

Mount Pleasant Coal Mine South Pit Haul Road Modification (DA 92/97 MOD 2)

Environmental Assessment Report Section 75W of the *Environmental Planning and Assessment Act 1979*

1. BACKGROUND

MACH Energy Australia Pty Ltd (MACH Energy) owns the Mount Pleasant Coal Mine (Mount Pleasant), an approved open cut mine located approximately 4 kilometres (km) northwest of Muswellbrook in the Upper Hunter Valley (see **Figure 1**). MACH Energy acquired the mine from Coal and Allied Operations Pty Ltd on 4 August 2016.

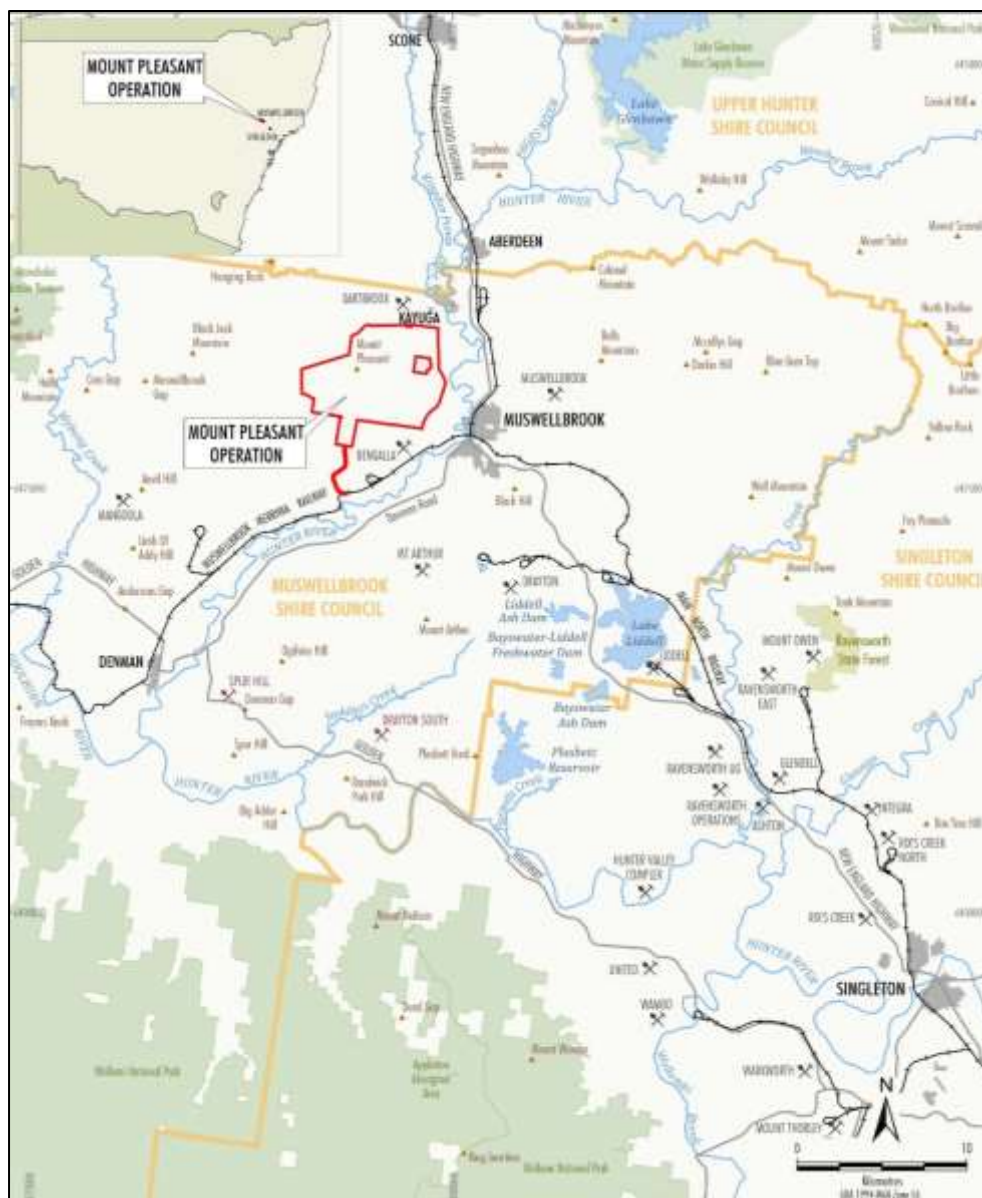


Figure 1: Locality Plan

Mount Pleasant was approved by the then Minister for Urban Affairs and Planning on 22 December 1999 under development consent DA 92/97. Under the existing consent, MACH Energy is permitted to extract 10.5 million tonnes of run-of-mine coal per year until 2020. The consent was modified in 2011 (Modification 1) to allow for the relocation of approved mine infrastructure and the addition of a service and conveyor corridor, to allow coal to be transported offsite either via the approved rail loop or via conveyor from Mount Pleasant’s coal handling and processing plant (CHPP) to the neighbouring Bengalla Mine for rail loading and transport. This modification also contemplated the operational conditions and final landform outcomes for the project.

The approved site layout is shown in **Figure 2** below. The project is currently in the initial construction phase, with coal production expected to commence in early 2018.

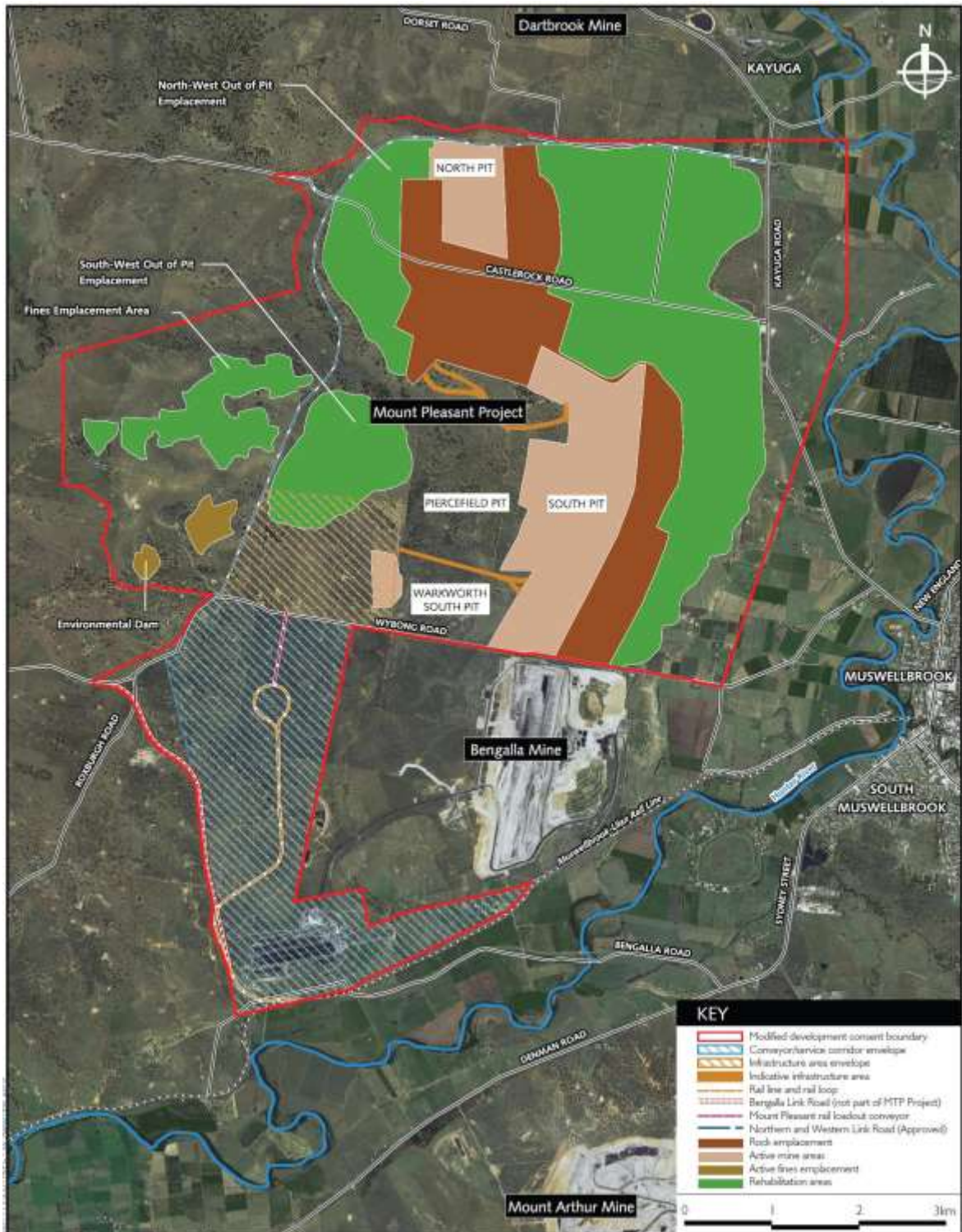


Figure 2: Approved Site Layout Plan

2. PROPOSED MODIFICATION

On 23 December 2016, MACH Energy lodged an application to modify the development consent under section 75W of the *Environmental Planning and Assessment Act 1979* (EP&A Act). The proposed modification involves relocation of an approved haul road between the conceptual CHPP and mine infrastructure area and the approved South Pit open cut (see **Figure 3**). All other aspects of the development would remain unchanged. A detailed description of the modification is provided in the Environmental Assessment (EA, see **Appendix A**).

MACH Energy has identified that relocation of the haul road would provide more efficient access from the South Pit to the CHPP and provide greater separation between haulage activities and the water management infrastructure associated with the Bengalla Mine, located to the South. Further, MACH Energy considers that the design of the haul road would reduce offsite lighting impacts to receivers in North Muswellbrook.

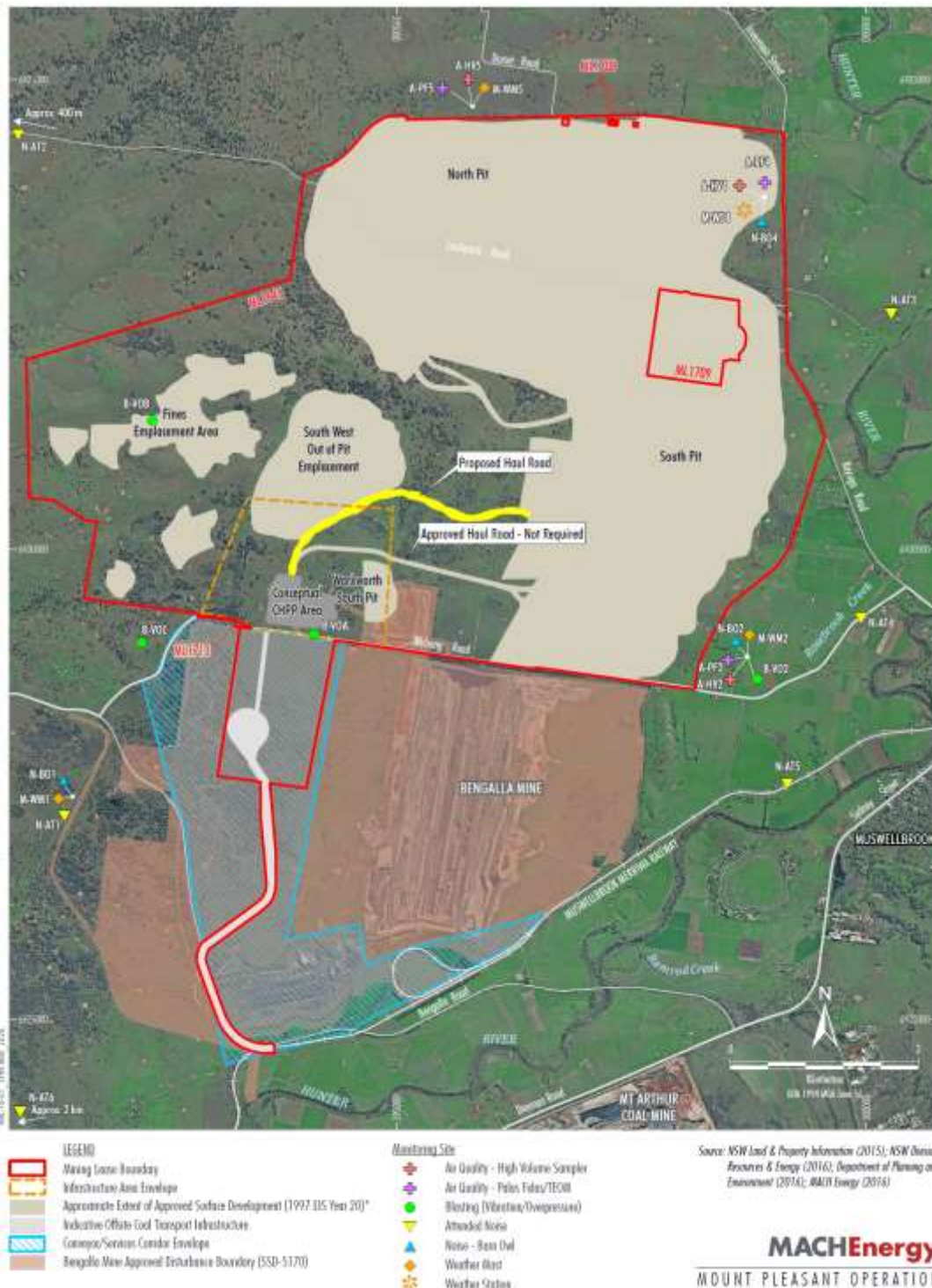


Figure 3: Proposed Relocation of South Pit Haul Road

3. STATUTORY CONTEXT

3.1 Section 75W

DA 92/97 was granted in 1999, under Part 4 of the EP&A Act. As such, in accordance with clause 8J(8) of the *Environmental Planning and Assessment Regulation 2000* and the transitional arrangements under Schedule 6A of the EP&A Act, the modification must be determined under the former section 75W of the EP&A Act.

The proposal is located within existing mining leases and involves a minor alteration to the approved project layout. Consequently, the Department is satisfied that the proposed modification is within the scope of section 75W, and may be determined accordingly.

3.2 Approval Authority

The Minister for Planning is the approval authority for the application. However, the Director, Resource Assessments may determine the application under the Minister's delegation of 16 February 2015, as there were no public objections, Muswellbrook Shire Council did not object to the proposal, and no political donations have been declared.

3.3 Environmental Planning Instruments

A number of environmental planning instruments apply to the modification, including:

- *State Environmental Planning Policy (SEPP) (Mining, Petroleum Production and Extractive Industries) 2007*;
- *SEPP (Infrastructure) 2007*;
- *SEPP (State and Regional Development) 2011*;
- *SEPP No. 33 – Hazardous and Offensive Development*;
- *SEPP No. 44 – Koala Habitat Protection*;
- *SEPP No. 55 – Remediation of Land*; and
- *Muswellbrook Local Environmental Plan 2009*.

The Department has considered the proposed modification against the relevant provisions of these instruments, as well as MACH Energy's consideration of these instruments in the EA. Based on this assessment, the Department is satisfied that the proposed modification can be carried out in a manner that is generally consistent with the aims, objectives and provisions of these instruments.

4. CONSULTATION

Due to the minor nature of the proposed modification, the Department considered that public exhibition was not required. However, the application and EA (see **Appendix A**) were placed on the Department's website and comments were sought from the Environmental Protection Authority (EPA), Office of Environment and Heritage (OEH), the Division of Resources and Energy within the NSW Department of Industry (DRE) and Muswellbrook Shire Council.

The Department received a total of 4 submissions from government agencies (see **Appendix B**). Council expressed support for the proposal and none of the remaining 3 authorities raised any concerns with the modification. OEH also provided advice regarding potential application of the Framework for Biodiversity Assessment (FBA). This issue is discussed in **Section 5.1** of this report.

The Department did not receive any public submissions.

5. ASSESSMENT

The Department has assessed the merits of the proposed modification in accordance with the relevant objects and requirements of the EP&A Act. In assessing these merits, the Department has considered the:

- Environmental Impact Statement (EIS) for the original development application;
- conditions of consent for the development as amended by Modification 1;
- modification application (MOD 2) and the associated EA (see **Appendix A**); and
- relevant environmental planning instruments, policies and guidelines.

The Department considers that the key impacts of the modification relate to biodiversity.

5.1 Biodiversity

5.1.1 Application of the EPBC Act

The original Mount Pleasant project predated the Bilateral Agreement between the Commonwealth and NSW Governments. The proposal was therefore subject to a separate approval process under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act). MACH Energy has indicated that the biodiversity impacts of the proposed modification have already been authorised under its existing Commonwealth approval (EPBC 2011/5795), and no variation to this approval is required.

5.1.2 Assessment of Impacts

In considering the biodiversity impacts of the proposed modification, the Department notes that construction of the currently approved haul road is permitted to disturb 5.4 hectares (ha) of *White Box Yellow Box Blakely's Red Gum Woodland* and 0.6 ha of *Hunter Lowland Redgum Forest in the Sydney Basin and NSW North Coast Bioregions*.

By comparison, the modified haul road route would involve the disturbance of 1.3 ha of *Central Hunter Iron Bark - Spotted Gum - Grey Box Forest in the NSW North Coast and Sydney Basin Bioregions*. All three of these communities are listed as Endangered Ecological Communities (EECs) under the *Threatened Species Conservation Act 1995*. A comparative summary of biodiversity impacts of the two routes is provided in **Table 1** below.

Table 1: Comparison of biodiversity impacts

Endangered Ecological Community		Approved Haul Road Alignment (ha)	Proposed Haul Road Alignment (ha)
<i>Hunter Lowland Redgum Forest in the Sydney Basin and New South Wales North Coast Bioregions</i>	Grassy Woodland	0.6	-
<i>White Box Yellow Box Blakely's Red Gum Woodland</i>	Derived Native Grassland	5.1	-
	Grassy Woodland	0.3	-
<i>Central Hunter Ironbark – Spotted Gum – Grey Box Forest in the NSW North Coast and Sydney Basin Bioregions</i>	Grassy Woodland	-	1.3
Total		6.0	1.3

Overall, the Department notes that the modification would provide for a net reduction in impacts on EECs and is satisfied that the proposed haul road route would have acceptable biodiversity outcomes for threatened flora and EECs and negligible impacts on threatened fauna.

5.1.3 Offset Strategy

As DA 92/97 was approved in 1999, the Mount Pleasant project predates the *NSW Biodiversity Offsets Policy for Major Projects* (Offsets Policy) and is not required to provide an offset for threatened species impacted by the construction of the approved haul road. At present, an offset is only required with respect to development in the conveyor/service corridor approved in 2011 under Modification 1. However, MACH Energy has established a significant 13,522 ha offset area to satisfy the requirements of its separate Commonwealth approval.

Given the minor scale of proposed disturbance and the reduction in the total area of EECs being disturbed, the EA does not include an FBA assessment for the current proposal. Under the transitional arrangements for the Offsets Policy, the consent authority may elect not to apply the FBA in circumstances where its application would result in perverse outcomes that do not reflect the intentions of the policy. Given the scale of the existing Commonwealth offset, as well as the net reduction in EEC disturbance, the Department considers that the application of the FBA to the current modification is not appropriate. This position was supported by OEH in its submission.

The Department also notes that the full biodiversity impacts of the overall Mount Pleasant Project, including the original South Pit Haul Road, have been suitably offset in accordance with MACH Energy's separate Commonwealth approval. As the proposed modification represents a net reduction in biodiversity impacts, the Department considers that any requirement to further offset the impacts of the modified haul road would be contrary to the intentions of the FBA. The Department is therefore satisfied that no additional offset is required.

5.1.4 Conclusion

The Department considers that the proposed relocation of the haul road would have a beneficial impact on local biodiversity values, by reducing the overall disturbance of threatened EECs. Consequently, the Department is satisfied that the biodiversity impacts of the modified development would be suitably managed under existing conditions of consent, and MACH Energy's separate Commonwealth Approval.

5.2 Other impacts

Other minor impacts are discussed in **Table 2** below.

Table 2: Other impacts

Issue	Impact and Consideration	Recommendation
<i>Air Quality</i>	<ul style="list-style-type: none"> As the current application was lodged prior to 20 January 2017, the Department has conducted its assessment based on the Approved Methods for the Modelling and Assessment of Air Pollutants in New South Wales (2005), in place at the time of lodgment. The proposed haul route would be located in a relatively central position on site, and is not close to any sensitive receivers. The realignment would not alter the minimum separation distance between the haul road and the nearest receiver (R 43), located approximately 1.7 km to the southwest. Given the above, the air quality impacts of the modified development are expected to remain consistent with previous predictions, and no changes to existing performance criteria are proposed. Existing conditions require MACH Energy to implement best practice air quality management to minimise dust emissions, to provide real-time air quality monitoring, and to prepare an Air Quality and Greenhouse Gas Management Plan for the site. A number of receivers, including R 43, are currently afforded acquisition and mitigation rights under DA 92/97. The proposed modification would have no effect on these existing entitlements. 	<ul style="list-style-type: none"> The Department is satisfied that the air quality impacts associated with the proposed modification would be negligible, and would be suitably managed under existing conditions.
<i>Noise</i>	<ul style="list-style-type: none"> The proposed haul route is not located close to sensitive receivers, and the haul road itself represents a very minor contribution to overall noise levels on site. On this basis, the noise impacts of the modified development are expected to remain consistent with previous predictions, and no changes to existing performance criteria are proposed. Existing conditions require MACH Energy to implement best practice noise management, to provide real-time noise monitoring, and to prepare a Noise Management Plan (NMP) for the site. Several receivers are also afforded mitigation and acquisition rights under the consent. The proposed modification would not alter these entitlements. 	<ul style="list-style-type: none"> The Department is satisfied that the noise impacts associated with the proposed modification would be negligible, and would be suitably managed under existing conditions and the site's NMP.
<i>Surface Water</i>	<ul style="list-style-type: none"> The proposed realignment of the haul road would not significantly alter the surface disturbance area, or the surface water management measures required. Existing conditions require MACH Energy to prepare a Water Management Plan (WMP) for the site. The WMP must include an Erosion and Sedimentation Control Plan. 	<ul style="list-style-type: none"> The Department considers that surface water impacts associated with the proposed modification would be suitably managed under existing conditions and the site's WMP.

Issue	Impact and Consideration	Recommendation
<i>Aboriginal Heritage</i>	<ul style="list-style-type: none"> • MACH Energy currently holds an Aboriginal Heritage Impact Permit (AHIP) which allows disturbance of any Aboriginal objects located within the permit boundary. • The proposed haul road is located within the AHIP area. • In its submission, OEH advised that the proposed modification would not require any variation to the site's existing AHIP. • Existing conditions require MACH Energy to develop an Aboriginal Heritage Management Plan (AHMP) and a Conservation Strategy which includes the establishment of an off-site conservation area. 	<ul style="list-style-type: none"> • The Department is satisfied that any impacts on Aboriginal Heritage would continue to be managed under existing conditions and the site's ACHMP, Conservation Strategy and AHIP.
<i>Visual Impacts</i>	<ul style="list-style-type: none"> • The proposed haul road would be located within the existing development footprint. As such, it is unlikely to increase the visual impacts of the mine. • MACH Energy has also indicated that the altered design and lower elevation of the proposed haul route may reduce the visibility of vehicle headlights from North Muswellbrook. • Existing conditions require MACH Energy to implement all reasonable and feasible measures to minimise visual and off-site lighting impacts associated with the development. The conditions also provide for additional visual mitigation measures to be implemented upon request by nearby landowners. 	<ul style="list-style-type: none"> • The Department is satisfied that the visual impacts of the proposed modification would be negligible, and would be suitably managed under existing conditions of consent.

6. CONCLUSION

The Department has completed its assessment of the modification application, having carefully considered the EA, submissions and potential impacts of the project, in accordance with the relevant requirements of the EP&A Act. The Department has paid particular attention to the likely impacts of the proposal on the natural and cultural environment, and on nearby residents. The Department is satisfied that the environmental impacts of the proposal would be of a minor nature, and could be appropriately managed by existing, modified and/or updated conditions of consent.

The proposed modification would increase operational efficiency at the site, without increasing the environmental impacts of the development. Consequently, the Department is satisfied that the proposed modification is in the public interest and should be approved, subject to conditions.

7. RECOMMENDED CONDITIONS

The Department has drafted a recommended Notice of Modification (see **Appendix C**) and a consolidated version of the consent as it is proposed to be modified (see **Appendix D**). The Department considers that the environmental impacts of the project can be appropriately managed through the proposed amended conditions of consent.

The Department has also taken the opportunity to further update existing conditions to reflect its current drafting standards. These updates include:

- contemporising the administrative conditions to ensure the development is carried out 'generally in accordance' with the EIS, modifying EAs and the project layout plans;
- updating references to government agencies;
- providing further clarity regarding:
 - application of existing conditions to construction related noise;
 - appointment of an independent person to investigate blast-related damage to private property;
 - provision of compensatory water supply;
 - calculation of the conservation bond;
 - notification obligations with respect to mine-owned properties; and
 - incident reporting;
- deleting redundant air quality acquisition criteria;

- strengthening existing conditions relating to air quality, progressive rehabilitation, independent reviews, management plans and strategies, Annual Reviews and Independent Environmental Audits; and
- adding a condition requiring that adaptive management is implemented on the site and specifying the actions that MACH Energy must take in the event that performance criteria are exceeded.

MACH Energy has reviewed the recommended conditions and provided feedback. The Department has considered the company's comments in finalising the recommended Notice of Modification.

8. RECOMMENDATION

It is recommended that the Director, Resource Assessments, as delegate of the Minister for Planning:

- **considers** the findings and recommendations of this report;
- **determines** that the modification request falls within the scope of section 75W of the EP&A Act;
- **approves** the modification application DA 92/97 MOD 2, subject to conditions; and
- **signs** the attached Notice of Modification (**Appendix C**).



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Resource Assessments



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Resource Assessments

APPENDIX A: ENVIRONMENTAL ASSESSMENT

See: http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=8234

APPENDIX B: SUBMISSIONS

See: http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=8234

APPENDIX C: NOTICE OF MODIFICATION

APPENDIX D: CONSOLIDATED CONSENT
