



# ***Maules Creek Coal Mine Water Pipelines (MOD 5 and 6)***

*State Significant  
Development*

*Modification Assessment  
(MP10\_0138 MOD 5 and 6)*



December 2019

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### **Cover photo**

Provided by Whitehaven Coal Limited

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# 1. Introduction

## 1.1 Background

The Maules Creek Coal Mine is an open cut coal mine located approximately 17 kilometres (km) north-east of Boggabri in the New England North West Region of NSW (see **Figure 1**).

The mine is operated by Maules Creek Coal Pty Ltd (MCC), a subsidiary company of Whitehaven Coal Limited (Whitehaven), on behalf of Aston Coal 2 Pty Ltd (also a subsidiary company of Whitehaven) and 2 other joint venture partners.

The project approval was granted by the Planning Assessment Commission (now the Independent Planning Commission of NSW) on 23 October 2012 and has since been modified on 3 occasions.

The approval allows MCC to:

- extract up to 13 million tonnes of coal a year for 21 Years;
- process this coal on site before transporting it offsite by rail; and
- operate a range of ancillary infrastructure, including a pipeline from the Namoi River to the mine for water supply.

Mining commenced in December 2013 and the mine is now operating at around 90% of its approved extraction rate, with around 11.7 Mt of Run of Mine (ROM) coal extracted in the 2019 financial year.

The mine directly employs around 650 people and is a significant employer in the region.

Historically, MCC has drawn all make up water required for mining operations from the Namoi River under a high security water licence which allows up to 3 gigalitre (GL) of water to be extracted each year.

Due to the extended drought affecting large parts of NSW, and particularly the New England North West region, MCC is currently unable to secure any surface water from the Namoi River for its mining operations. Without alternative supplies of water, MCC would need to reduce the scale of mining on site to match its available water supply in accordance with the conditions of its development consent.

To avoid this, MCC has purchased several groundwater entitlements in the area near the mine on the open water market, which operates under the *Water Management Act 2000* (WM Act) and associated water sharing plans.

Under these entitlements, MCC is allowed to extract and use groundwater from bores on its Olivedene, Roma and Brighton properties subject to complying with any rules under the relevant water sharing plan and conditions imposed under the relevant water approvals granted by the Natural Resources Access Regulator (NRAR).

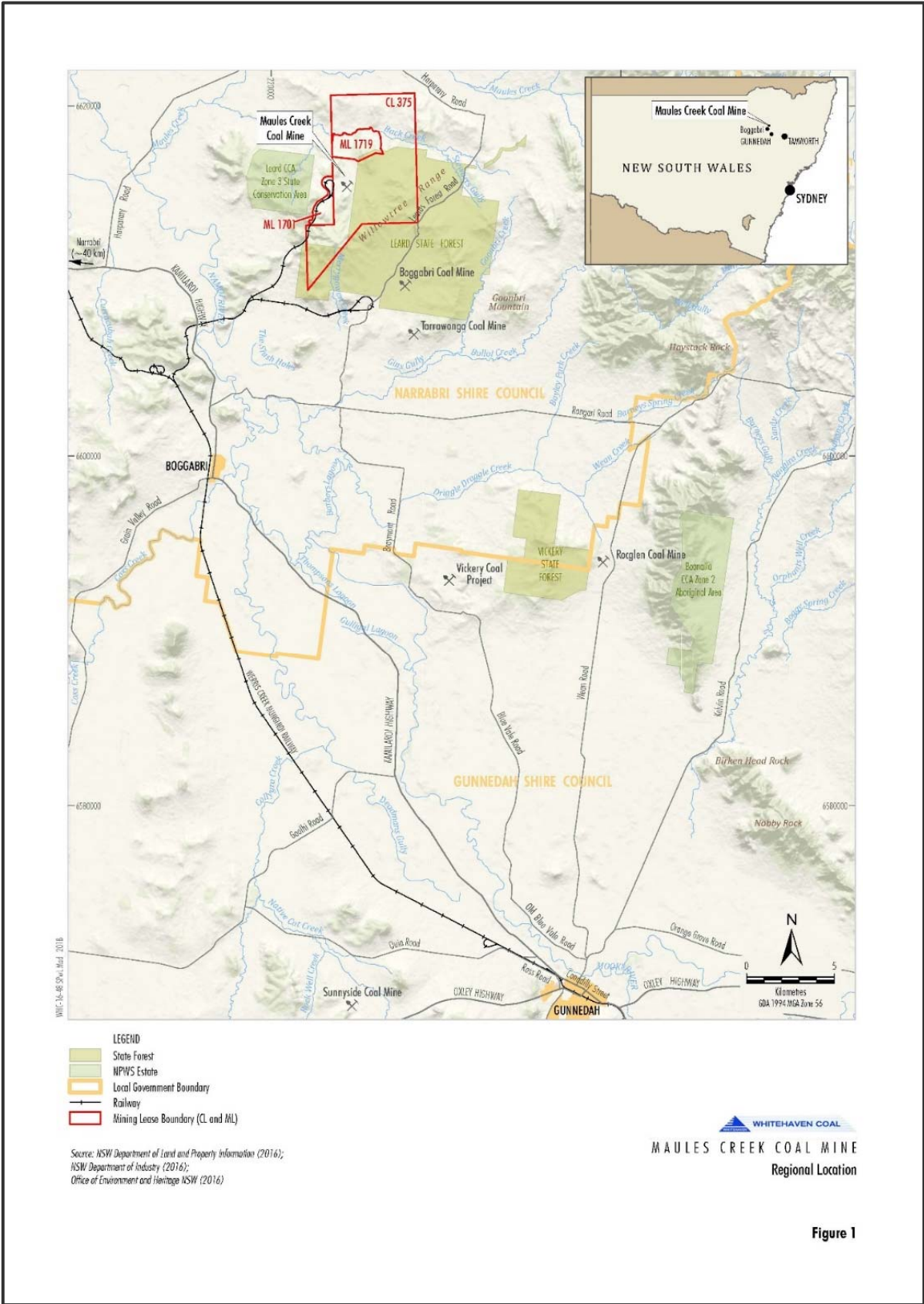


Figure 1 | Maules Creek Coal Mine Location

In late 2019, MCC constructed water pipelines and associated infrastructure to convey water from these groundwater bores to the existing water supply pipeline from the Namoi River to the Maules Creek mine.

This water is currently being used on site to maintain historical production rates, and is being managed in accordance with the requirements under the existing conditions of consent and associated management plans.

Although MCC obtained approvals from Narrabri Shire Council for the development of the pipelines in the road reserve under the *Roads Act 1993* and from NRAR for the watercourse crossings under the WM Act, it did not seek or obtain planning approvals for these pipelines under the *Environmental Planning & Assessment Act 1979*.

The Department's compliance team is currently investigating whether this represents a breach of the EP&A Act, and has inspected the site and issued a formal "show cause" letter to MCC. This investigation is likely to be completed in early 2020.

In the interim, MCC has submitted two applications to the Department seeking to modify the development consent for the mine to allow the two pipelines and associated infrastructure to be used to convey water from the groundwater bores on the Olivedene, Roma and Brighton properties to the Maules Creek mine.

The Department is required to assess these applications on their merits in accordance with existing legislation, policies and guidelines.

The assessment of these applications will not affect the Department's compliance team's current investigations in any way.



## 2. Proposed Modifications

MCC is seeking approval for two separate modifications to its development consent for the mine under Section 4.55(1A) of the *Environmental Planning and Assessment Act 1979* (EP&A Act). These are:

- **Modification 5 (MOD 5)** for the use of a water supply pipeline and ancillary infrastructure from bores located on its Olivedene property (see **Figure 2**); and
- **Modification 6 (MOD 6)** for the use of a water supply pipeline and ancillary infrastructure from bores located on its Roma and Brighton properties (see **Figure 3**).

MCC submitted two separate Modifications Reports to support these applications (see **Appendix A:** MOD 5 report and **Appendix B:** MOD 6 report), The Department also requested additional information on statutory aspects to support the two applications (see **Appendix C** and **Appendix D**).



## 2.1 MOD 5 – Olivedene Pipeline

The modification application is seeking the continued operation of the approximately 1.5 kilometre (km) pipeline from the Olivedene property to the approved water supply pipeline within the project boundary. The modification application also includes the continued operation of associated water supply tanks and pumps.

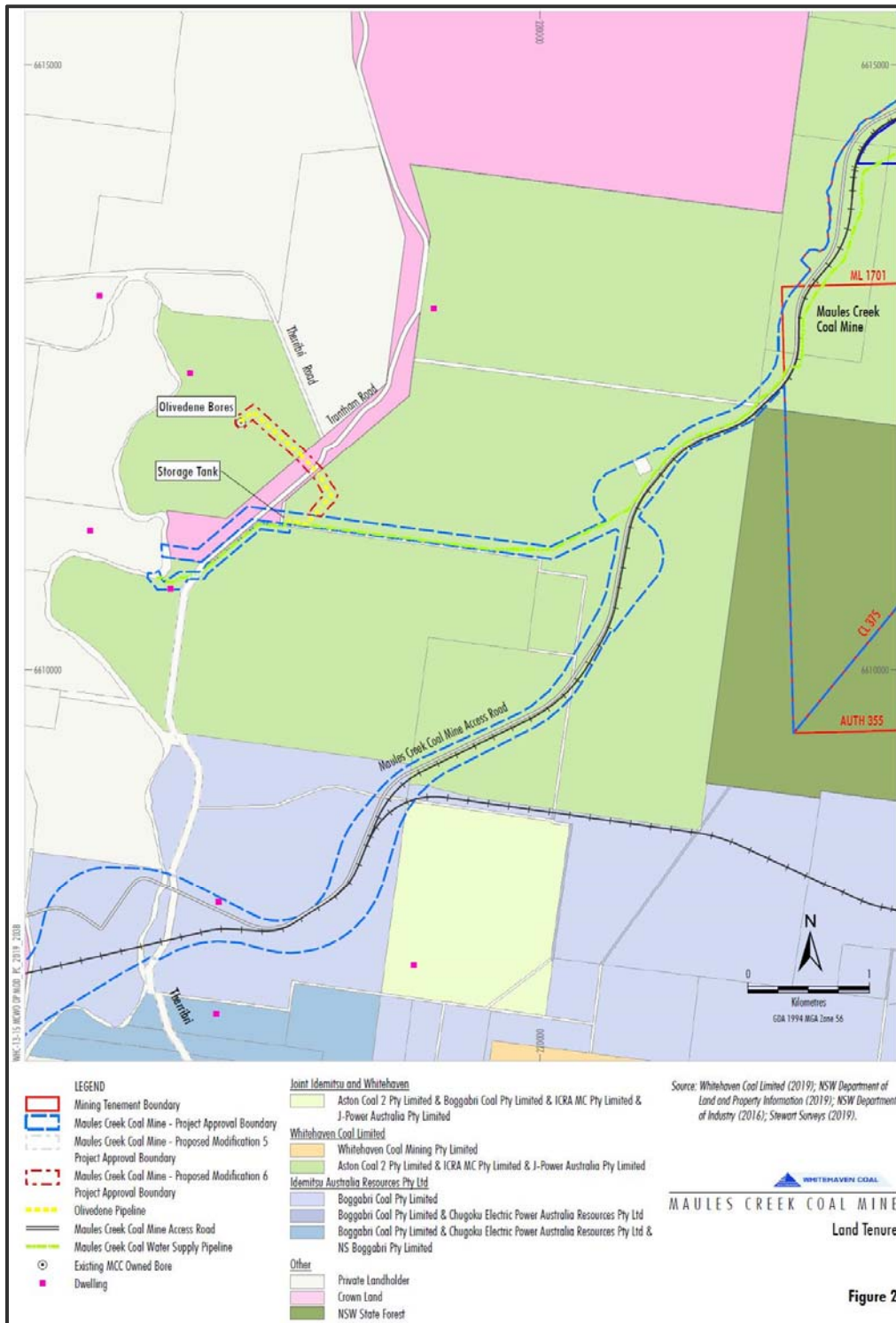


Figure 2 | Olivedene Pipeline and Ancillary Infrastructure

## 2.2 MOD 6 – Roma and Brighton Pipeline

The modification application is seeking the continued operation of the approximately 9 km pipeline from the Roma-Brighton property to the approved water supply pipeline within the project boundary. The modification application also includes the continued operation of associated water supply tanks and pumps.

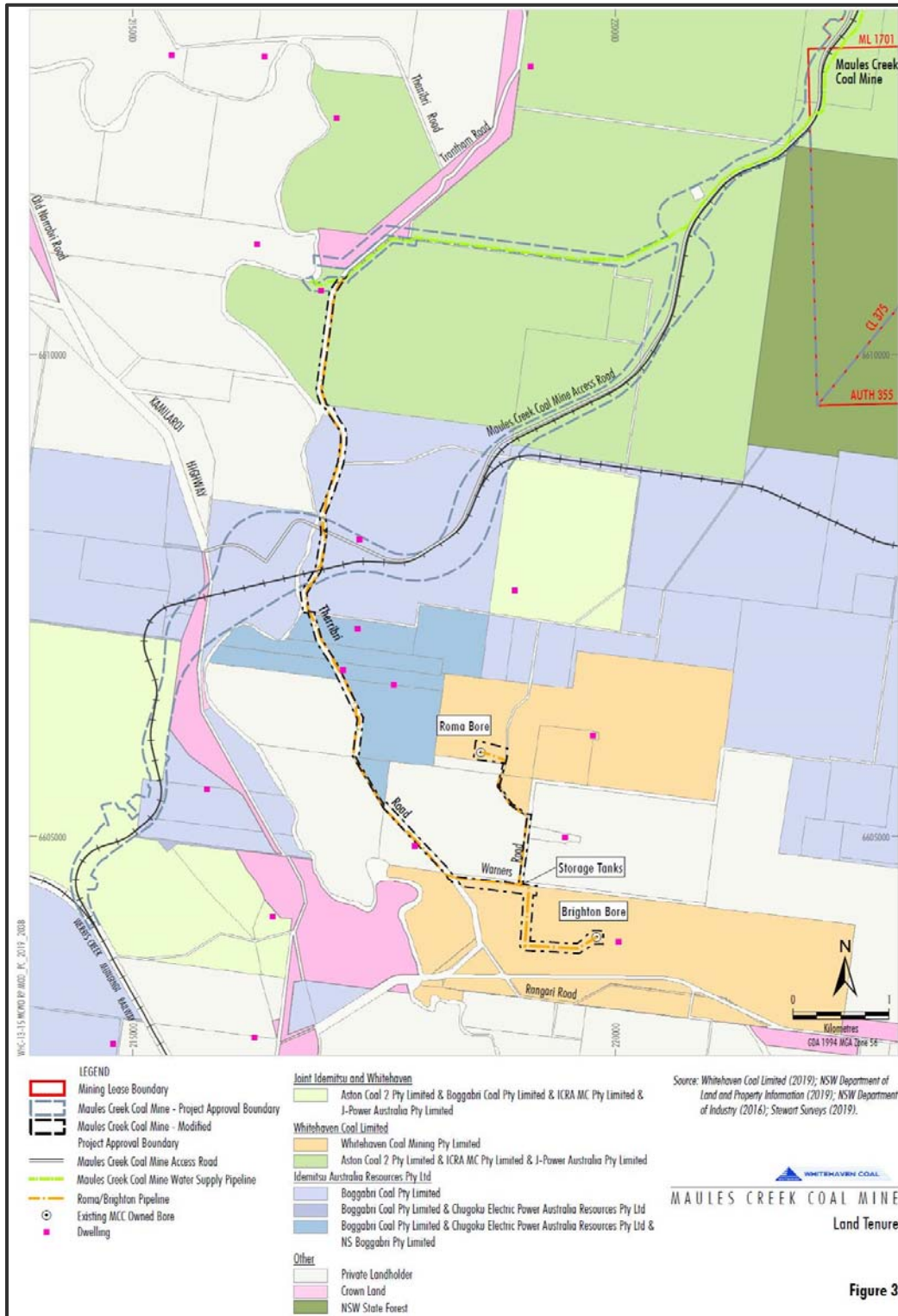


Figure 3 | Roma-Brighton Pipeline and Ancillary Infrastructure

As outlined in Section 1, the two modification applications do not include or assess the impacts of the construction of the pipelines or associated infrastructure or the extraction of water from the bores. The applications seek approval only for the continued use of the pipelines and associated infrastructure.

The ongoing extraction of groundwater from the bores under Whitehaven's existing entitlements would continue to be regulated by NRAR under the rules of the WM Act and relevant water sharing plan, while the use of the water at the mine would be regulated under the existing conditions of consent and associated management plans.



## 3. Statutory Context

### 3.1 Transition to State Significant Development

The Maules Creek Coal Project was approved under Part 3A of the EP&A Act in October 2012 by the Planning Assessment Commission, under delegation from the then Minister for Planning and Infrastructure.

Under clause 6 of Schedule 2 of the *Environmental Planning and Assessment (Savings, Transitional and Other Provisions) Regulation 2017*, the Maules Creek Coal Project was transitioned to State Significant Development (SSD) by order, which took effect by publication in the NSW Government Gazette on 17 August 2018.

### 3.2 Modifications

MCC has submitted two modification applications under Section 4.55 (1A) of the EP&A Act.

The Department has reviewed these applications against the relevant statutory requirements and concluded that the proposed modifications are of minimal environmental impact as they only involve the use of the pipelines to convey water from the bores to the mine's existing water supply pipeline. They do not involve the extraction of groundwater, which is already approved and regulated under the WM Act; they do not involve the consideration of the impacts associated with constructing the pipelines; and they do not involve the use of makeup water on the mine site, which is already authorised under the existing conditions of consent.

It has also concluded that the development to which the consent as modified would relate would be substantially the same as the development authorised by the consent as last modified before it was transitioned to SSD. The principal change in this regard relates to the increase in the size of the site to include the two new pipelines. These extensions represent a very small increase in total size of the site and can be seen as ancillary extensions to the existing main water supply pipeline.



### 3.3 Consent Authority

The Minister for Planning and Public Spaces (Minister) is the consent authority for the modification applications under Section 4.5(a) of the EP&A Act. However, under the Minister's delegation dated 11 October 2017, the Executive Director – Special Projects may determine the two modification applications.

### 3.4 Publication of Applications

The Department is not required to notify or seek public submissions on either application because they involve minimal environmental impact.

Nevertheless, the Department made both applications available on its website.

The Department received representations from some members of the community saying the applications should be exhibited because they would result in regional groundwater impacts. However, as noted above, the consumptive use of groundwater resources is regulated under the WM Act and MCC has existing approvals to extract water from the bores on these properties.

### 3.5 Impacts on biodiversity values.

Under the relevant provisions of the *Biodiversity Conservation (Savings and Transitional) Regulation 2017*, the Department is satisfied that a Biodiversity Development Assessment Report is not required to be submitted with the applications as the modifications would not result in any increase in impacts on biodiversity values.

### 3.6 Mandatory Matters for Consideration

In accordance with Section 4.55(3) and Section 4.15(1) and of the EP&A Act, a consent authority must consider the following matters – to the extent they are relevant – when it considers the merits of these applications:

- environmental planning instruments or proposed instruments;
- any planning agreement;
- the *Environmental Planning and Assessment Regulation 2000* (EP&A Regulation);
- the likely impacts of the modification application, including environmental impacts on both the natural and built environments, and social and economic impacts;
- the suitability of the site;
- any submissions;
- the public interest; and
- the reasons for granting approval for the original application.

The Department has considered all of these matters carefully, and summarised the findings of this below and in sections 4 and 5 of this report.

### Environmental planning instruments or proposed instruments

Several environmental planning instruments apply to the modification, including:

- State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007 (the Mining SEPP);
- State Environmental Planning Policy No. 33 (Hazardous and Offensive Development);
- State Environmental Planning Policy No. 44 (Koala Habitat Protection);
- State Environmental Planning Policy (Infrastructure) 2007;
- State Environmental Planning Policy (State and Regional Development) 2011 (SRD SEPP);
- State Environmental Planning Policy No. 55 (Remediation of Land); and
- Narrabri Shire Council Local Environment Plan 2012.

The Department has considered the proposed modification against the relevant provisions of these instruments. The Department has also considered Whitehaven's consideration of the relevant instruments in its two Modification Reports and its additional consideration in **Appendices C and D**. The Department concluded that these instruments had little relevance to the applications and that the proposed modifications could be carried out without offending the aims, objectives and provisions of these instruments.

### Planning agreements

The Department has considered the current planning agreement between Narrabri Shire Council and Whitehaven and considers that continued operation of the pipelines would not affect the existing planning agreement. The Department notes that Council was consulted on the construction of the pipelines and it issued approvals under the *Roads Act 1993* for the construction of these pipelines within council's road easement.

### The reasons for granting the consent for the original application

In determining the original Maules Creek Coal Project application, the Planning Assessment Commission concluded that the benefits of the project outweighed the impacts and imposed a range of strict conditions to appropriately manage the impacts. The Department has considered the proposed modifications against the reasons the Planning Assessment Commission provided for determining the project, and concluded that none of these reasons would preclude the approval of the applications.

## 3.7 Objects of the EP&A Act

The Department has assessed the proposed modification against the current objects of the EP&A Act. The objects of most relevance to the decision on whether or not to approve the proposed modification are found in section 1.3 of the EP&A Act; and are:

- *Object 1.3(a): to 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;*

- *Object 1.3(b): to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment;*
- *Object 1.3(c): to promote the orderly and economic use and development of land;*
- *Object 1.3(e): to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats;*
- *Object 1.3(f): to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage); and*
- *Object 1.3(j): to provide increased opportunity for community participation in environmental planning and assessment.*

The Department is satisfied that the proposed modification encourages the proper management and development of resources (Object 1.3(a)) and the promotion of the orderly and economic use of land (Object 1.3(c)). The proposed modifications would continue to optimise resource recovery under the project approval (SSD 5012), while utilising the mine's established infrastructure and workforce.

The Department has considered the principles of ecologically sustainable development (ESD, Object 1.3(b)) in its assessment of the proposed modification. The Department considers that the proposed modification may be carried out in a manner that is consistent with the principles of ESD. The Department's assessment has sought to integrate all significant environmental, social and economic considerations. In particular, the Department considers that the modifications would afford positive social and economic benefits with minimal incremental environmental impacts by improving water security at the Maules Creek Coal Mine.

The Department has carefully considered the environmental impacts of the proposed modification, including potential impacts on the natural, cultural and built environments (Object 1.3(e) and (f)). The continuing use of the pipelines to supply groundwater to the mine would cause minimal environmental impact on cultural and built environments. Key findings of the Department's assessment are summarised in **Section 4**.



## 4. Assessment

### 4.1 Introduction

In assessing the merits of the modification applications, the Department has considered the:

- previous environmental assessments (EAs) for the project;
- modification applications and existing conditions of approval; and
- requirements of the EP&A Act.

## 4.2 Issues

As the modification applications are for the use of the installed pipelines and do not include the construction of the pipelines or groundwater extraction, the environmental impacts are considered by the Department to be minimal. The Department has considered the potential impacts of the proposed modifications, which are summarised in **Table 1**.

**Table 1** | Summary of issues

Issue	Findings	Recommended Condition
Social and economic	<ul style="list-style-type: none"> <li>The mine is a major source of regional employment and investment.</li> <li>Around 650 staff and contractors (13% of which are indigenous) are employed directly at the mine.</li> <li>In the 2019 financial year, the mine paid salaries and wages totalling \$79.5 million and spent around \$171.8 million on local businesses.</li> <li>The mine also contributes to the broader NSW community through the contribution of royalties and taxes to the NSW Government. Royalties in the 2019 financial year amounted to \$118.1 million.</li> <li>The pipeline would facilitate additional water security, subject to bore extraction limits set by NRAR, to allow Whitehaven to continue to operate the mine during the current extended drought, and realise the benefits of the project, including:               <ul style="list-style-type: none"> <li>ongoing direct employment of 650 employees and contractors at the mine;</li> <li>ongoing direct expenditure in the local economy and flow-on benefits to the local and regional communities; and</li> <li>ongoing payment of royalties and taxes.</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>No changes to the conditions</li> </ul>
Groundwater and surface water	<ul style="list-style-type: none"> <li>As outlined in Section 1.1, the extraction of water from the bores is regulated under the WM Act through the relevant water sharing plan and conditions of WM Act approvals administered by NRAR.</li> <li>The pipelines have been constructed in accordance with relevant industry standards and are suitable for conveying water to the mine.</li> <li>During operations, MCC would monitor the pipeline for leaks and implement standard procedures if any leaks are detected.</li> <li>The water would be used at the mine site in accordance with the existing development consent.</li> </ul>	<ul style="list-style-type: none"> <li>No changes to the conditions, however MCC would be required to revise its Water Management Plan to include the additional water infrastructure and transfer and use of water at the mine site.</li> </ul>
Noise	<ul style="list-style-type: none"> <li>Water is pumped through the pipelines using diesel and electric powered pumps and generators located near the bores.</li> <li>The closest privately-owned residences are located approximately 650 m and 1.5 km from the Brighton and Olivedene bores respectively and would be unlikely to experience significant noise impacts. Notwithstanding that, Whitehaven has installed noise attenuation around the pumps to limit noise emissions.</li> </ul>	<ul style="list-style-type: none"> <li>No changes to the conditions, however MCC would be required to review and if necessary revise its Noise Management Plan to include the additional noise sources associated with the water pipeline</li> </ul>



Issue	Findings	Recommended Condition
	<ul style="list-style-type: none"> <li>The Department considers that any noise impacts associated with the continued use of the pipelines would be negligible and would be within the existing noise limits in the conditions of consent.</li> </ul>	and associated infrastructure.
Biodiversity	<ul style="list-style-type: none"> <li>The Department considers there would be no increase in biodiversity impacts associated with the continued use of the pipelines and associated infrastructure.</li> </ul>	<ul style="list-style-type: none"> <li>No changes to the conditions.</li> </ul>
Aboriginal heritage	<ul style="list-style-type: none"> <li>The Department considers there would be no additional impacts to Aboriginal heritage associated with the continued use of the pipelines and associated infrastructure.</li> </ul>	<ul style="list-style-type: none"> <li>No changes to the conditions.</li> </ul>
Rehabilitation/Decommissioning	<ul style="list-style-type: none"> <li>Areas disturbed by the construction of the pipeline, supply tanks and pumps were progressively backfilled and rehabilitated following construction.</li> <li>The existing conditions require Whitehaven to monitor and report on the effectiveness of rehabilitation undertaken.</li> <li>The conditions of approval also require Whitehaven to decommission and remove all surface infrastructure, unless otherwise agreed by the Resources Regulator.</li> </ul>	<ul style="list-style-type: none"> <li>No changes to the conditions, however MCC would be required to review and revise its Rehabilitation Management Plan to include the rehabilitation and decommissioning of the additional water infrastructure.</li> </ul>



## 5. Evaluation

The Department has assessed the modification application and supporting information in accordance with the relevant requirements of the EP&A Act.

The Department notes that the pipelines, water tanks and pumps have already been constructed and that the modification applications are seeking the continuing use of this infrastructure to convey water to the mine site. The Department also notes that the extraction of water from the bores would continue to be regulated under the WM Act.

The proposed use of the water pipelines does not affect the suitability of the site for the purpose of mining and therefore the Department considers that these modification applications would not result in significant changes that would alter the conclusions made as part of the original assessment.

The Department is satisfied that the impacts associated with the continued use of the pipelines and related water infrastructure would be negligible compared to the approved project and can be managed under existing or updated management plans.

The mine is a significant employer and contributor to the regional economy and to the NSW Government through royalties, and the Department considers that the modifications would allow Whitehaven to continue to operate the project and realize the benefits of the project, including:

- ongoing employment for 650 employees and contractors at the mine;
- direct expenditure in the local economy and flow-on benefits to the local and regional communities; and
- contributions of royalties and taxes to the NSW Government.

Based on its assessment, the Department considers that the proposed modifications have merit, and are in the public interest and therefore should be approved, subject to the revised conditions outlined in the recommended Notice of Modification for MOD 5 (see **Appendix E**) and MOD 6 (see **Appendix F**).

The consolidated development consent, incorporating both modifications, is provided in **Appendix G**.




## 6. Recommendation

It is recommended that the Executive Director – Special Projects, as delegate of the Minister for Planning and Public Spaces:

- **considers** the findings and recommendations of this report;
- **determines** that the modification applications MP10\_0138 MOD 5 and MOD 6 fall within the scope of section 4.55(1A) 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 grant consent to these two applications;
- **modifies** the project approval MP10\_0138; and
- **signs** the attached approval of the modifications (**Attachment E** and **Attachment F**).

Recommended by:

 20/12/19

**Stephen O'Donoghue**  
Director Resource Assessments



## 7. Determination

The recommendation is: Adopted / Not adopted by:

*DKitto* 20/12/19

David Kitto  
**Executive Director – Special Projects**  
as delegate of the Minister for Planning and Public Spaces



## **8. Appendices**

**Appendix A – Modification Report – MOD 5**

**Appendix B – Modification Report – MOD 6**

**Appendix C – Additional Information – MOD 5**

**Appendix D – Additional Information – MOD 6**

**Appendix E – Recommended Notice of Modification – MOD 5**

**Appendix F – Recommended Notice of Modification – MOD 6**

**Appendix G – Consolidated Project Approval (MOD 5 and MOD 6)**

Refer to the Department's Major Project's website at:

MOD 5: <https://www.planningportal.nsw.gov.au/major-projects/project/26261>

MOD 6: <https://www.planningportal.nsw.gov.au/major-projects/project/26266>