

28 April 2014

DETERMINATION OF THE MANGOOLA COAL PROJECT MODIFICATION (06_0014 MOD 6)

EXECUTIVE SUMMARY

The Planning Assessment Commission ('the Commission') has prepared this report under the delegation of, the Minister for Planning and Infrastructure.

Following careful consideration of the views expressed at the public meeting, the Director-General's Environmental Assessment Report as well as agency and public submissions, the Commission has determined the above project modification relating to the Mangoola Coal Mine, should be approved subject to recommended conditions as amended by the Commission.

This determination report provides further detail on the Commission's process, and outlines amendments made in relation to the Director-General's recommendations.

1. BACKGROUND

The Mangoola Coal project (previously known as the Anvil Hill Coal Project) was granted approval by the then Minister for Planning in June 2007 under Part 3A of the *Environmental Planning and Assessment Act 1979* ('the Act').

The mine commenced operations in late 2010 and its approval allows the extraction of 150 million tonnes of coal over 21 years, at a rate of up to 10.5 million tonnes of run-of-mine coal a year. The mine is located near Wybong in the Upper Hunter Valley, being approximately 20 kilometres west of Muswellbrook.

Since 2007, the project (06_0014) has been modified five times. The modifications include:

- MOD 1 approved 2008: certain 'early works' to be carried out prior to the commencement of the construction of the mine infrastructure.
- MOD 2 approved 2009: relocation of the pipeline for supplying water to the mine from the Hunter River.
- MOD 3 approved 2009: relocation of the Mining Infrastructure Area and minor changes to the Coal Handling and Preparation Plan.
- MOD 4: approved 2012: relocation of the Mining Infrastructure Area and extensions to the mine disturbance area; and
- MOD 5 approved 2010: certain short-term construction works associated with the water pipeline to be undertaken at night.

2. PROJECT MODIFICATION

The proposed modification by Mangoola Coal Operations PTY Ltd (Mangoola Coal) sought approval to:

- Increase the extraction rate of coal from 10.5 to 13.5 million tonnes per year;
- Increase number of excavators and trucks to facilitate the increase in production;
- Increase employee numbers 300 to 540 (450 operational and 90 contractors);
- Increase the number of blasts from 5 to 6 a week;
- Convert a temporary ROM coal stockpile to a permanent stockpile;
- Change the design of the final landform, including an increase in the area of the final landform at the maximum approved height of 240m RL;

- Use mined rock to produce gravel for various purposes on site;
- Discharge saline water to the Hunter River under the Hunter River Salinity Trading Scheme (HRSTS);
- Upgrade the water management system to cater for the increased rate of production; and
- Replace a portion of the approved offset areas with an alternative offset.

3. DELEGATION TO THE COMMISSION

On 27 February 2014 the Project MOD was referred to the Planning Assessment Commission for determination under Ministerial delegation dated 14 September 2011 due to more than 25 objections being received.

For this determination, Ms Gabrielle Kibble AO, Chair of the Planning Assessment Commission, nominated Mr Garry West (chair) and Mr Gordon Kirkby to constitute the Commission for the project.

4. DEPARTMENT'S ASSESSMENT REPORT

The Director-General's Assessment Report provided an assessment of the following key issues:

- Noise;
- Blasting;
- Air quality (including greenhouse gases);
- Transport;
- Surface water;
- Rehabilitation and final landform;
- Visual;
- Social & Economic; and
- Biodiversity.

The Assessment report concluded the modifications to be a reasonable and logical amendment to the existing mine, improving the efficiency and profitability without increasing the disturbance footprint or environmental impacts.

The application was recommended by Planning & Infrastructure (the Agency) for approval, subject to conditions.

5. MEETINGS

5.1 Planning and Infrastructure

The Agency briefed the Commission on Wednesday 12 March 2014, where the following matters were discussed:

- Background to the application;
- Procedural matters;
- Noise impacts;
- Acquisition and mitigation rights;
- Cumulative impacts (noise and dust);
- Discharge to Hunter River;
- Aboriginal;
- Blasting;
- Roads; and
- Biodiversity.

The Commission also met with the Agency's Compliance Unit at Singleton on 21 March 2014 to discuss the mine's performance to date with regard to compliance with its conditions of approval.

5.2 Proponent

The Commission also met with the proponent on 20 March 2014 for a briefing on the project.

The proponent briefly outlined the history of the project. The meeting then focused on:

- The application history, proposed projects and consultation to date;
- The scope of complaints received;
- Impact mitigation and minimisation measures;
- Zones and procedures for noise management and acquisition; and
- Draft conditions.

The Commission also conducted a site inspection of the mine and the surrounding locality on this date.

5.3 Muswellbrook Shire Council

The Commission met with Muswellbrook Shire Council on 21 March 2014, and the Council outlined its response to the Assessment Report's recommendation as follows:

- Issues have arisen from the legacy of the original mine approval, particularly with regard to roads (construction and maintenance), cumulative impact and effect on local communities particularly Wybong;
- The Council has adopted a Mining Blast Management Policy (October 2013); and
- Recommended revisions to the draft Instrument were tabled for consideration by the PAC.

5.4 Public Meeting

On Thursday 27 March 2014 the Commission held a public meeting to hear the community's views on the recommendation.

The meeting was well attended with approximately 60 attendees including the registered speakers. Speakers included representatives of special interest groups, environmental groups and local landholders.

The issues raised at the meeting and in the written comments subsequently provided are summarised below.

- Impacts arising from current operation of the mine (including noise, dust, water quality, visual impacts, effect on property values, traffic levels and safety, and social impacts) are evident and cumulative, and are not resolved or necessarily resolvable through management practices. The modification will intensify these impacts on the community;
- Increased road and rail traffic and associated impacts;
- Dust affecting drinking water quality and health issues;
- Effect on groundwater, in particular potential drawdown during dry periods;
- Attenuation and acquisition scope and processes;
- Consent conditions remain ambiguous and are unenforceable;
- Impact on threatened species. In particular, the impact on the threatened Donkey and Leek orchids;
- The community is already significantly affected by the mine, and no justification for intensifying the operations nor on the basis of job provision; and
- Impact on the character of Wybong.

6. COMMISSION'S CONSIDERATION

The Commission has reviewed the Agency's Assessment Report and associated documents, including submissions from the Muswellbrook Shire Council, agencies and the public, and the proponent's response.

The key community concerns relate mainly to noise; air quality; saline discharge to the Hunter River; draft conditions; biodiversity; changes to the acquisition and management zones; transport and infrastructure.

6.1.1 Noise Impacts

From submissions made, the primary area of community concern in relation to noise arises from the current mining operations. The Commission understands this would be a source of noise nuisance, considering low background noise levels, the mine's 24 hour operation and open cut mining processes.

The operational mine has approved 35dBA (management) and 40dBA (acquisition) noise affection areas.

The Commission notes the proponent intends to continue mitigating noise impacts by applying noise attenuation to mining machinery, restricting the location of night-time mining activities including overburden emplacement, using silent horns, acoustic treatment of the CHPP, the use of a real time noise management system and noise attenuation measures applied to dwellings.

The proponent advised it also consults with the community and provides noise mitigation measures for properties including air conditioning unit (which includes compensating the operational power cost), window treatments, insulation and sealing of gaps (i.e. around doorways). This type of consultation and measure is supported by the Commission.

The mine has been operational for a period of three years during which time noise monitoring has been conducted enabling the project's original noise modelling to be quantified.

The operational noise monitoring data, along with the revised noise predictions based on the actual results, indicate the original management and acquisition envelopes were based on conservative predictions. Subsequently the proponent has sought to modify the management and acquisition envelopes.

Modifications to the proposed noise acquisition zone would mean that 7 properties (3 residential and 4 vacant parcels of land) would move out of the noise acquisition zone. However, Mangoola Coal has committed to maintaining rights to acquisition for a 12 month grace period for these residences with compliance secured by draft Schedule 3, Condition 1.

Modifications to the proposed noise management area (i.e. moderately affected residences exceeding the criteria by up to 5dB or between 35-40dB) would mean that 28 residences to the north and south-east would move out of the noise management zone. However, Mangoola Coal has committed to maintaining rights to additional noise mitigation measures for residences as set out in Table's 1, 2 and 3 of draft Schedule 3.

The Commission agrees with the Director-General's findings that the proposed modification would not significantly change or increase the noise associated with the project as approved, and it has endorsed modified noise and acquisition conditions as recommended by the Agency.

The Commission also notes the proposal for gravel operations to occur on site utilising mined rock for uses such as road base. The gravel operation would introduce a new form of noise generation into the environment.

The Commission considers the gravel operation component of the project should be restricted to day time hours to minimise the potential for night time noise impacts on adjoining properties from gravel production. A condition has been imposed by the Commission to reflect this operational requirement.

Cumulative Noise Criteria

The Assessment Report provides for the modification of a number of conditions relating to cumulative impacts following consideration of the updated noise modelling.

The Commission considers the modification of these conditions to have potential broader implications for the mining industry as a whole by:

- Removing conditions relating to cumulative impact
- Removing the Proponent's Statement of Commitments from the Instrument of Approval
- Removing the ability to direct the mine to undertake mitigation or acquisition for non-compliance following the independent review mechanism

In regard to the modification of the project approval, it is also proposed to delete Schedule 4, Condition's 5 to 9 which relate to the independent review process. The Commission is of the opinion that these conditions are the safety net for residents whose current rights under the Approval are proposed to be removed by the modifications to the management zones.

While the Commission supports the Agency's conclusion that the real monitoring data and predictive modelling justifies the modification of the management zone boundaries, it is of the view that the cumulative noise conditions and independent review mechanisms should be retained to ensure that if, in the future, the mine falls into non-compliance, there is recourse for affected residents whose rights have been removed through this modification.

The Commission does not agree with the Agency that the removal of these conditions should be applied as a retrospective modification to an existing mine operation where residents have been assured through the process (and in Schedule 4 of the Approval) that mechanisms are provided should the mine not be in compliance.

For the reasons outlined above, the Commission has retained the cumulative noise criteria conditions along with the conditions relating to the independent review process to ensure appropriate mechanisms are in place for the community.

6.1.2 Air Quality

Air quality and the effect of dust on drinking water quality, and private property improvements (e.g. swimming pools, water collection systems, solar panels) from existing operation of the mine were concerns raised by the local community. Submissions also raised concern that no air quality modelling is undertaken for PM_{2.5} emissions.

The Agency's report acknowledged that there is currently no criterion applicable for PM_{2.5} particulate impact assessment in NSW. However the former National Environment Protection Council's National Environmental Protection Measures (NEPM) established reporting standards for the annual average exposure criteria. Whilst acknowledging the NEPM reporting standards are advisory only, the Agency noted the cumulative assessment found that the standards would not be exceeded at any private residence in the study area.

The Agency concluded that the modified operations at Mangoola would not result in any additional exceedances at privately owned residences when compared to the existing operations. Noting the NEPM reporting standards are not an assessment criterion, the Commission accepts the Agency's conclusion.

The Commission also notes the recommended modified approval continues to apply Schedule 3, Conditions 16 and 17 setting out air quality assessment criteria for total suspended particulates (TSP) and fine particulate matter (PM₁₀ only).

Mitigation Options

Mitigation options are not available under the approval for private properties that are impacted by dust deposits which are located outside of the management zone. Notwithstanding this, Mangoola Coal advised it consults with the community and provides dust mitigation measures for properties up to 6 km's from the mine.

Some of the measures provided include installation of first flush systems, voluntary offer of regular tank cleaning, water filter replacement and solar panel cleaning. The Commission supports this approach.

The Commission agrees with the Director-General's position that the proposed modification would not result in any significant adverse air quality impacts, and notes that air quality is expected to be superior to the impacts predicted in the original EIS through improved modelling and actual recorded data. In the Commission's view the Director-General's recommended conditions would satisfactorily manage the modified project's air quality and these are endorsed.

While the Commission supports the Agency's conclusion that the real monitoring data and predictive modelling justify the modification of the management zone boundaries, for the reasons outlined in Section 6.1.1 above, it is of the view that the independent review mechanisms should be retained.

6.1.3 Saline Discharge

The proposed discharge of saline water from the mine to the Hunter River was a concern raised by the local community and Muswellbrook Shire Council. The community are concerned discharges would impact on downstream agricultural users and in particular the thoroughbred industry through concentrated salinity levels.

The Director-General's report identified a number of options for increasing the capacity of surface water management for the site including the construction of an additional dam to mitigate the need to discharge water. The Agency was of the view the options would sterilise significant coal resources and would result in a reduction of product and therefore could not be supported.

The report indicated the proposal is to discharge to the Hunter River under the Hunter River Salinity Trading Scheme (HRSTS). The HRSTS provides 1000 available 'credit's' to be acquired for discharge purposes. The proponent confirmed it holds 20 credits and further credits could be available to it through trading of credits with other holders.

While the proponent holds 20 discharge credits, a licence to discharge is still required. Participants in the scheme are licensed by the Environment Protection Authority (EPA). The Environment Protection Licence (EPL) will define the monitoring and reporting requirements for the site.

During its site inspection, the Commission visited the proposed discharge location where the proponent confirmed it would be using the existing pumping infrastructure for discharging.

The Commission notes that the trading system is online with a register available to the public ensuring information on credit holdings are transparent.

Muswellbrook Shire Council in its submission to the Commission recommended that the Surface Water Management and Monitoring Plan should include a strategy to minimise any need to utilise the saline discharge through the Hunter River Salinity Trading Scheme. The Commission supports the intent and following consultation with the Agency it has added an additional condition below Condition 24 (Water Pollution).

The addition reads;

"The Proponent shall implement all reasonable and feasible measure on the site to minimise the need to discharge saline water to the Hunter River under the Hunter River Salinity Trading Scheme."

Hunter River Salinity Trading Scheme (HRSTS)

The Commission notes that the scheme allows agriculture, mining and electricity generation uses to share the use of the river while restoring the quality of water in the Hunter River.

This is achieved through:

- extensive and continuous real-time monitoring of environmental conditions and discharges;
- scheduling coordinated saline discharges at times of high river flows and low background salinity levels so that salinity targets are not exceeded as a result of the discharges;
- sharing the total allowable discharge according to the tradeable salinity credits held by licensed dischargers; and
- issuing credits with different life spans and then using a public auction to fairly distribute new credits.

The Commission raised this with the EPA who advised that the scheme only allows the discharge of saline (salty) water when there is a high volume of low salt, fresh water in the river. This is due to the large volume of fresh water being able to dilute the saltier discharge so that the impact on the river is diluted, and through careful control, the mixture of river and discharge water can be kept fresh to meet water quality standards. This is managed through a network of monitoring gauges which collect information along the length of the river to ensure the water quality standards are maintained.

During times of higher river flow levels, the EPA advised the Commission that the Office of Water issues a register to all licensed holders informing them of the limits that may be discharged allowing the coordination between licensed credit holders.

The EPA confirmed a daily River Register is also maintained on a dedicated website. The register notifies each credit holder about the amount of salt that can be discharged, and the start and end times for each release. During discharge periods, the licence holder is required to monitor their discharge and inform the Office of Water of the results to ensure the discharge was within the permissible discharge limit.

In addition to saline discharge monitoring, the Community requested that metals, ionic composition and metalloids be monitored as part of the site's discharge. The EPA advised the Commission that the trading scheme is focused on salinity, and therefore salinity discharges, within the Hunter River. Notwithstanding this, the EPA indicated a review is currently being conducted to determine whether other compounds entering the catchment

are impacting on the quality of the river. The EPA advised that if the outcome of the review requires elements such as metals, ionic composition and metalloids to be monitored as part of a discharge, then the site's EPL would be modified accordingly.

Accepting the above advice from the EPA, the Commission agrees with the Director-General's conclusion that the proposed saline discharge would not increase the cumulative impact of mining on water quality in the Hunter River and would be undertaken within the established environmental framework of the HRSTS which is managed by the EPA. In the Commission's view the Director-General's recommended conditions would satisfactorily manage the discharge of saline water from the site and are endorsed.

6.1.4 Other Draft Conditions

Draft conditions were discussed with the Council and the Proponent, and the Council forwarded comments on conditions which have been considered by the Commission.

The Council sought to vary a number of conditions including the requirement to consult with Council for the long term offset area security; preparation of a strategy to minimise the need for saline discharges to the Hunter River; waste management and varying the submission date for various plans required under the approval.

The specific conditions requested by Council to be varied included:

Schedule 2:

- Condition 2B – Terms of Approval (new sub-condition)
If at any time the proponent does not comply with Condition 2, it shall cease to operate until such time as it can satisfy the Director-General that it can operate in a manner that ensures compliance with the condition.

Schedule 3:

- Condition 14 – *Blast Management Plan* (insert the following)
 - (a) *be generally consistent with the Muswellbrook Shire Council Mining Blast Management Policy;*
- Condition 28 – Surface Water Monitoring (insert new sub-condition)
 - (j) *a strategy to minimise any need to utilise the saline discharge through the Hunter River Salinity Trading Scheme.*
- Condition 34 – *Long Term Security Offset* (insert underlined)
By the end of 30 June 2014, unless otherwise agreed by the Director-General, the Proponent shall make suitable arrangements to provide appropriate long term security for the offset areas to the satisfaction of the Director-General *in consultation with Muswellbrook Shire Council.*
- Condition 54 – *Waste Minimisation* (insert underlined)
The Proponent shall:
 - (a) monitor the amount of waste generated by the project;
 - (b) implement reasonable and feasible measures to minimise waste generated by the project;
 - (c) ~~ensure irrigation of treated wastewater is undertaken in accordance with EPA's Environmental Guideline for the Utilisation of Treated Effluent~~ *manage on-site sewage treatment and disposal in accordance with the requirements of Council;* and
 - (d) report on waste management and minimisation in the Annual Review, to the satisfaction of the Director-General.

- Condition 55 – *Rehabilitation Objectives*
Insert the term 'Natural'
- Condition 57 – *Rehabilitation Management Plan* (insert underlined)
The Proponent shall prepare and implement a Rehabilitation Management Plan for the project to the satisfaction of the Executive Director, Mineral Resources. This plan must:
 - (a) submitted to the Executive Director, Mineral Resources for approval ~~by 30 June 2014~~ within six months of the date of the approval;

The Commission considers it is reasonable to modify the following conditions:

Schedule 3:

- Condition 28 – *Surface Water Monitoring*.
The Commission as referred to previously, supports the intent of the sub-condition. In support of this addition, the Commission has imposed a new condition, Condition 24B to include:
The proponent shall implement all reasonable and feasible measures on the site to minimise the need to discharge saline water to the Hunter River under the Hunter River Salinity Trading Scheme.
- Condition 54 – *Waste Minimisation*.
The Council is the relevant consent authority under the Local Government Act 1993 for the purposes of on-site sewage management. The Commission has retained the role of the EPA but included Council as they relate to separate matters, for example irrigation of land using effluent as opposed to on-site sewage treatment.
- Condition 55 – *Rehabilitation Objectives*
The Commission supports the insertion of the term 'natural' into the condition.

The Commission however does not support Council's request for amendments to:

Schedule 2:

- Condition 2B – *Terms of Approval*.
The proponent is required to comply with the conditions of approval as outlined in Condition 2. Should there be an identified non-compliance the proponent is required to modify its operation to ensure it remains compliant. The Commission is of the opinion that proposed Condition 2B is superfluous to this requirement.

Schedule 3:

- Condition 14 – *Blast Management Plan*.
The Muswellbrook Shire Council Mining Blast Management Policy is a local government policy which does not necessarily reflect NSW Government policies in the regulation of blasting in the NSW mining industry and is therefore not supported by the Commission.
- Condition 34 – *Long Term Security Offset*.
The determination of a long term security strategy for offset areas is a matter appropriately determined by Planning and Infrastructure in consultation with the Office of Environment and Heritage.
- Condition 57 – *Rehabilitation Management Plan*.
The Commission discussed this condition with the Agency who advised a specific date was inserted to avoid confusion between the original date of the approval and the date that any modification is determined. The Commission supports the Agency's view on the insertion of a specific date.

Existing Approval Conditions

The Commission accepts that many of the concerns raised in submissions and at the public meeting relate to existing operations (and therefore conditions) of the approved mine and that management and compliance with regard to these issues is governed by the current conditions of consent. The Commission's assessment role is limited to the modifications proposed in the current application and their impacts on the overall operations of the mine.

6.1.5 Biodiversity Offsets

The approved overall total offset area is some 3,020 hectares.

The proponent is seeking to revise the identified offset areas. The revised offset areas are, in part, a result in the mine not being able to secure the acquisition of two properties. It is noted that the Director-General's report raises no objection to a shift in the nature of these offset areas, which results in a marginal reduction in the treed areas to be established. This is, however, supported through an offset of additional established treed areas. The Commission considers that the amended offset/corridor strategy provides a commensurate outcome and therefore supports this approach.

The Agency has recommended a condition be imposed requiring the proponent to target regeneration of grassland in the offset areas to Ironbark and Spotted Gum woodland communities; and to monitor and report on the progress of the regeneration in addition to updating applicable conditions to reflect the modified offset areas. The Commission has endorsed the recommended conditions.

6.1.6 Removal of Mitigation Right's

Concern was raised by the community with the proposed changes to the acquisition and management zones. The community are concerned that mitigation measures which have already been provided (such as air conditioning units), including agreement for the mine to part fund the running costs of such mitigation measures.

The revised acquisition zone results in properties now not being subject to acquisition rights. The Assessment Report provides for a twelve month grace period to lodge an acquisition request. The Commission notes that acquisition of a property does not have to be finalised within this period, rather the request just has to have been made. The Commission supports this approach and believes the period of grace is appropriate.

The revised management zone will result in property owners having to pay the ongoing running costs associated with the mitigation measures provided.

In response to this, a number of speakers referred to the Statement of Commitments for MOD 4 which included:

6.4.10

Xstrata Mangoola confirms that those residences identified as having rights for noise mitigation and management in accordance with the original Project Approval No 06-0014, will still have those rights available to them, irrespective of whether the modification (Mod 4) results in their property no longer being predicted to receive the level of noise impacts above the relevant trigger level specified in the current Project Approval.

This commitment was made by the proponent in their Response to Submissions from concerns raised by the community at the time of MOD 4. The commitment indicated that irrespective of any change to the management zone, the community would still have access to mitigation options. The current modification will remove this commitment which the

community believe should be retained and where mitigation measures have already been provided, honoured.

This was raised with the proponent who responded by confirming that the modelling for MOD 4 has resulted in a number of previously identified affected properties now being located outside of the zone where mitigation measures may have been required.

The Commission accepts the modelling and the peer reviews that have been conducted. However the Commission is of the view that the proponent should continue to honour the arrangement with property owners where mitigation measures have been provided.

This is due, in part, to the number of identified non-compliances, which have been confirmed by both Planning and Infrastructure and the EPA for issues including the failure to monitor noise at every receiver location specified on the project's Environmental Protection Licence. The Commission also considered that fact that the mine is not yet operating at capacity and the current modification will enable the mining operation to increase production levels in addition to the numerous concerns raised by the community regarding noise under the current operating levels.

The Commission has therefore imposed a condition requiring the proponent to honour existing arrangements with property owners where mitigation management measures have been provided. For those properties which have not taken up the option for mitigation works, the Commission is of the view that if mitigation management measures have not yet been triggered with the mine having been operational for least three years, it is not reasonable to retain the right for these properties under the modification.

This is after careful consideration of the noise modelling which indicates that the nominated properties will now be located outside of the predicted noise impact zone. In addition to this, the recommended conditions still provide for an independent review to be requested if a property owner is of the opinion they are experiencing noise levels above the noise limits within the approval.

6.1.7 Transport

The community raised concerns that mining related vehicles were using local roads and that additional traffic generated by the modification will result in traffic and safety impacts including congestion, accidents and time delays.

The Commission has carefully considered all the traffic issues that were raised in the submissions and the public meeting and the proposed measures to address any impacts.

The Commission also visited the area and sighted existing signage directing mining related traffic to only use project approved routes. The Commission is satisfied that the existing and proposed updated conditions will satisfactorily address these issues.

It is noted by the Commission that the proposed modification does not seek to increase the approved rail transportation limits for the project however vehicular movements (light and heavy) will increase in proportion with the increase in staff and contractors.

The Traffic and Transport Impact Assessment conducted by Hyder Consulting Pty Ltd (*Attachment G to the Project's Environmental Assessment*) modelled traffic generation scenarios which indicated there would be no significant road traffic impacts due to the proposed modification.

The Commission notes the impact assessment did identify that the junction of Denman Road/Thomas Mitchell Drive was likely to deteriorate in performance. This was not however

a direct result of the modification, rather it was deteriorating due to a general increase in traffic overall. The assessment also noted that Mangoola mine is the lowest contributor of traffic at this particular intersection (Mount Arthur being the main contributor).

The Commission supports the Agency's conclusion that even with the increase in traffic, the local road network would continue to perform satisfactorily.

6.1.8 Road Upgrade and Maintenance

Council raised concern with regard to the shortfall in funding for the Thomas Mitchell Drive major upgrade works, seeking contributions through the modification.

The Commission discussed the road infrastructure in further detail with Council on 8 April 2014 where, with regard to Thomas Mitchell Drive Council noted:

- It is defined as a local road (not State or Regional) and therefore government funding grants are not available for improvement works;
- The road services the local four mines (Bengalla, Mount Arthur, Drayton and Mangoola); and
- The road is used almost exclusively by the mining industry;

To address this concern, the Agency has commissioned GHD to conduct an independent Contribution Study to establish a sound technical basis for funding responsibility.

An initial draft of the Contribution Study had been received by Council. Council indicated the draft study was flawed in a number of areas including the fact it did not account for the local industrial area which services the mining industry.

With regard to Council's requested inclusion of the industrial area within the contributions framework, the Commission is of the view that it cannot attribute a contribution for third party traffic movements, that is, private companies located within an industrial precinct, notwithstanding that they may have mine related customers.

The Commission acknowledges Council's concerns regarding the outcome of the draft study, however it considers the intent behind the establishment of the study, and the proposed condition, will result in an appropriate mechanism for establishing a contributions framework. The framework will ensure the appropriate allocation of funding for the upgrade and ongoing maintenance of Thomas Mitchell Drive.

The Commission also notes that the Agency and Council, with their respective traffic consultants (GHD and Cardno respectively), are engaging with the view to finalising the Contributions Study. The Commission supports this ongoing dialogue.

7. COMMISSION'S DETERMINATION

The Commission has carefully considered the information available including the Director-General's Environmental Assessment Report and associated documents including the PPR, submissions made to P&I and to the Commission during the public meeting.

The Commission supports the modified project, as it allows the rational and efficient extraction of a coal resource within the footprint of the existing approved coal mine, while the location of the works minimises, and in some modelled cases actually reduces, the potential for detrimental impacts on local residents.

Having regard to the relevant issues, the Commission finds that the proposal, as amended, will be beneficial to the community and that the environmental and amenity impacts of the proposal can be adequately mitigated or managed by a suite of stringent conditions. Therefore, the Commission has determined to approve the application as recommended by Planning & Infrastructure subject to the recommended modifications as well as approval conditions as amended by the Commission. The Commission's amendments include:

1. Insert new condition *Schedule 3, Condition 27A:*
The proponent shall implement all reasonable and feasible measures on the site to minimise the need to discharge saline water to the Hunter River under the Hunter River Salinity Trading Scheme.
2. *Schedule 3, Condition 31 – Surface Water Monitoring*
3. *Schedule 3, Condition 57 – Waste Minimisation.*
4. *Schedule 3, Condition 58 – Rehabilitation Objectives*
5. Insert new condition *Schedule 3, Condition 9A:*
The Proponent shall continue to contribute to reasonable maintenance and recurrent operating costs associated with the additional noise mitigation measures already installed at privately-owned residences previously identified as having additional noise mitigation rights under the original Project Approval No 06-0014. The contribution to ongoing maintenance and recurrent operating costs must be consistent with any existing agreement between the Proponent and the relevant landowner.
6. Insert new condition *Schedule 3, Condition 8:*
The Proponent shall only undertake gravel screening and crushing operations on the site between 7 am and 6 pm Monday to Friday, and between 8 am and 1 pm on Saturdays. No gravel screening and crushing operations are allowed on Sundays, public holidays, or at any other time without the written approval of the Director-General.

Garry West
Member of the Commission (Chair)

Gordon Kirkby
Member of the Commission

Appendix 1

List of Speakers at the Public Meeting

Planning Assessment Commission Meeting Mangoola Coal Project Modification (06_0014 MOD 6)

Date: 9.30 am, Thursday, 27 March 2014
Place: Muswellbrook Workers Club, 15-17 Station Street, Muswellbrook

1. Lock the Gate – Steve Philips
2. Hunter Thoroughbred Breeders Association – Dr Cameron Collins (President) and Mr Owen Droop
3. Wybong Action Group – John Shewan
4. Hunter Environment Lobby Inc – Jan Davis
5. David Clay
6. Graham Brown
7. Mandy Feeney
8. Grantly Blake
9. David Lawson
10. Walter Len Hamson
- ~~11. Michael Valentine~~
12. John Shewan
13. Louise Shewan
14. Nicolas Litchfield
15. Duncan Connell
16. Dylan Turnbull
17. Paul Jayne
18. Raymond Phelps
19. Christine Phelps
20. Chris Keith Campbell
21. Sue Markham
22. Jane Thrift
23. Peter Brown
- ~~24. Julianne Osborn~~
25. Lance Batey
26. Wendy Wales
27. Judith Lee
28. James Fairweather
29. June Brown
30. Bruce Bates
31. Margot White