



20 September 2024

Ms Sue Higginson MLC  
Chair  
Parliamentary Committee No. 7

By email: [sue.higginson@parliament.nsw.gov.au](mailto:sue.higginson@parliament.nsw.gov.au)

Dear Chair

### **Correspondence from Regis Resources**

I write in response to correspondence from Mr Jim Beyer, Managing Director and Chief Executive officer of Regis Resources sent to you and all members of Parliamentary Committee No. 7 on 18 September 2024.

Mr Beyer raised a number of assertions that I made during Budget Estimates on 29 August 2024, which he said needed to be corrected. My response is as follows:

1. I stated: *“that Regis Resources rejected the Orange Local Aboriginal Land Council’s request to come back and resurvey the site because they were only able to survey 14 per cent of the site in the first place? Regis Resources rejected their attempts three times.”*

Mr Beyer responded to note that Regis does not have any record of requests coming to them that they have denied.

I relied on direct evidence provided to me by a former employee of the Orange Local Aboriginal Land Council in making this assertion.

That evidence stated that “Regis never responded to OLALC request to revisit site on three occasions...”.

I also relied on the archeological report of Doug Williams dated February 2022. That report notes, at 30(f) that the Landskape 2019 report recorded 14% coverage achieved by the field survey.<sup>1</sup>

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<sup>1</sup> Expert Report, Doug Williams, Technical Heritage Studies, dated February 2022. Williams also notes that, at other points, the Landskape report records a total of 10% coverage, and that discrepancy is not explained.

2. I stated: *“There are quite a few Aboriginal stakeholders within that area who have requested access to the site and who have requested an independent cultural heritage impact assessment.”*

I attach:

- a) An email from Olivier Rochecoust of Niche Environment and Heritage dated 9 November 2023 to Uncle Jade Flynn of Wiradyuri Traditional Owners Central West Aboriginal Corporation (WTOCWAC).

That email was in response to a request to participate in fieldwork surveys on site.

Dr Rochecouste responded to that request by saying that “the Orange Local Aboriginal Land Council has been appointed to participate in the fieldwork component for the ETL ACHA.”

- b) An email from Jamie Reeves of Niche Environment and Heritage dated 15 November 2023 to Uncle Jade Flynn.

That email again followed a request to participate in fieldwork surveys on site.

Mr Reeves responded to that request by saying that the fieldwork “would be able to be resourced most effectively by engagement [of] the LALCs. Please note that we are looking at arranging further site visits at the next stage of consultation to help inform the assessment.”

- c) An email from Olivier Rochecoust of Niche Environment and Heritage dated 3 April 2024 to Lisa Paton.

That email was in response to a request for two members of the WTOCWAC to participate in fieldwork surveys on site.

Dr Rochecouste responded to that request by saying that “As previously advised (see attached), the Orange Local Aboriginal land Council was appointed to participate in the fieldwork component for the ETL ACHA.”

These emails are the evidence I relied upon to assert that quite a few Aboriginal stakeholders made requests to access the site. These emails also show that those requests were denied.

3. I stated: *“...pretty much the only expertise [in the approvals process] was who the proponent engaged.”*

Mr Beyer responded to say that they, Regis, “had a number of archaeologists, anthropologists and, in some cases, a geoarchaeologist attend the site and undertake extensive field surveys with representatives of the Aboriginal community”.

This statement from Regis supports my assertion that the expertise was carried out by consultants engaged by the proponent, Regis.

The consultation log, annexed to the Landskape 2019 report, shows that field surveys were only ever conducted with two members in total of the OLALC, being Greg Ingram (between 21 March 2017 to 31 March 2017) and Doug Sutherland on 26 September 2018 and 31 January 2019.

Regis also said that “Cultural heritage consultation was done in compliance with planning laws.”

The independent expert report by Doug Williams of February 2022 reviewed a number of Aboriginal Cultural Heritage expert reports that were prepared for Regis.<sup>2</sup>

At paragraph 74, he found that those reports were not based on appropriate and adequate assessment of the Aboriginal Cultural Heritage of the Significant Area.

By way of example, in relation to the Landskape 2019 report prepared for the proponent, he says that although the Landskape report is largely consistent with the NSW *Aboriginal Community Consultation Requirements for Proponents*, there is a significant omission in that there is no way of verifying which groups and individuals identified in the report were actually contacted.

He also points to a number of issues in relation to, for example, the archaeological survey coverage (see paragraph 30), the site descriptions in the survey results (see paragraph 31), the significance assessment (see paragraph 35). At paragraph 36, he has prepared a table showing the fulfilment of the requirements of the NSW *Code of Practice for Archeological Investigation of Aboriginal Objects*. This table shows a number of deficiencies, with the conclusion being that the Landskape 2019 report should not be relied upon.

A further independent expert report by Peter Kuskie of 11 February 2023 found, at paragraph 43, that the proponent’s heritage assessment failed to “adequately identify what Aboriginal heritage is present within the Project impact area”.<sup>3</sup> It also found that there were various non-compliances with the SEARS and heritage requirements, which lead to the conclusion that the author could not support the Department’s conclusions that “the project’s impacts on Aboriginal cultural heritage would be acceptable in accordance with NSW government policy”.

4. Mr Beyer says that I have “consistently questioned that the Orange Local Aboriginal Land Council’s original opposition to the project invalidates their later change to a neutral position.”

Mr Beyers references the transcript from Budget Estimates of 29 August 2024 at page 39 in support of that contention.

At page 39, I asked the following questions to Minister Sharpe:

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<sup>2</sup> Expert Report, Doug Williams, Technical Heritage Studies, dated February 2022.

<sup>3</sup> Independent Expert Opinion, Peter Kuskie, Director, South East Archaeology Pty Limited, dated 11 February 2023.

- a) Are you aware of the Premier's evidence yesterday to this Committee that relied heavily on the Orange Local Aboriginal Land Council and their view?
- b) Are you aware that the Orange Local Aboriginal Land Council originally opposed the project? After they surveyed the site, they opposed the project. Are you aware of that?
- c) Are you aware that Regis Resources rejected the Orange Local Aboriginal Land Council's request to come back and resurvey the site because they were only able to survey 14 per cent of the site in the first place? Regis Resources rejected their attempts three times. Are you aware of that?
- d) The reason I'm asking is because I asked you at the beginning in terms of the advice you provided to the Federal environment Minister. Again, all of that occurred under the previous Government and I'm wondering about the advice that Heritage NSW gave you. Heritage NSW appeared to rely upon the advice of the consultant employed by the mining company to suggest that there wasn't too much of anything, really, in terms of Aboriginal significance. Does that concern you?
- e) But you are the Minister for Heritage now. The Premier appeared before budget estimates yesterday waving the Orange Local Aboriginal Land Council's advice that they support the project, and that is wrong. They ended up issuing something that is neutral.
- f) Do you usually encourage Heritage NSW to consider all of the views of registered Aboriginal parties when it comes to assessing heritage?
- g) There are quite a few Aboriginal stakeholders within that area who have requested access to the site and who have requested an independent cultural heritage impact assessment. Do you support their requests to be able to access the site?
- h) The reason I am raising it is because the Minister for Natural Resources and the Premier have come out and said that they support this mine going ahead I don't think with all the facts in front of them. In fact, the Premier said that the Federal environment Minister has made an error. Again, this is on Aboriginal cultural heritage impact. I'm just wondering how much you, as the State Minister, have got your head around what those impacts are. Again, your department seems to have just relied upon the assessment by the mining company's consultant.

There is nothing in any of those questions that can be construed as me having "consistently questioned that the Orange Local Aboriginal Land Council's original opposition to the project invalidates their later change to a neutral position."

I made no such assertion.

5. Mr Beyer said that I "attacked the Cultural Heritage consultation process, how Aboriginal people were engaged by Regis and whether they were able to provide meaningful feedback."

I agree with this statement, and remain of the opinion that the Cultural Heritage consultation process, the engagement with Aboriginal people by Regis and the opportunities to provide meaningful feedback throughout the planning process for the McPhillamys mine were inadequate.

I request that the Committee take note of the above.

Yours sincerely

**Cate Faehrmann MLC**  
NSW Greens mining spokesperson