorities. This is a major omission that must be addressed. The Hunter Valley has a region-wide landscape restoration project ahead of it, with about 80,000 hectares of existing mine sites due to be rehabilitated over the coming 25 years under existing approvals.¹² This should lead to the creation of an average of 320 annual jobs over that period.¹³ To achieve even this minimum economic potential of the landscape restoration industry will require targeted policy support from the NSW government, due to the critical knowledge and skills gap which must be overcome.¹⁴ And with full policy commitment to the establishment of the industry in the Hunter, its potential benefits could be maximised. This commitment should include:

- Establishing a collaborative research institution in the Hunter to pioneer innovative and efficient methodologies of landscape restoration. The Hunter is ideally placed to become a national and global leader in this emerging industry.
- Establishing skills and training programs in landscape restoration.
- Incorporating mine buffer lands into a region-wide integrated landscape restoration program, which would double the economic and employment potential of the industry.¹⁵

5 – Public engagement, public transparency, and public benefit must be central to post-mining developments.

The wind-down of the coal industry has profound implications for mining-dominated communities, especially in the Hunter Valley where the industry's permeation through the economy, society, and environment is unrivalled. Local communities have the most at stake in the transition and must be centrally involved in the planning and development of new projects and industries. Alarming, this essential element of the region's transition seems to be absent from the current policy approach. The government developed its Future Jobs and Investment Authorities proposal without any open public consultation whatsoever, via invite-only 'roundtable' discussions. In the same vein, the proposed FJIA model would see government-selected panels (or 'Authorities') advising the Minister on which diversification projects should

¹⁰ See World Resources Institute (2017), *Roots of Prosperity: The Economics and Finance of Restoring Land*.

¹¹ See Regionalverband Ruhr (Ruhr Regional Association, 2022), *Green Infrastructure Charter: Ruhr Metropolis*, www.rvr.ruhr/en.

¹² EY (2022), 11.

¹³ EY (2022), 22.

¹⁴ Stevens, R. (2021). *Current status of mine closure readiness: Are governments prepared?*, Intergovernmental Forum on Mining, Minerals, Metals and Sustainable Development.

¹⁵ EY (2022), 11, 22.

receive Royalties for Rejuvenation funding - in replication of the existing Expert Panels system. Such panels create the impression of public engagement while in fact restricting it to a very small and generally unrepresentative group of people. Panels should be replaced by full and open public engagement at every stage of the process.

Transparency of the process is equally as important as engagement, and so far equally neglected. The outgoing Expert Panel regime is woefully opaque - with community groups having to make recourse to the GIPA Act to find out what these supposedly representative panels have been advising the government. A major transparency overhaul is required here, and it should include:

- Establishing 'one stop shops' in Singleton and Muswellbrook - drop-in centres for local people to access all the information needed to understand and become involved in what is proposed, planned, required and approved in terms of post-mine land rehabilitation and development. These hubs should be equipped to direct people to employment and training services.
- Establishing an online hub which collates the same information and services described above. This should include detailed and integrated mapping software by which members of the public can gain a holistic understanding of what is planned and proposed for the region.

As part of an overarching commitment to placing local community benefits at the centre of its PMLU reforms, the government should also investigate the potential for new models of development that maximise these benefits, such as community-ownership and profit-sharing schemes.

6 – The NSW Government should facilitate the return of some mine-owned lands to First Nations people.

The proliferation of open cut mining permitted by state governments to sprawl across the Hunter Valley has been immensely destructive to Aboriginal cultural heritage. Countless sites and artefacts have been lost; the Country itself has been exploded, upheaved, shipped overseas. The closure of these large mining operations and the release of not only mine lease areas but mine-owned buffer lands offers a unique opportunity to make some meaningful amends to Wanaruah people through the return of areas of un-mined land. This would deliver real and permanent cultural and economic self determination outcomes.

The state government should facilitate this process. The in-force *Hunter Regional Plan 2041* acknowledges 'the importance of land to Aboriginal people and their sacred connections to Country', and commits the government to '[e]levating the right of Aboriginal residents to economic self-determination'.¹⁶ While the Plan contemplates only existing land rights mechanisms as the means of achieving that, the relinquishment of potentially 130,000 hectares of mine and buffer lands in the coming two decades provides a one-off opportunity to facilitate the same benefits on a larger scale. The government should begin negotiations with the various Aboriginal stakeholder groups in the region and with mine operators in order to facilitate the return of substantial parcels of unmined land. The same approach should be taken in other mining regions.

7 – The pace of change will be faster than currently planned for.

¹⁶ NSW Department of Planning and Environment (2022), *Hunter Regional Plan 2041*, 29.

PMLU policy must be developed with a proper understanding of the pace at which the NSW coal mining industry is set to decline, but this continues to be underestimated. The future of mining in the Hunter depends directly on global thermal coal demand. The Issues Paper on the proposed Future Jobs and Investment Authorities cites an outdated IEA forecast that global coal demand will reduce by 30% by 2050.¹⁷ More recent estimates are that the market will decline much faster than that. The IEA's March 2024 forecast is that demand will fall 40% by 2050 under the existing climate policies of the world's nations, and up to 90% with intensifying efforts to achieve net zero emissions as pledged in the Paris Agreement.¹⁸ Internal modelling by Glencore contemplates a nearly 100% decline in seaborne thermal coal trade in the next sixteen years.¹⁹ As the impacts of climate change worsen and alternative technologies rapidly advance, the decline of coal will only gather pace.

The government must base its policies on realistic forecasts and be upfront with NSW mining communities about the pace of the changes ahead. Failure to recognise the urgency of the challenge is reflected in the under-resourcing of the Royalties for Rejuvenation Fund, which is proposed to remain static at \$25 million per annum. This should be increased to at least \$150 million, or 5% of the state's royalty income. The scale of the transition challenge demands a full frontal policy response.

¹⁷ At page 10.

¹⁸ International Energy Agency (2024), *Accelerating Just Transitions for the Coal Sector: Strategies for Rapid, Secure and People-centred Change*, 16-17; Paris Agreement Article 4.

¹⁹ Glencore (2024), *2024-2026 Climate Action Transition Plan*, 23-24.