



Metropolitan Coal Mine



Attachment 3 Detailed Statutory Compliance Reconciliation Table



Peabody

Table A3-1
Summary Statutory Compliance for State Legislation

Relevant Legislation or Instrument	Mandatory Consideration	Relevant Section in the Metropolitan Coal Project EA	Relevant Section in Modification Report	Modified Project Compliance Status
New South Wales (NSW) <i>Environmental Planning and Assessment Act 1979</i> (EP&A Act)				
section 1.3	Relevant objects of the EP&A Act: - Promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources. - Facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment. - Promote the orderly and economic use and development of land. - Protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats. - Promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage). - Promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State. - Provide increased opportunity for community participation in environmental planning and assessment.	Section 3	Section 4 provides an overview of the statutory requirements relevant to the assessment of the Modification.	✓
section 4.15	Relevant environmental planning instruments: <i>State Environmental Planning Policy (Planning Systems) 2021</i> (Planning Systems SEPP). <i>State Environmental Planning Policy (Resources and Energy) 2021</i> (Resources and Energy SEPP). <i>State Environmental Planning Policy (Resilience and Hazards) 2021</i> (Resilience and Hazards SEPP). <i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i>. <i>State Environmental Planning Policy (Biodiversity and Conservation) 2021</i>. <i>Wollongong Local Environmental Plan 2009</i> (Wollongong LEP). - Any planning agreement or draft planning agreement that a developer has entered into under section 7.4 of the EP&A Act. - The NSW <i>Environmental Planning and Assessment Regulation 2021</i> (EP&A Regulation). The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality; the suitability of the site for the development; any submissions made in accordance with the EP&A Regulation; the public interest.	Section 3.2.5	Table A3-2	✓

Table A3-1 (Continued)
Summary Statutory Compliance for State Legislation

Relevant Legislation or Instrument	Mandatory Consideration	Relevant Section in the Metropolitan Coal Project EA	Relevant Section in Modification Report	Modified Project Compliance Status
NSW Environmental Planning and Assessment Regulation 2021				
clause 98	Clause 98 provides for the circumstances in which a modification application may be made. In accordance with the requirements of clause 98(4), Metropolitan Collieries Pty Ltd (Metropolitan Coal) will give notice of the Metropolitan Colliery (Metropolitan Coal Mine) Longwalls 317 and 318 (the Modification) application via newspaper no later than 14 days after the Modification application is made. With respect to clause 98(6), the Metropolitan Coal Mine incorporating the Modification does not relate to land owned by a Local Aboriginal Land Council.	-	Table A3-1	✓
clauses 99 and 100	Clauses 99 and 100 of the EP&A Regulation provide for the making and content of a modification application. With respect to these two clauses, this Modification application: - contains the information required by the EP&A Act and EP&A Regulation; - has been prepared in consideration of the State Significant Development (SSD) Guideline, in particular <i>State significant development guidelines - preparing a modification report</i> (Department of Planning, Industry and Environment, 2022); - contains the information required by clause 100(1)(a) to (c) and a description of the Modification and its expected impacts; and - is accompanied by a Biodiversity Development Assessment Report (BDAR) detailing biodiversity credits information.	-	Sections 1 to 8 Appendix D	✓
clause 103	Clause 103 of the EP&A Regulation concerns applications to modify a development consent that relates to “mining or petroleum development” on certain land. The proposed Modification would be located partially within mining lease (ML) 1610, ML 1702 and consolidated coal lease (CCL) 703. A new Mining Lease would be required for the Modification within Exploration License (EL) 9364 under the <i>Mining Act 1992</i> and therefore, a portion of the Modification area would be subject to a Site Verification Certificate. A Site Verification Certificate issued on 16 July 2024 verified the Modification area outside existing mining tenements is not biophysical strategic agricultural land (BSAL).	-	Section 4.1	✓
clause 106	Division 2 of Part 5 of the EP&A Regulation provides for the public notification of modification applications. The consent authority is required to attend to the relevant public notice requirements in this Division. In this regard, clause 106 applies to a section 4.55(2) modification application if the original development application was for SSD and clause 107 applies to a section 4.55(2) modification application to which clause 106 does not apply.	-	No change	✓

Table A3-1 (Continued)
Summary Statutory Compliance for State Legislation

Relevant Legislation or Instrument	Mandatory Consideration	Relevant Section in the Metropolitan Coal Project EA	Relevant Section in Modification Report	Modified Project Compliance Status
<i>Biodiversity Conservation Act 2016</i>				
section 7.16 (2)	The consent authority is to take into consideration the likely impact of the proposed development on biodiversity values as assessed in the BDAR.	-	Section 6.6 and Appendix D	✓
section 7.16 (3)	If the consent authority is of the opinion that the Metropolitan Coal Mine (as modified) is likely to have serious and irreversible impacts on biodiversity values, the consent authority is required to: - take those impacts into consideration; and - determine whether there are any additional and appropriate measures that will minimise those impacts if consent or approval is to be granted.	-	Section 6.6 and Appendix D	✓
<i>NSW Mining Act 1992</i>				
section 380AA	An application for development consent to mine for coal cannot be made or determined unless the applicant is the holder of an authority that is in force in respect of coal for the relevant land, or the applicant has the written consent of the holder of such an authority to make the application. Metropolitan Coal, the applicant, is the holder of all tenements in the Development Application (DA) Area.	Section 3.3.1	Section 4.2.3	✓
<i>NSW National Parks and Wildlife Act 1974</i>				
section 90	The Modification would involve a minor increase in approved surface development extent, and therefore would involve additional potential impacts on Aboriginal cultural heritage to those previously assessed. These impacts are assessed in the Aboriginal Cultural Heritage Assessment (Appendix F). Metropolitan Coal will continue to manage Aboriginal cultural heritage in accordance with the approved Heritage Management Plan.	Section 3.5.8	Section 4.2.4 and Appendix F	✓
<i>NSW Protection of the Environment Operations Act 1997 (PoEO Act)</i>				
section 43	The Metropolitan Coal Mine currently operates under Environment Protection License (EPL) 767, granted under the PoEO Act, which allows for coal works and mining for coal as scheduled activities. The EPL contains conditions that relate to emission and discharge limits, environmental monitoring and reporting. EPL 767 would be varied to incorporate the Modification area within the premises boundary.	Section 3.1.2	Section 4.2.5	✓
<i>NSW Water Management Act 2000 (WM Act)</i>				
sections 89, 90 and 91	Metropolitan Coal holds appropriate licences under the WM Act for the existing activities at the Metropolitan Coal Mine. Appropriate licences under the WM Act would continue to be held and where necessary obtained via purchase or trade according to the operating rules of the water market.	Section 3.3	Sections 4.2.1 and 6.5	✓

Table A3-2
Summary Statutory Compliance for Environmental Planning Instruments

Relevant Legislation or Instrument	Mandatory Consideration	Relevant Section in the Metropolitan Coal Project EA	Relevant Section in Modification Report	Modified Project Compliance Status
NSW Coal Mine Subsidence Compensation Act 2017 (CMSC Act)				
section 8	At all times while the Metropolitan Coal Mine is an active mine, Metropolitan Coal (or the relevant proprietor) would be liable to pay compensation in relation to damage caused by subsidence arising from the Metropolitan Coal Mine on improvement or goods under Part 2 of the CMSC Act. Any claims for compensation under the CMSC Act would be lodged with Subsidence Advisory NSW. The Metropolitan Coal Mine is not located within a Mine Subsidence District declared under section 20 of the CMSC Act, and in the regulations made under the CMSC Act.	-	No change.	✓
State Environmental Planning Policy (Planning Systems) 2021				
Part 2.2	The Planning Systems SEPP provides for the declaration of SSD. In this respect, the approved Metropolitan Coal Mine development was declared to be SSD under clause 6 of Schedule 2 to the NSW <i>Environmental Planning and Assessment (Savings, Transitional and Other Provisions) Regulation 2017</i> .	-	Table A3-2	✓
clause 2.7	Clause 2.7(1) relevantly provides for the Independent Planning Commission to be the declared consent authority for certain applications to modify a development consent SSD, if the application is made by a person who has disclosed a "reportable political donation" under section 10.4 of the EP&A Act in connection with the modification application. In this respect, this Modification application is not made by a person who has disclosed a reportable political donation.	-	Table A3-2	✓
clause 2.10	Under clause 2.10, development control plans do not apply to SSD.	-	Table A3-2	✓

Table A3-2 (Continued)
Summary Statutory Compliance for Environmental Planning Instruments

Relevant Legislation or Instrument	Mandatory Consideration	Relevant Section in the Metropolitan Coal Project EA	Relevant Section in Modification Report	Modified Project Compliance Status
<i>State Environmental Planning Policy (Resources and Energy) 2021</i>				
clause 2.1	Clause 2.1 of Chapter 2 (Mining, petroleum and extractive industries) of the Resources and Energy SEPP relevantly states that the aims of the Policy are, in recognition of the importance to NSW of mining, petroleum production and extractive industries: - to provide for the proper management and development of mineral, petroleum and extractive material resources for the purpose of promoting the social and economic welfare of the State; - to facilitate the orderly and economic use and development of land containing mineral, petroleum and extractive material resources; - to promote the development of significant mineral resources; and - to establish appropriate planning controls to encourage ecologically sustainable development through the environmental assessment, and sustainable management, of development of mineral, petroleum and extractive material resources. The consent authority can be satisfied that the Modification is consistent with the relevant aims of the Resources and Energy SEPP for the reasons given in Section 4.1.1 with respect to the objects of the EP&A Act.	-	Section 4.5.1 Table A3-2	✓
clause 2.9	Clause 2.9(1) describes development permissible with consent. The Modification comprises underground mining and associated processing and transportation of coal (Section 3) and requires Development Consent. Descriptions of the relevant land use zones under the Wollongong LEP and the applicability of the Resource and Energy SEPP to permissibility of the Modification (where relevant) are provided in Section 4.5.2. In consideration of this, Metropolitan Coal believes the consent authority can be satisfied that the Modification is consistent with these provisions.	-	Section 4.5.2 Table A3-2	✓
<i>Part 2.3 of the Resources and Energy SEPP identifies matters for consideration in the determination of development applications. Noting that this is a modification application, the provisions detailed in clauses 2.16 to 2.23 below are nevertheless addressed for completeness in this statutory compliance table.</i>				
clause 2.16	Clause 2.16 provides various non-discretionary development standards for mining. In this regard, it is noted that: - The Modification would not increase any potential impacts on cumulative noise level, cumulative air quality level, airblast overpressure, or ground vibration (i.e. the non-discretionary development standards listed under clause 2.16[1] to [6]). - The minimal impact considerations in the <i>NSW Aquifer Interference Policy</i> (NSW Department of Primary Industries, 2012) were considered in the Groundwater Impact Assessment (Appendix B).	-	Section 6 Table A3-2	✓

Table A3-2 (Continued)
Summary Statutory Compliance for Environmental Planning Instruments

Relevant Legislation or Instrument	Mandatory Consideration	Relevant Section in the Metropolitan Coal Project EA	Relevant Section in Modification Report	Modified Project Compliance Status
State Environmental Planning Policy (Resources and Energy) 2021 (Continued)				
clause 2.17	Before determining an application for consent for the purposes of mining the consent authority must: (a) consider – (i) the existing uses and approved uses of land in the vicinity of the development, and (ii) whether or not the development is likely to have a significant impact on the uses that, in the opinion of the consent authority having regard to land use trends, are likely to be the preferred uses of land in the vicinity of the development, and (iii) any ways in which the development may be incompatible with any of those existing, approved or likely preferred uses, and (b) evaluate and compare the respective public benefits of the development and the land uses referred to in paragraph (a)(i) and (ii), and (c) evaluate any measures proposed by the applicant to avoid or minimise any incompatibility, as referred to in paragraph (a)(iii). The land use surrounding the Metropolitan Coal Mine longwall mining area is environmental conservation. The Surface Facilities Area is also surrounded by environmental conservation land adjacent to low density residential areas and railway infrastructure. The only proposed addition to the Surface Facilities Area is the access tracks, located within the approved development footprint. The Metropolitan Coal Mine is one of the longest continually running coal mining operations in Australia, with a history dating back to the 1880s. The Modification would be located within the existing Metropolitan Coal Mine mining and coal leases and involves a minor extension of the approved surface disturbance extent to the west of the approved longwalls. Accordingly, the Metropolitan Coal Mine incorporating the Modification is considered to be compatible with existing and approved uses of land consistent with the approved Rehabilitation Management Plan.	-	Table A3-2	✓

Table A3-2 (Continued)
Summary Statutory Compliance for Environmental Planning Instruments

Relevant Legislation or Instrument	Mandatory Consideration	Relevant Section in the Metropolitan Coal Project EA	Relevant Section in Modification Report	Modified Project Compliance Status
State Environmental Planning Policy (Resources and Energy) 2021 (Continued)				
clause 2.19	Before determining an application for development in the vicinity of mining, petroleum or extractive industry, the consent authority must (among other things) consider whether or not the development is likely to have a significant impact on current or future extraction or recovery of minerals, petroleum or extractive materials (including by limiting access to, or impeding assessment of, those resources), and any ways in which the development may be incompatible with any of those existing or approved uses or that current or future extraction or recovery. In this regard, the Metropolitan Coal Mine incorporating the Modification would continue to progress in accordance with approved mine plans until the target coal resource is fully extracted (until 2032). Further, the development as modified is not expected to have a significant impact on current or future extraction or recovery of minerals, petroleum or extractive materials. Accordingly, no additional measures to avoid or minimise incompatibility with existing and approved surrounding land uses are considered to be required.	-	Table A3-2	✓
clause 2.20	Clause 2.20(1) of the Resource and Energy SEPP requires that, before granting consent for development for the purposes of mining, petroleum production or extractive industry, the consent authority must consider whether or not the consent should be issued subject to conditions aimed at conducting the development is undertaken in an environmentally responsible manner, including conditions to ensure the following: (a) <i>that impacts on significant water resources, including surface and groundwater resources, are avoided, or are minimised to the greatest extent practicable,</i> (b) <i>that impacts on threatened species and biodiversity, are avoided, or are minimised to the greatest extent practicable,</i> (c) <i>that greenhouse gas emissions are minimised to the greatest extent practicable.</i> In addition, clause 2.20(2) requires that, without limiting clause 2.20(1), in determining a development application for development for the purposes of mining petroleum production or extractive industry, the consent authority must consider an assessment of the greenhouse gas emissions (including downstream emissions) of the development and must do so having regard to any applicable State or national policies, programs or guidelines concerning greenhouse gas emissions. This is assessed in the Modification Greenhouse Gas Assessment (Appendix G) and summarised in Section 6.9. The potential impact of the Modification on water resources has been assessed in the Groundwater Impact Assessment (Appendix B), Surface Water Assessment (Appendix C) and BDAR (Appendix D) and summarised in Sections 6.4, 6.5, 6.6, 6.7 of the Modification Report respectively. Appendices B and C indicate that there would be no significant impact on water resources as a result of the Modification.	-	Appendix B, C, D and G. Sections 6.4, 6.5, 6.6, 6.7 and 6.10. Table A3-2	✓

Table A3-2 (Continued)
Summary Statutory Compliance for Environmental Planning Instruments

Relevant Legislation or Instrument	Mandatory Consideration	Relevant Section in the Metropolitan Coal Project EA	Relevant Section in Modification Report	Modified Project Compliance Status
State Environmental Planning Policy (Resources and Energy) 2021 (Continued)				
clause 2.21	Before granting consent for development for the purposes of mining, petroleum production or extractive industry, the consent authority must consider the efficiency or otherwise of the development in terms of resource recovery, and whether or not the consent should be issued subject to conditions aimed at optimising the efficiency of resource recovery and the reuse or recycling of material. In this regard, the Metropolitan Coal Mine incorporating the Modification would optimise the approved underground mine layout to allow for the extraction of additional resources identified north and west of the approved layout to efficiently extract an additional 3.2 million tonnes (Mt) of run-of-mine (ROM) coal within the approved mine life (i.e. until June 2032). The Modification includes the relinquishment of approved longwall mining areas, totalling approximately 14 Mt of ROM coal or a net reduction of 10.8 Mt of ROM coal when accounting for the additional Modification coal.	-	Section 3 Table A3-2	✓
clause 2.23	Clause 2.23 of the Resource and Energy SEPP requires that, before granting consent for development for the purposes of mining, petroleum production or extractive industry, the consent authority must consider whether or not the consent should be issued subject to conditions aimed at ensuring the rehabilitation of land that will be affected by the development. In particular, the consent authority must consider whether conditions of the consent should: (a) <i>require the preparation of a plan that identifies the proposed end use and landform of the land once rehabilitated, or</i> (b) <i>require waste generated by the development or the rehabilitation to be dealt with appropriately, or</i> (c) <i>require any soil contaminated as a result of the development to be remediated in accordance with relevant guidelines (including guidelines under clause 3 of Schedule 6 to the Act and the Contaminated Land Management Act 1997), or</i> (d) <i>require steps to be taken to ensure that the state of the land, while being rehabilitated and at the completion of the rehabilitation, does not jeopardize public safety.</i> Metropolitan Coal would continue to progressively rehabilitate the Metropolitan Coal Mine in accordance with existing approvals. Metropolitan Coal would review and revise Rehabilitation Strategy and/or Rehabilitation Management Plan (or equivalent) to incorporate the Modification.	-	Table A3-2	✓

Table A3-2 (Continued)
Summary Statutory Compliance for Environmental Planning Instruments

Relevant Legislation or Instrument	Mandatory Consideration	Relevant Section in the Metropolitan Coal Project EA	Relevant Section in Modification Report	Modified Project Compliance Status
State Environmental Planning Policy (Resources and Energy) 2021 (Continued)				
Part 2.4	Part 2.4 of the Resource and Energy SEPP concerns "mining or petroleum development", which is defined under clause 2.24 to mean: (1) <i>In this Part, mining or petroleum development means—</i> (a) <i>development specified in clause 5 (Mining) of Schedule 1 to State Environmental Planning Policy (State and Regional Development) 2011, but only if—</i> (i) <i>a mining lease under the Mining Act 1992 is required to be issued to enable the development to be carried out because—</i> (A) <i>the development is proposed to be carried out outside the mining area of an existing mining lease, or</i> (B) <i>there is no current mining lease in relation to the proposed development, or</i> (ii) <i>the development is for the purposes of extracting a bulk sample as part of resource appraisal or a trial mine comprising the extraction of more than 20,000 tonnes of coal or of any mineral ore, or ...</i> (2) <i>However, mining or petroleum development does not include development carried out on land that is outside—</i> (a) <i>the mining area of a proposed mining lease, or</i> (b) <i>the area of a proposed production lease</i> With respect to Part 2.4, the Modification Application involves "mining or petroleum development" as a mining lease under the <i>Mining Act 1992</i> is required to enable the development (as modified) to be carried out. The proposed Modification at the Metropolitan Coal Mine would be located partially within ML 1610, ML1702 and CCL 703. A new ML would be required for the Modification activities within EL 9364 under the <i>Mining Act 1992</i> and therefore a portion of the Modification area requires either a Site Verification Certificate or a Gateway Certificate. A Site Verification Certificate issued on 16 July 2024 verified the Modification area outside existing mining tenements is not BSAL.	-	Section 4.1 and 4.2.3 Table A3-2	✓

Table A3-2 (Continued)
Summary Statutory Compliance for Environmental Planning Instruments

Relevant Legislation or Instrument	Mandatory Consideration	Relevant Section in the Metropolitan Coal Project EA	Relevant Section in Modification Report	Modified Project Compliance Status
State Environmental Planning Policy (Resilience and Hazards) 2021				
clause 3.12	A consent authority must consider current circulars or guidelines published by the NSW Department of Planning, Housing and Infrastructure relating to hazardous or offensive development, whether to consult with relevant public authorities regarding any environmental or land use safety requirements, a preliminary hazard analysis prepared by the applicant, feasible alternatives to the development and likely future use of surrounding land. To the extent that clause 3.12 is relevant to the Modification application, the consent authority can be satisfied that the development as modified will be carried out appropriately to manage potential hazards and offensive pollution. The Modification would not involve the use of any additional hazardous materials. Hazardous materials would continue to be managed in accordance with the approved management plans.	-	Table A3-2	✓
clause 4.6	Chapter 4 (Remediation of Land) of the Resilience and Hazards SEPP is concerned with the remediation of contaminated land. Relevantly, clause 4.6(1) and (2) state: (1) <i>A consent authority must not consent to the carrying out of any development on land unless—</i> (a) <i>it has considered whether the land is contaminated, and</i> (b) <i>if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and</i> (c) <i>if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.</i> (2) <i>Before determining an application for consent to carry out development that would involve a change of use on any of the land specified in subclause (4), the consent authority must consider a report specifying the findings of a preliminary investigation of the land concerned carried out in accordance with the contaminated land planning guidelines</i> A Land Contamination Assessment including a Stage 1 (or Preliminary Investigation) in accordance with the <i>Consultants reporting on contaminated land – Contaminated Land Guidelines</i> (NSW Environment Protection Authority, 2020) has been undertaken for the Modification to consider the indicative subsidence extent defined by the 35 degree angle of draw and/or 20 millimetre contour. This conservatively assesses approved areas within the Project Approval (08_0149) in addition to the mining lease application area. On the basis of the Stage 1 (Preliminary Investigation) Land Contamination Assessment, the Modification area is suitable for the land use proposed by the Modification (Section 6.11 and Appendix H).	-	Section 6.11 Appendix H Table A3-2	✓

Table A3-2 (Continued)
Summary Statutory Compliance for Environmental Planning Instruments

Relevant Legislation or Instrument	Mandatory Consideration	Relevant Section in the Metropolitan Coal Project EA	Relevant Section in Modification Report	Modified Project Compliance Status
<i>State Environmental Planning Policy (Biodiversity and Conservation) 2021</i>				
Chapter 3	Chapter 3 (Koala habitat protection 2020) applies to land zoned RU1, RU2 and RU3 in the Wollongong LEP, or equivalent, or the areas outlined in Schedule 2 (see clause 3.3). The Surface Facilities area is located on RU1 land. The DA Area is located on a small area of RU2 land outside of any areas proposed to be used for the Modification. Additionally, the DA area is not located on any land zoned RU3. Part 3.2 in Chapter 3 applies to certain land in relation to which a development application has been made and provides for development control of koala habitats in relation to the determination of a development application by a local council. The Koala has not been recorded at the Metropolitan Coal Mine during past or present surveys. The BDAR prepared for the Modification (Appendix D) concludes that the Koala is unlikely to be significantly impacted by the Modification. To the extent that Chapter 3 is relevant to this Modification application, the consent authority (the Minister for Planning and Public Spaces) can be satisfied that the Modification will not have an unacceptable impact on Koala habitat and is consistent with the aims and provisions of this chapter.	-	Table A3-2 Appendix D	✓
Chapter 4	Chapter 4 (Koala habitat protection 2021) applies to each local government area listed in Schedule 2, of which Wollongong Local Government Area does not apply (see clause 4.4).	-	Table A3-2	✓
Chapter 6	Chapter 6 (Water catchments) relevantly applies to the Modification as it is located within the Sydney Drinking Water Catchment. Clauses 6.61, 6.62 and 6.63 describe that development consent must not be granted unless the consent authority is satisfied the carrying out of the development would have a neutral or beneficial effect on water quality. Potential impacts on water catchments are provided in the Surface Water Assessment (Appendix C). The Modification is not anticipated to result in significant impacts to the water quality, streamflow or water supply of the water catchment compared to the approved Metropolitan Coal Mine Further, the mitigation and management measures and Trigger Action and Response Plans developed for the Metropolitan Coal Mine would continue to be implemented for the Modification to mitigate potential impacts to watercourses in the catchment.	-	Table A3-2 Appendix C	✓

Table A3-2 (Continued)
Summary Statutory Compliance for Environmental Planning Instruments

Relevant Legislation or Instrument	Mandatory Consideration	Relevant Section in the Metropolitan Coal Project EA	Relevant Section in Modification Report	Modified Project Compliance Status
Wollongong Local Environment Plan 2009				
clause 1.2	The Modification has regard to the aims of the Wollongong LEP as: - The Modification has been developed in a manner that considers the impacts, mitigation measures and management measures required for effective land use and rehabilitation activities. - The Modification would facilitate local and regional employment and economic development opportunities.	Section 3.2.4	Section 2 Table A3-2	✓
clause 2.3(2)	A consent authority must have regard to the objectives for development in a zone when determining a development application in respect of land within that zone.	Section 3.2.4	Section 4.5	✓
clause 5.10(4)	The consent authority must, before granting consent under clause 5.10, consider the effect of the proposed development on the heritage significance of the item or area concerned.	Section 3 and 4.9 Appendix I	Section 6.9 Appendix F Attachment 5	✓
clause 5.10(8)	If applicable, a consent authority must, before granting consent under clause 5.10 to the carrying out of development in an Aboriginal place of heritage significance, consider the effect of a proposed development on the heritage significance of the place and any Aboriginal object known or reasonably likely to be located at the place by means of an adequate investigation and assessment.	Section 3 and 4.8 Appendix H	Section 6.9 Appendix F	✓

Table A3-3
Summary Statutory Compliance for Other Acts

Relevant Legislation or Instrument	Mandatory Consideration	Relevant Section in the Metropolitan Coal Project EA	Relevant Section in Modification Report	Modified Project Compliance Status
<i>Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act)</i>				
sections 24D and 24E	Sections 24D and 24E of the EPBC Act describe that a constitutional corporation, the Commonwealth or a Commonwealth agency must not take an action if the action involves unconventional gas or large coal mining development with impact on water resources. Potential impacts on water are provided in the Groundwater Impact Assessment (Appendix B) and Surface Water Assessment (Appendix C). The Modification is not anticipated to result in significant impacts to the water quality, long-term streamflow or water supply, or significant changes to the quantity or quality of water available to third party users or the environment. Further, the mitigation and management measures and Trigger Action and Response Plans developed for the Metropolitan Coal Mine would continue to be implemented for the Modification to mitigate potential impacts to water resources.	-	Section 4.4.1, 6.4 and 6.5 Appendices B and C	✓
section 136(1)	In deciding whether or not to approve the taking of an action, and what conditions to attach to an approval, the Commonwealth Minister for the Environment must consider the following: • matters relevant to any matter that the Minister has decided is a controlling provision for the action; and • economic and social matters.	-	Attachment 4 Section 6 Appendices A to F	✓
section 136(2)	In considering the matters referred to in section 136(1), the Commonwealth Minister for the Environment must take into account: • the principles of ecologically sustainable development; and • the assessment report (if any) relating to the action. In addition, section 136(2) (ca) to (g) specify the Commonwealth Minister for the Environment must take into account, if applicable: • the finalised Environmental Impact Statement; • the recommendation report relating to the action; • if a relevant inquiry was conducted, the report of the commissioners; • any other information the Minister has on the relevant impacts of the action; • any relevant comments given to the Minister; • relevant advice obtained by the Minister from the Independent Expert Scientific Committee on Unconventional Gas Development and Large Coal Mining Development; and • notices or relevant comments provided in accordance with the EPBC Act.	-	Sections 2, 6 and 7	✓

Table A3-3 (Continued)
Summary Statutory Compliance for Other Acts

Relevant Legislation or Instrument	Mandatory Consideration	Relevant Section in the Metropolitan Coal Project EA	Relevant Section in Modification Report	Modified Project Compliance Status
Environment Protection and Biodiversity Conservation Act 1999 (Continued)				
section 137A	In deciding whether or not to approve for the purposes of section 15B or 15C the taking of an action, and what conditions to attach to such an approval, the Minister must not act inconsistently with: (a) <i>the National Heritage management principles; or</i> (b) <i>an agreement to which the Commonwealth is party in relation to a National Heritage place; or</i> (c) <i>a plan that has been prepared for the management of a National Heritage place under section 324S or as described in section 324X.</i>	Section 3.4.1	Attachment 4 Appendix F Attachment 5	✓
section 139(1)	In deciding whether or not to approve the taking of an action with respect to threatened species and endangered communities, and what conditions to attach to such approval, the Commonwealth Minister for the Environment must not act inconsistently with: • Australia's obligations under: ○ the Biodiversity Convention; ○ the Apia Convention; or ○ the Convention on International Trade in Endangered Species of Wild Fauna and Flora; or ○ a recovery plan or threat abatement plan.	-	Section 6 Appendix D Attachment 5	✓
section 139(2)	If the Commonwealth Minister for the Environment is considering whether to approve the taking of an action and the action has or will have, or is likely to have, a significant impact on a particular listed threatened species or a particular listed threatened ecological community the Minister must, in deciding whether to so approve the taking of the action, have regard to any approved conservation advice for the species or community.	-	Section 6, Appendix D	✓

REFERENCES

Department of Planning, Industry and Environment (2022). *State significant development guidelines – preparing a modification report*.

NSW Department of Primary Industries (2012). *NSW Aquifer Interference Policy*.

NSW Environment Protection Authority (2020). *Consultants reporting on contaminated land – Contaminated Land Guidelines*.