

8 May 2019

Mr Tony Pearson
Chair of Panel
Independent Planning Commission
Level 3, 201 Elizabeth Street
Sydney NSW 2100

By email: ipcn@ipcn.nsw.gov.au

Dear Mr Pearson

**United Wambo Open Cut Coal Mine Project (SSD 7142) and associated modifications
(DA 305-7-2003 MOD 16 and DA 177-8-2004 MOD 3) (Project):
Decision by Gloucester Resources Limited not to appeal *Rocky Hill* case**

1. We refer to our previous submissions on behalf of Hunter Environment Lobby (**HEL**) in relation to the Project and, in particular, the Supplementary Submission we sent on behalf of HEL on 6 May 2019.
2. We **attach** today's media release from Gloucester Resources Limited (**GRL**), stating that it has decided not to pursue an appeal in the NSW Court of Appeal against the decision of Preston CJ in *Gloucester Resources Limited v Minister for Planning* [2019] NSWLEC 7 (***Rocky Hill* case**).
3. In HEL's submission, the GRL media release effectively confirms that:
 - a. the *Rocky Hill* case remains highly persuasive and legally correct; and
 - b. there are no legal impediments to the Independent Planning Commission accepting Preston CJ's approach to assessing a fossil fuel development's environmental impacts, particularly his Honour's approach to assessing GHG emissions and their likely contribution to climate change and considering the "wrong time" basis for refusal.
4. If you have any queries, please contact us on (02) 9262 6989 or at matthew.floro@edonsw.org.au.

Yours sincerely
EDO NSW



Matt Floro
Solicitor

Our Ref: 1624196

Encl