



17 July 2017

**Mr Matthew Sprott**  
**Team Leader, Resource Assessments**  
**Dept of Planning & Environment**  
**GPO Box 39**  
**SYDNEY NSW 2001**

Dear Matt,

**Mt Pleasant Coal Mine Modification 3 Comment**

This is an application lodged pursuant to s75W of the planning legislation (through and by various other legislative transitional arrangements) by MACH Energy Australia Pty Limited (the **Proponent**) for a modification of the Mt Pleasant approval (DA 92/97) to modify a consent that dates from 1999 (the **Application**).

The Application involves:

- an extension of the approval period from December 2020 to December 2026 – in circumstances where operational mining on the site has never commenced;
- an increase in the construction workforce from 250 to 350 full-time equivalent positions.
- an extension to the east of approximately 67Ha (350m) of the eastern out of pit emplacement;
- A corresponding reduction of the western out of pit emplacement;
- A change in the mining method to delete the use of a dragline and use only a truck and shovel style of mining operation.

Council has not had adequate time to assess the proposal.

The Court of Appeal in *Barrick Australia Limited v Williams*<sup>1</sup> made some comment on the scope of section 75W and, particularly, that:

*If the 40 day period is to be taken as an indicator of the nature of the modifications which may be sought under s 75W, it suggests a constrained view of the scope of the provision. The power of the Director-General to require a level of environmental assessment, which must be complied with "before" the request is considered by the Minister, is liable to render all but the most minor amendments and cursory environmental assessment impossible in practical terms, within the period specified.*

That is, of course, precisely the problem that arises in the present Application.

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<sup>1</sup> *Barrick Australia Limited v Williams* [2009] NSWCA 275.

The modification would require a wholesale rethink of the project timetable and consequential localised impact on adjoining operations, the road network, the cumulative impact of noise and dust, as well as social, environmental and economic impacts.

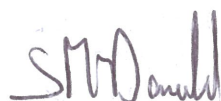
The original application and environmental assessment contained no evidence concerning the impact of the project in the six further years of mining now sought. Quite apart from anything else, the reality is that virtually all the assumptions that underpinned the original consent have now changed and not just significantly but radically because mining operations have never actually been commenced.

Council is working with the Proponent on a number of important issues including a necessary revision of the Western Road Strategy. Such a review is required because a number of mines that were assumed for the purpose of the 1999 assessment and Road Strategy no longer operate and a number of others mines never assumed, such as Mt Arthur and Mangoola, are in full operation.

It is likely that Council will need to qualify a number of experts in order to properly assess the impact of the project.

For all those reasons, Council is not yet in a position to assess the Application and notes that it has today written to the Proponent to clarify a number of matters.

Yours faithfully

A handwritten signature in dark ink, appearing to read 'S McDonald', written in a cursive style.

Steve McDonald  
**GENERAL MANAGER**