



Mount Pleasant Operation Modification 5

Rectification of Error Regarding Controlled Discharge Dam (DW1)
State Significant Development Modification Assessment (DA 92/97 MOD 5)

June 2022



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1 Introduction

1.1 Background

The Mount Pleasant Operation is an open cut coal mine, located approximately 3 kilometres (km) north-west of Muswellbrook in the Upper Hunter Valley of New South Wales (NSW) (**Figure 1**). MACH Mount Pleasant Operations Pty Limited (MACH) owns and operates the Mount Pleasant Coal Mine.



Figure 1 | Regional context map

1.2 Approval history

On 22 December 1999, the then Minister for Urban Affairs and Planning approved the Mount Pleasant Operation (DA 92/97) under the *Environmental Planning and Assessment Act 1979* (EP&A Act). MACH purchased the mine from Coal and Allied in 2016, and mining operations commenced in 2018.

DA 92/97 has been modified on 4 occasions, with the most recent modification (MOD 4) being approved on 16 November 2018.

2 Proposed modification

MACH has recently identified an administrative error in the drafting of DA 92/97 that requires rectification to permit the operation of the Mount Pleasant Operation controlled discharge dam (DW1).

A letter provided by MACH (dated 15 February 2018) responding to a request for information on MOD 3 was described within the Department's Assessment Report and considered as part of the approval of MOD 3 (see **Figure 2** which was included in the MOD 3 Assessment Report). However, reference to MACH's letter was not included in DA 92/97, and the development consent Schedule of Lands was not updated to include relevant land on which DW1, and the associated pipeline, will be constructed.

In order to address this error, MACH has lodged a modification application (see **Attachment A**) under section 4.55(1) of the *Environmental Planning and Assessment Act 1979* to:

- update Figure 3 in Appendix 2 of DA 92/97 to include DW1 and the associated pipelines;
- update the definitions in DA 92/97 to include reference to MACH's letter of 15 February 2018; and
- update the Schedule of Lands to include relevant lots on which DW1 will be constructed.

3 Statutory context

3.1 Scope of modification

Under section 4.55(1) of the EP&A Act, DA 92/97 cannot be modified unless the consent authority is satisfied that the modified proposal is to correct minor errors, misdescriptors or miscalculations.

As the proposed modification involve only administrative amendments to DA 92/97, and all key aspects of the approved development would remain unchanged, the Department considers that the modification would result in negligible changes to previously assessed and approved impacts.

Consequently, the Department considers that the modification is administrative in nature and DA 92/97 may be modified under section 4.55(1) of the EP&A Act.

3.2 Consent authority

Although the Minister for Planning is the consent authority for the application, the Director, Resource Assessments, may determine the application under the Minister's delegation dated 9 March 2022.

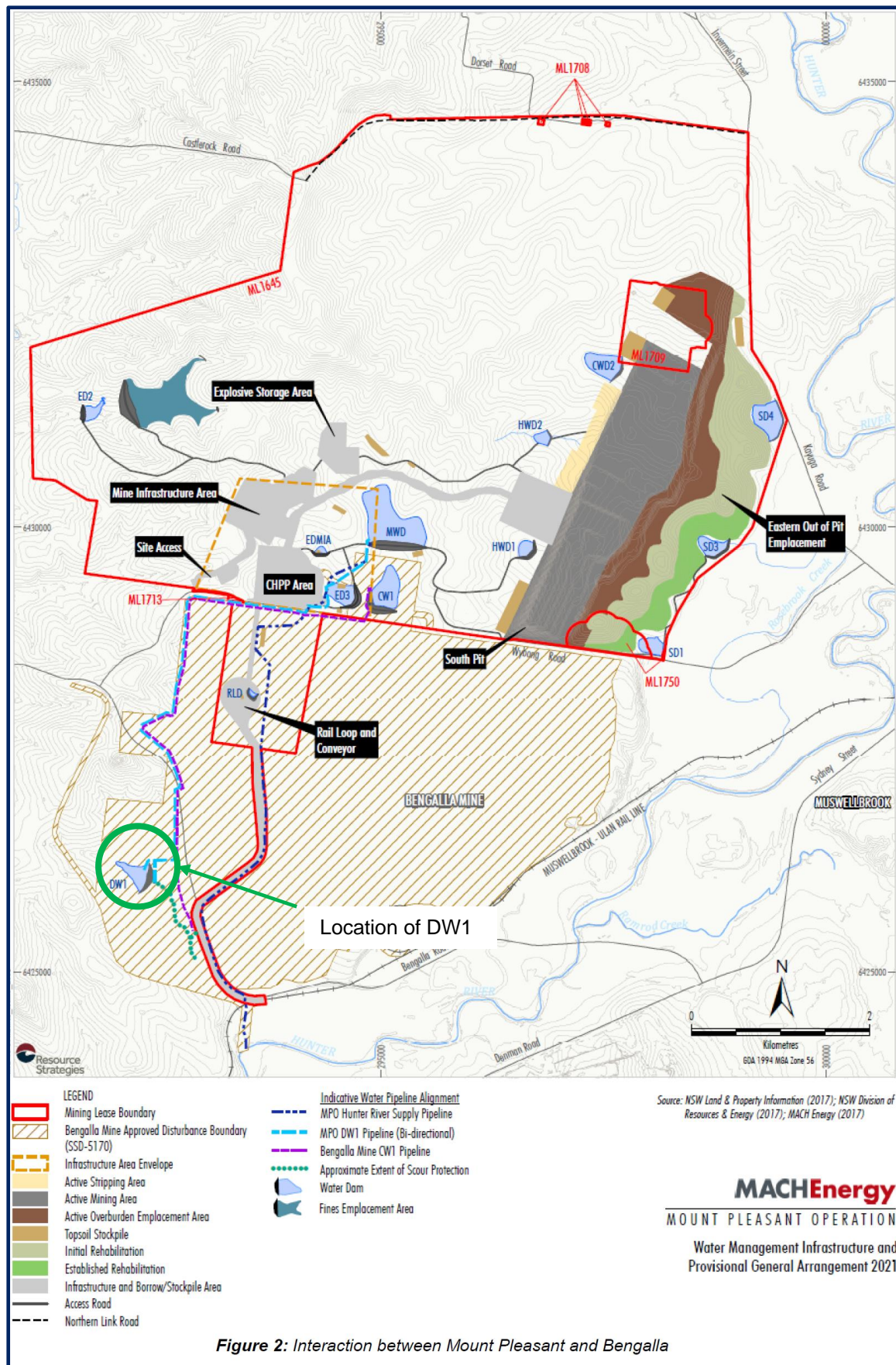


Figure 2 | Location of DW1 as shown in the Department's Assessment Report for MOD 3

3.3 Mandatory matters for consideration

Environmental Planning Instruments

The following environmental planning instruments apply to the modification:

- *State Environmental Planning Policy (Resources and Energy) 2021*;
- *State Environmental Planning Policy (Planning Systems) 2021*; and
- *Singleton Local Environmental Plan 2013*.

The Department has considered the proposed modification against the relevant provisions of these instruments. The Department considers that the proposed modification can be carried out in a manner that is generally consistent with the aims, objectives and provisions of these instruments.

Objects of the EP&A Act

The consent authority must consider the objects of the EP&A Act when making decisions under the Act. The Department considers that the proposed modification is consistent with the relevant objects of the EP&A Act.

The reasons for granting consent for the original application

In accordance with section 4.55(3) of the EP&A Act, in determining this modification, the Department has taken into consideration the reasons for the Minister's decision on the Mount Pleasant Operation (DA 92/97), dated 22 December 1999.

In determining the original project, the Minister concluded that its benefits outweighed its impacts, subject to the adherence to strict conditions. Consistent with this justification, the Department considers that the benefits of the current modification would again outweigh the potential impacts.

4 Engagement

4.1 Department's engagement

In accordance with Clause 105 of the *Environmental Protection and Assessment Regulation 2021* (EP&A Regulation) the notification requirements of the EP&A Regulation do not apply to section 4.55(1) modifications with minimal environmental impacts. Despite this, the modification report was made publicly available on the Department's website on 19 June 2022.

5 Assessment

The Department considers that any potential impacts from the construction and operation of DW1, and the associated pipeline infrastructure, was assessed and approved as a component of MOD 3. The modification is not seeking to allow any additional activities other than what has been previously approved. It is merely seeking to rectify an error in the drafting of conditions for MOD 3 to ensure consistency throughout the development consent and with the previous assessment documentation.

The Department considers that the modification is administrative in nature and does not involve any physical changes to the approved project. Overall, the Department considers that there would be no potential environmental, social or economic impacts beyond those already assessed and approved.

The Department considers that the proposed modification would ensure consistency within the development consent and previous assessment documentation. The Department has also updated some rehabilitation conditions due to the recent reforms of the *Mining Regulation 2016*, along with some administrative changes to contemporise the consent.

Overall, the Department considers that the proposed modification should be approved, subject to conditions.

The Department has drafted a recommended Notice of Modification for DA 92/97 (see **Appendix B**) and a consolidated version of the development consent, as it is proposed to be modified (see **Appendix C**).

6 Determination

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 application for Mount Pleasant Operation Modification 5 (DA 92/97 MOD 5) falls within the scope of section 4.55(1) of the EP&A Act;
- **accepts and adopts** all of the findings and recommendations in this report as the reasons for making the decision to approve the modification;
- **modifies** the consent (DA 92/97); and
- **signs** the attached approval of the modification (**Appendix B**).

Recommended by:



29/6/2022

Joe Fittell

Team Leader

Resource Assessments

The recommendation is **Adopted / Not adopted** by:



29/6/2022

Stephen O'Donoghue

Director

Resource Assessments

as delegate of the Minister for Planning

Appendices

Appendix A – Modification Report

See the Department's Major Project's website at

Mount Pleasant Operation Modification 5 (DA 92/97 MOD 5):

<https://www.planningportal.nsw.gov.au/major-projects/projects/mount-pleasant-modification-5-dw1>

Appendix B – Notice of Modification

See the Department's Major Project's website at

Mount Pleasant Operation Modification 5 (DA 92/97 MOD 5):

<https://www.planningportal.nsw.gov.au/major-projects/projects/mount-pleasant-modification-5-dw1>

Appendix C – Consolidated Consent

See the Department's Major Project's website at

Mount Pleasant Operation Modification 5 (DA 92/97 MOD 5):

<https://www.planningportal.nsw.gov.au/major-projects/projects/mount-pleasant-modification-5-dw1>