



Maules Creek Coal Mine Modification 8 – Mobile Coal Sizing and Waste Tyre Disposal

State Significant Development Modification Assessment (10_0138 MOD 8)

Planning Secretary's Assessment Report

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1 Introduction

1.1 Background

The Maules Creek Coal Mine (the mine) is an open cut coal mine located approximately 17 kilometres (km) north-east of Boggabri in the Narrabri local government area (see **Figure 1**).

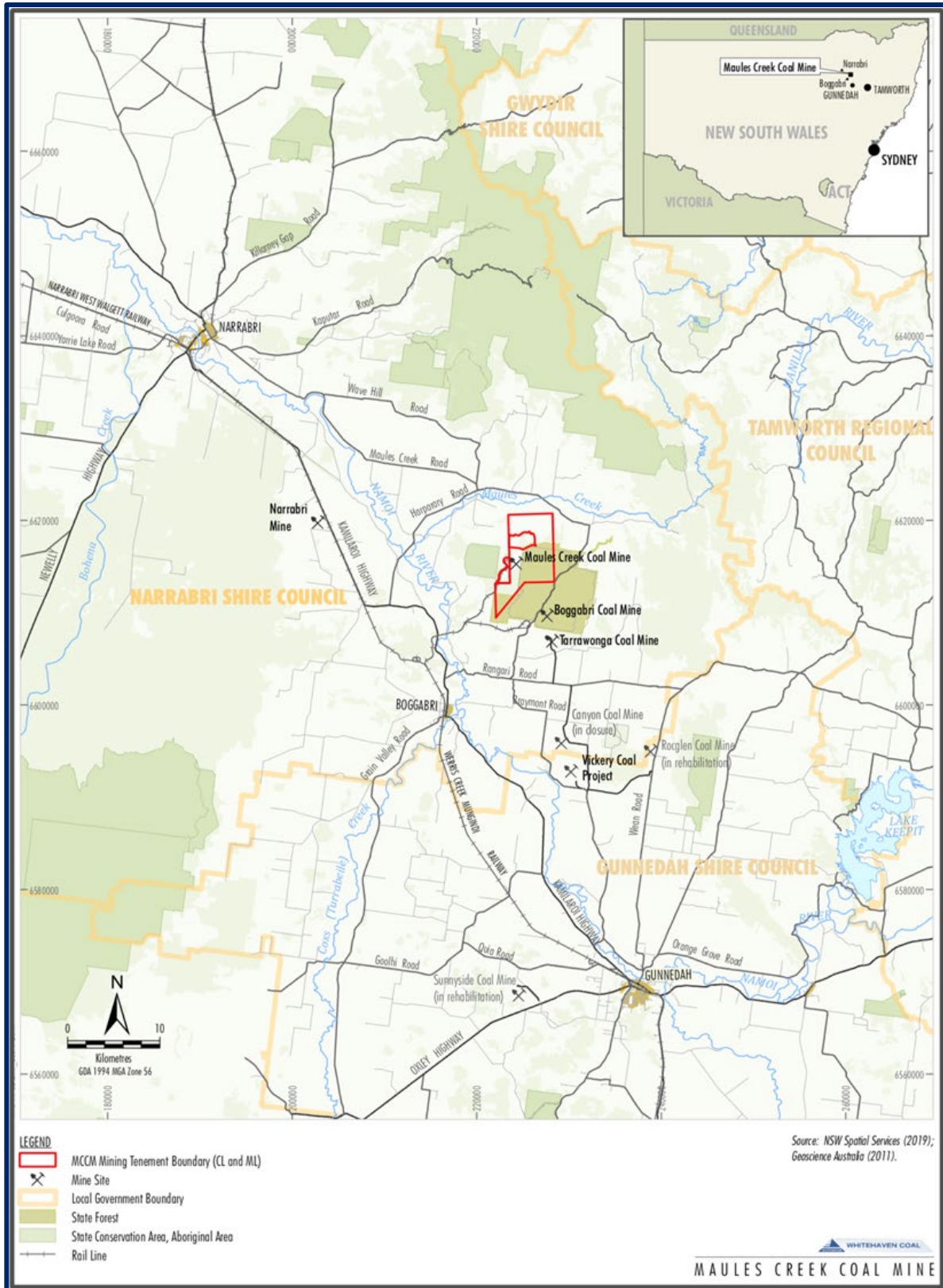


Figure 1 | Maules Creek Coal Mine Regional Context

The mine has been operating since 2013. It is owned and 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 mine forms part of a mining precinct located in and around Leard State Forest, which also includes the Boggabri Coal Mine operated by Idemitsu and the Tarrawonga Coal Mine operated by Whitehaven. Whitehaven's Vickery Coal Mine is also located approximately 11 kilometres to the south of the mine.

The mine is a significant employer in the region, directly employing around 650 people and supporting a large indirect workforce.

1.2 Current Approval

The project approval for the mine was granted by the Planning Assessment Commission (now the Independent Planning Commission of NSW) on 23 October 2012. In summary, the approval allows:

- extraction of up to 13 million tonnes per annum (Mtpa) of Run of Mine (ROM) coal by open cut methods until December 2034;
- construction and operation of ancillary infrastructure, including a Coal Handling and Preparation Plant (CHPP);
- processing of coal on site; and
- transportation of coal by rail to the port of Newcastle.

As summarised in **Table 1**, the Department has subsequently approved six modifications of the project approval.

Table 1 | Summary of modifications

Mod No.	Summary of Modification	Approval Date
MOD 1	CHPP realignment; construction and operation of a 5 km transmission line and a switching station; and extension of an existing transmission line	25 July 2013
MOD 2	Realignment of a water supply pipeline and relocation of a water pump	10 March 2014
MOD 3	Transport of 70% (instead of the originally approved 90%) of employees to the mine using shuttle buses	13 January 2017
MOD 5 & 6	Use of a water supply pipeline and ancillary infrastructure from bores on the Olivedene property (Mod 5) and the Roma and Brighton properties (Mod 6)	20 December 2019
MOD 7	Extension of the Northern Emplacement footprint, and an increase to the maximum height of a section of the Northern Emplacement by 1 metre, incorporating macro and micro relief.	24 August 2021

2 Proposed Modification

2.1 Scope of Modification

Whitehaven is seeking to modify its project approval for the mine under Section 4.55(1A) of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

The modification application is seeking to allow the use of mobile coal sizing equipment in the open cut pit and near the ROM coal stockpile area, use of mobile rock crusher equipment in the Northern Emplacement Area, and the onsite disposal of end-of-life heavy plant tyres, otherwise known as off-the-road (OTR) tyres, which are generally used in mining and heavy industrial applications. End-of-life, or 'waste' OTR tyres that can no longer be utilised at the mine would be buried within the mine's waste rock emplacement areas, subject to appropriate environmental controls.

The proposed modification would not change the approved ROM coal production rates or increase the approved disturbance area and would not include the disposal of road tyres typically used by trucks and/or passenger vehicles on registered roads.

A full description of the proposed modification is provided in Whitehaven's Modification Report (see **Appendix A1**).

2.2 Justification for the Modification

ROM coal is currently extracted from the open cut pit and hauled to the CHPP for sizing and screening. Sized coal is then either processed (washed) in the CHPP or bypassed to the product coal stockpile. Whitehaven considers that the use of mobile coal sizing equipment near the ROM coal stockpile area and within the open cut pit would improve operational efficiencies by optimising the mix of bypass coal and washed coal before it is transported from the mine.

The proposed use of mobile rock crushing equipment would enable Whitehaven to resize waste rock onsite for beneficial re-use on roads, drainage, and construction at the mine. In reviewing alternatives (ie. importing from external sources), Whitehaven considers that sourcing and crushing rock onsite would be more efficient and improve economic and environmental outcomes.

Whitehaven advises that it has reviewed all available waste management and recycling technologies and that there are currently no feasible alternatives for reusing OTR tyres, and that the costs to transport the tyres to existing recycling or reprocessing facilities would be prohibitive.

Whitehaven's review coincides with the findings of the report commissioned by Tyre Stewardship Australia (TSA) titled *Used Tyre Supply Chain and Fate Analysis* dated June 2020, which estimates only 1% domestic recovery of all used OTR tyres in Australia¹. This amount is largely attributed to the reuse of these tyres in civil engineering applications and a small amount recovered via pyrolysis or for crumb, granule and buffing purposes.

Whitehaven rationalises the onsite disposal of waste OTR tyres as it would allow the mine to continue to operate under its existing approval and ensure the ongoing employment of its mine staff. Whitehaven would also continue to explore any other feasible recycling and/or recovery options over the life of the mine.

3 Strategic Context

There is no clear Government policy on the disposal of waste tyres in spoil emplacements in NSW and the onsite disposal of heavy plant waste tyres is common practice in the mining and agricultural sectors. This is due to the size and construction of the tyres and the remoteness of the operations, which makes it difficult and expensive to transport, handle and process. Further, tyre recycling facilities are generally designed for smaller tyres from passenger vehicles, and landfills have limited capacity.

As the lead environmental regulator in NSW, the Environment Protection Authority (EPA) manages the transport and disposal of waste and works closely with industry to find sustainable solutions to minimise the amount of waste going to landfill. The EPA is currently working with the mining industry to improve waste management practices, with a focus on the management of waste OTR tyres.

The disposal of OTR tyres, like all waste, is required to be appropriately stored, handled and disposed of in accordance with the objectives of the *Protection of the Environment Operations Act 1997*, the *Waste Avoidance and Resource Recovery Act 2001* and other legislative requirements including the Waste Classification Guidelines (DECCW 2008).

¹ For used OTR tyres, an estimated 1% is recovered domestically, 10% recovered via export and 89% not recovered – see section 7 of the Tyre Stewardship Australia report *Used Tyre Supply Chain and Fate Analysis (June 2020)*.

<https://www.tyrestewardship.org.au/wp-content/uploads/2020/06/Used-Tyres-Supply-Chain-and-Fate-Analysis-1.pdf>

These acts and guidelines are regulated by the EPA, and specific Environment Protection Licence (EPL) conditions are required to be placed on site to allow the disposal of OTR tyres. The Department notes that the EPA is reviewing and varying EPLs across the state to allow this practice, where appropriate.

The Department is also aware of the current and ongoing Tyre Stewardship Australia initiatives to promote the development of viable markets and the sustainable use of end of life tyres, including OTR tyres. The Department notes the Tyre Stewardship Australia report titled *OTR Tyres in Australia – a case for change to sustainably manage used off-the-road (OTR) tyres in Australia* dated October 2021, which provides among other things, recognition of the current limitations for viable OTR tyre recovery, analysis and comparison of consumption by industry sectors and proposed initiatives to promote and support increased waste OTR tyre recovery rates.

4 Statutory Context

4.1 Transition to State Significant Development

The Maules Creek Coal Mine was approved under the former Part 3A of the *Environmental Planning and Assessment Act 1979* (EP&A Act) in October 2012.

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

4.2 Scope of Modification

The modification application and Modification Report were lodged under Section 4.55(1A) of the EP&A Act. The Department has reviewed the scope of the modification and considers that:

- the proposed changes are minor in comparison to the approved project;
- there would be no change to the approved mine life, mining methods, production rates, project boundary, disturbance footprints or hours of operation;
- the impacts of the development as modified would be similar to the impacts of the approved project (see Section 6), and
- the development would remain substantially the same development as originally approved.

Therefore, the Department is satisfied the proposed modification is within the scope of section 4.55(1A) of the EP&A Act, considers that it would involve minimal environmental impact and does not constitute a new development application. Accordingly, the Department considers that the application should be assessed and determined under section 4.55(1A) of the Act.

The Department also considered:

- advice provided concerning the proposed modification (see Section 5); and
- the relevant matters in Section 4.15(1) of the EP&A Act, including:
 - the provisions of relevant environmental planning instruments (see Section 4.4);
 - the likely impacts of the proposed modification, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality (see Section 6);
 - the public interest, including any relevant objects of the EP&A Act (see Section 4.5); and
 - the reasons given by the approval authority for the grant of the original approval (see Section 4.4).

4.3 Consent Authority

The Minister for Planning (Minister) is the consent authority for the modification application under Section 4.5(a) of the EP&A Act. However, under the Minister's delegation of the 26 April 2021, the Executive Director Resource Assessments, may determine the application because there were less than 50 unique submissions by way of objection, Council did not object to the proposal and MCC did not make any political donations.

4.4 Mandatory Matters for Consideration

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

- environmental planning instruments, draft instruments, and any planning agreements;
- the EP&A Regulation;
- likely impacts of the modification application, including environmental impacts on both the natural and built environments, and social and economic impacts;
- suitability of the site;
- any submissions;
- the public interest; and
- the reasons for granting approval for the original application.

The Department has considered all these matters carefully and summarised the findings of this below and in Sections 5 and 6 of this report.

Environmental Planning Instruments

Several environmental planning instruments apply to the modification, including:

- State Environmental Planning Policy (Mining Petroleum Production and Extractive Industries) 2007;
- State Environmental Planning Policy (State and Regional Development) 2011 (SRD SEPP);
- State Environmental Planning Policy 33 (SEPP No. 33) – Hazardous and Offensive Development;
- State Environmental Planning Policy 55 (SEPP No. 55) – Remediation of Land; and
- Narrabri Local Environmental Plan 2012.

The Department has assessed the proposed modification against the relevant provisions of these instruments and Whitehaven's review of the relevant instruments in its Modification Report. The Department considers that the proposed modification can be undertaken in a manner that is generally in accordance with the aims, objectives and provisions of these instruments.

Reasons for Original Approval

In determining the original Maules Creek Coal Project application, the Planning Assessment Commission concluded that the benefits of the project outweighed the residual environmental impacts and imposed a range of strict conditions to appropriately manage the impacts. The Department has considered the proposed modification against the reasons the Commission gave for determining the project and is satisfied that the proposed modification does not affect the decision that was previously made. The proposed modification would allow similar benefits to be realised at local, regional and State levels, with minimal incremental impacts.

4.5 Objects of the EP&A Act

The objects of the EP&A Act are the underpinning principles for all decision making under the Act. They must be considered by the consent authority when determining a development application under the Act. The Department has assessed the Project against the objects found in section 1.3 of the EP&A Act. **Table 2** summarises how the Department considers that the Project can be undertaken in a manner that is consistent with these objectives, including Ecologically Sustainable Development (ESD).

Table 2 | Consideration of the proposal against relevant objects of the EP&A Act

Objects of the EP&A Act	Consideration
(a) <i>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;</i>	The modification meets this object because it would facilitate the continued operation of the mine and provide operational efficiencies to maximise the recovery of coal resources within an existing mining lease area. The mine's existing infrastructure and workforce would continue to be utilised.
(b) <i>to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment;</i>	The Department's assessment has sought to integrate all significant environmental, social and economic considerations. The Department considers that the modification can be carried out in a manner that is consistent with the principles of ecologically sustainable development.
(c) <i>to promote the orderly and economic use and development of land;</i>	The modification involves a permissible land use and would be carried out within existing project boundaries and approved disturbance areas. The Department considers this represents an orderly and economic use of the land.
(e) <i>to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats;</i>	The modification would be undertaken entirely within existing approved disturbance footprint and would therefore avoid any additional potential impacts on threatened species and biodiversity values beyond those already approved.
(f) <i>to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage);</i>	The modification would be undertaken entirely within existing approved disturbance footprint and would therefore avoid any additional potential impact to Aboriginal and historic heritage sites.
(i) <i>to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State; and</i>	The Department has assessed the modification application in consultation with Narrabri Shire Council and other relevant NSW government authorities, and given consideration to the issues raised by these agencies in its assessment.
(j) <i>to provide increased opportunity for community participation in environmental planning and assessment.</i>	The Department publicly exhibited the modification application and considered all submissions in its assessment.

5 Engagement

5.1 Public Engagement and Consultation

The Department publicly exhibited the Modification Report on the Department's website from 8 October 2021 until 21 October 2021. The modification application was also referred to Narrabri Shire Council (Council) and relevant State government agencies for advice.

The Department received a total of 18 submissions including 4 from special interest groups (all in objection) and 13 from members of the public (all in objection) and one from Narrabri Shire Council. The Department also received advice from two NSW government agencies.

A summary of submissions is provided below. Full copies of submissions are provided in **Appendix A2**.

Whitehaven provided a Submissions Report and additional information responding to the issues raised in submissions. Whitehaven's responses are provided in **Appendix A3**.

5.2 Key Issues – Special Interest Group and Community

The key issues raised in the public and special interest group submissions for the proposed modification related to:

- potential increased air quality and noise impacts, and increased greenhouse gas emissions;
- potential impacts on water resources, contamination of land and subsequent human health impacts;
- potential landform stability with emplacement of tyres in waste rock areas;

- potential risks following tyre disposal, such as the movement of waste tyres to the surface or subsurface fire;
- the importance of further consultation with Tyre Stewardship Australia and emphasis of the need for alternatives to onsite tyre burial;
- clarification of waste tyre disposal processes; and
- concerns about the modification application approval pathway and the requirement to obtain landowners consent from NSW Aboriginal Land Council.

The Department also received subsequent community representations following the exhibition period, outlining concerns regarding the consultation process and emphasising the need for alternatives to onsite tyre burial. Whitehaven provided additional information on these matters, and the Department has provided further consideration in Section 6 of this report.

5.3 Key Issues – Government Agencies

The modification application was referred to the Environment Protection Authority (EPA), Resources Regulator (RR) and Narrabri Shire Council. The public authority advice is summarised below and considered in more detail in Section 6 of this report.

The **EPA** provided comments and recommendations in relation to air quality impacts, noise impacts and waste tyre storage and disposal.

In relation to air quality, the EPA noted a small increase of up to 1 µg/m³ in predicted TSP, PM_{2.5} and PM₁₀ and recommended that Whitehaven continue to apply ongoing mitigation measures to ensure there is no increase in adverse air quality impacts.

In relation to noise, the EPA noted that predicted operational noise impacts at surrounding sensitive receivers are the same or only slightly higher (~1dB) than those predicted under the previous noise assessment provided for Modification 7 of the project approval. The EPA further noted the existing project approval noise criteria should continue to apply and could be achieved through continued implementation of the mine's proactive noise management systems.

In relation to waste OTR tyre storage and disposal, the EPA acknowledged the justification for the proposal given the limited options that are currently available for recycling. Nonetheless, the EPA recommended Whitehaven be required to regularly review available recycling options with the objective of avoiding disposal of the tyres if possible. The EPA provided its recommended licence conditions, which generally include:

- the imposition of limits on the volume of OTR tyres that can be disposed of onsite;
- recommendations regarding the emplacement of the tyres to limit any risks of pollution, fire, or landform instability; and
- requirements that Whitehaven be required to provide annual reports detailing the specific disposal locations and tyres emplaced therein.

The Department notes the EPA's advice and recommendations. Consistent with previous advice, a variation to the mine's EPL (No. 20221) would be required and include the EPA's waste tyre management and disposal recommendations as part of the conditions of the EPL variation.

Resources Regulator did not raise any issues or concerns and advised that it did not have any specific comment regarding mine safety or mine rehabilitation.

Narrabri Shire Council did not object to the proposed modification and provided feedback and recommendations in relation to waste management and noise and air quality impacts. The Department notes that NSC recommendations are similar to the advice received from the EPA. Whitehaven provided a response confirming it did not object to the noise and air quality recommendations and that waste management recommendations would be addressed through the EPA's recommended EPL conditions.

6 Assessment

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

- public submissions;
- public authority advice;
- previous environmental assessments for the project;
- modification applications and existing conditions of approval; and
- requirements of the EP&A Act, including the objects of the Act.

The Department considers the key potential impact of the proposed modification relates to waste management and has considered this further in its assessment below.

6.1 Waste Tyre Disposal

The management of waste OTR tyres is an industry wide issue because of the lack of viable alternatives for recycling, difficulties in handling and transport, and the lack of landfill capacity. In NSW, the onsite disposal of mining industry waste OTR tyres is broadly accepted as the only viable solution that is currently available to appropriately mitigate any risks or potential hazards associated with the storage of large volumes of tyres.

While the practice of in pit disposal of OTR tyres is not described in all Environmental Assessments, nor expressly conditioned in development consents, it is considered to be an ancillary activity and is common practice across the mining industry, with the activity also approved by the Resources Regulator in some Mining Operation Plans (MOPs).

Waste Tyre Assessment

Whitehaven has been storing and when necessary, periodically burying waste OTR tyres in the mine's waste rock emplacement areas. The mine currently has around 1,323 tyres stockpiled and awaiting disposal. Any previous tyre disposal activities have been undertaken in accordance with the mine's MOP, approved by the Resources Regulator.

The existing project approval includes a range of conditions related to the general management of waste, including requirements to ensure waste generated by the mine is minimised and appropriately stored, handled and disposed of. However, the conditions do not explicitly allow or disallow the onsite disposal of waste tyres. Consequently, Whitehaven is seeking a modification to clarify the project approval conditions and expressly include the onsite storage and disposal of waste tyres at the mine.

This was in response to a request from the EPA to clarify whether the project approval included the management and disposal of waste tyres onsite as it was seeking to vary the conditions of the Environment Protection Licence (EPL) for the mine. The Department has considered the EPA's advice and requirements to limit the surface storage of tyres and therefore considers the proposed modification to be essential for mitigating any associated risks such as major tyre fire.

Whitehaven advises that it has explored all reasonable and feasible options to avoid or reduce the number of waste tyres requiring disposal, consistent with the waste hierarchy, which is a set of key principles for managing waste established under the *Waste Avoidance and Resource Recovery Act 2001*. Nevertheless, Whitehaven has agreed with the EPA's recommendations to further investigate any reasonable and feasible opportunities for recycling and/or recovery of waste OTR tyres over the remaining life of the mine.

Special interest group and public submissions raised among other things, concerns about the suitability of land for disposing waste OTR tyres. However, the Department notes that the tyres would only be disposed of within the approved waste rock emplacement areas and Whitehaven has confirmed that there would be sufficient capacity to accommodate the tyres.

The Department and Resources Regulator consider that the disposal of tyres within waste rock emplacement areas would not have any significant impact on, or be incompatible with, the existing land use and is unlikely to result in any significant impacts to the mine's rehabilitation objectives or create

landform instability. Further, the mine's approved MOP already accounts for the disposal of waste tyres within waste rock emplacement areas.

Whitehaven has also confirmed that it would continue to operate in accordance with the rehabilitation conditions under its existing consent, including complying with best practice rehabilitation objectives to ensure a safe, stable and non-polluting mine site.

As the tyres are proposed to be disposed of within previously approved waste rock emplacement areas there would be no impacts to biodiversity, Aboriginal heritage or amenity.

Incorrect tyre disposal methods can result in leaching of oils or heavy metals into groundwater and tyres can provide a fuel source that increases the risks of fire. However, these risks can be managed by appropriate emplacement of the tyres (ie. not in areas likely to leach or near heat sources etc). The Modification Report includes a draft 'Mine Tyre Disposal Procedure' outlining the proposed methods and risk assessments to be applied in the disposal of waste OTR tyres, including adequate coverage (at least 20 metres of material) and separation of tyres from any heat sources (such as potentially acid forming material) and water sources or aquifers, tracking and registering the placement of tyres using serial numbers and surveyed co-ordinates, and ongoing monitoring of emplacement areas and final landform rehabilitation to identify any impacts related to tyre disposal.

Conclusion

The Department accepts that the proposed methodologies, risk assessment and environmental controls represent current best practice for the management and disposal of waste tyres at NSW mine sites.

Notwithstanding the above, the EPA made a number of recommendations related to the emplacement of the tyres and confirmed that it would include conditions in the mine's EPL to ensure onsite tyre disposal is regularly evaluated, managed, recorded and reported. These include:

- ensuring the regular review of available and feasible recycling or recovery opportunities, consistent with the waste hierarchy;
- imposing tyre stockpile limits and annual limits on the volume of OTR tyres disposed onsite;
- environmental safeguards specific to operational procedures and disposal methodologies to minimise risk of surface or groundwater contamination, fire and associated air pollution, and landform instability; and
- annual and cumulative reporting requirements to include among other things, the specific location of OTR tyres in the waste rock emplacement areas.

The Department considers that Whitehaven's assessment and the agency advice adequately demonstrates that the environmental impacts associated with the disposal of OTR tyres in the waste rock emplacement areas would not significantly increase with the proposed modification. As the EPA is the lead regulator for waste in NSW and has already commenced including standard conditions for the management of OTR tyres in coal mine EPLs, the Department considers that regulation by the EPA is the best approach and does not propose to duplicate the EPA's recommended conditions in the development consent. Rather, the modification will provide the mechanism for the EPA to impose these conditions in the EPL through a licence variation.

The Department has included a condition of consent requiring Whitehaven to ensure that waste tyres are appropriately stored, handled and disposed of, and beneficial reuse or recycling options are implemented, in accordance with the requirements of the mine's EPL.

6.2 Other Issues

The Department considers that other issues associated with the proposed modification, such as biodiversity, water resources, social impacts, waste, hazards and risks, and heritage would not increase from the approved project, and can be adequately managed under the existing conditions of approval.

The Department has summarised its assessment of other matters in **Table 3** below.

Table 3 | Other Issues

Issue	Findings and Recommendations
<p>Air quality and greenhouse gas emissions</p>	<ul style="list-style-type: none"> • The Modification Report included an Air Quality Assessment (AQA) that was prepared by Todoroski Air Sciences (TAS) (Appendix B of the Modification Report) in accordance with the Approved Methods for the Modelling and Assessment of Air Pollutants in NSW (EPA, 2017). • The AQA modelled air quality impacts associated with the mine itself, as well as cumulative impacts, and considered the greenhouse gas emissions associated with additional diesel consumption from the proposed mobile coal sizing and rock crushing equipment, and rehandling equipment ie. two excavators and a dozer. • The AQA predicted that the proposed modification would result in an increase of up to 1 µg/m³ for TSP, PM_{2.5} and PM₁₀, which it considers is unlikely to be discernible and would remain below the existing project approval air quality criteria. Predicted additional greenhouse gas emissions are calculated to result in an increase of around 0.01%, relative to existing approved operations. • Several public submitters and special interest groups raised concerns over potential increases in dust, air quality impacts and greenhouse gas emissions due to the use and location of the mobile coal sizing and rock crushing equipment. • The EPA noted the small increase of up to ~1 µg/m³ in predicted TSP, PM_{2.5} and PM₁₀ and recommended that Whitehaven continue to apply ongoing mitigation measures to ensure there is no increase in adverse air quality impacts. • Whitehaven provided a response to the issues raised in submissions and confirmed it would continue to operate its existing comprehensive air quality management system at the mine, which utilises a combination of predictive meteorological forecasting and real-time air quality monitoring data to guide the day to day implementation of mitigation measures and manage potential air impacts during adverse meteorological conditions. • The Department notes the EPA advice and Whitehaven’s response, and considers that the existing conditions are adequate to manage any potential air quality impacts from the proposal. • The existing conditions already require Whitehaven to review and update the Air Quality and Greenhouse Gas Management Plan to reflect any approved modification, in consultation with applicable authorities. <p><i>Recommendations:</i></p> <ul style="list-style-type: none"> • No changes to existing conditions required.
<p>Noise</p>	<ul style="list-style-type: none"> • The Modification Report included a Noise Assessment (NA) that was prepared by RWDI (Appendix A of the Modification Report) in accordance with the <i>NSW Noise Policy for Industry 2017</i> (NPfI) (EPA, 2017). • The NA considered potential operational and cumulative noise impacts from the proposal using modelling scenarios adopted for Modification 7, noting that it represents the most accurate prediction of noise impacts at nearby privately owned receivers. • The NA predicted a potential increase of ~1dB at up to ten privately owned residences, noting that receiver 108a is eligible for acquisition and noise mitigation on request, in accordance with the project approval. The NA considers the predicted incremental increase to be negligible and would not be discernible by the average listener. Predicted cumulative noise impacts are not considered to exceed the project approval noise criteria. • While noting the slight increase in predicted operation noise impacts, the EPA considered that the existing noise criteria could continue to be achieved through the implementation of the mine’s proactive noise mitigation systems. • The Department notes that the proposed modification would not change the annual limit of material movement, mining production levels and mining methods. • The Department therefore considers that the proposed modification is unlikely to result in significant noise impacts, and that existing conditions are adequate to manage ongoing noise emissions from the mine as modified. • The existing conditions already require Whitehaven to review and update the Noise Management Plan to reflect any approved modification, in consultation with applicable authorities. <p><i>Recommendations:</i></p> <ul style="list-style-type: none"> • No changes to existing conditions required.

Issue	Findings and Recommendations
Correction of minor typographic error in Modification 7 project approval update	<ul style="list-style-type: none"> The Department has identified a minor typographic error, which occurred during the Modification 7 project approval revision and update. Land identification number 109 was incorrectly deleted from Tables 1 and 8 of the project approval. <p><i>Recommendations:</i></p> <ul style="list-style-type: none"> The Department has reinstated the reference to land identification number 109 in the project approval.
Landowners Consent	<ul style="list-style-type: none"> Under the provisions of then clause 115(8) the <i>Environmental Planning and Assessment Regulation 2000</i>, the consent of the NSW Aboriginal Lands Council was required to allow the modification application to be determined. The NSWALC gave consent at its meeting on 1 December 2021 subject to the implementation of the EPA recommendations for tyre storage and disposal. The Department notes that for applications submitted from 1 October 2021, NSWALC landowner consent for State significant development modification applications is no longer required following an amendment to the EP&A Reg.

7 Evaluation

The Department has assessed the merits of the proposed modification and considered its potential environmental, social and economic impacts and the relevant requirements of the EP&A Act.

The Department recognises that the modification application is necessary to improve operational efficiencies through the use of mobile coal sizing and rock crushing equipment and that onsite disposal of waste OTR tyres can be undertaken with no environmental impacts beyond those already approved for the mine.

The Department supports the EPA led waste management initiatives and its sector wide approach to regulate the disposal of waste OTR tyres at mine sites. The Department also recognises the current need to manage waste OTR tyres at the mine, which have previously been buried in waste rock emplacement areas in accordance with the mine's MOP and continue to be stockpiled.

Like many other mine sites across Australia and NSW, waste management options are currently limited, mainly due to a general lack of available recycling technologies in the waste industry and the mine's remote location. As such, there are no feasible recycling opportunities currently available and the Department considers that the disposal of OTR tyres in the emplacement areas would be the safest and most reasonable option available at this time.

Consistent with other mining approvals, the onsite disposal of waste OTR tyres would be managed under the existing conditions of consent and the mine's EPL. The EPA confirms that a variation to the EPL would include a suite of specific waste tyre management conditions to ensure the implementation of adequate environmental controls and the regular review of alternative waste disposal and/or recycling options.

If the proposed modification is not approved, stockpiled OTR tyre quantities would continue to increase, along with the associated risks and potential hazards such as a major tyre fire. The Department therefore considers that the proposed modification is essential for mitigating any possible fire risks.

The Department considers that until further recycling and/or recovery options become available, the disposal of waste OTR tyres within waste rock emplacement areas is a reasonable alternative that would ensure any risks associated with the storage of large volumes tyres is minimised as far as possible.

On balance, the Department is satisfied that the proposed modification can be carried out in an environmentally sustainable manner and should be approved.

The Department has drafted a recommended Notice of Modification (see **Appendix B**) and consolidated version of the project approval, as modified (see **Appendix C**).

8 Determination

The Department recommends that the Executive Director Energy, Resources and Industry Assessments, as delegate of the Minister for Planning:

- **considers** the findings and recommendations of this report;
- **determines** that the modification application 10_0138 MOD 8 falls within the scope of section 4.55(1A) of the EP&A Act;
- **forms the opinion** under clause 30A(2)(c) of the *Biodiversity Conservation (Savings and Transitional Regulation 2017)* that a Biodiversity Assessment Report is not required to be submitted with this application as the modification would not increase the impact on biodiversity values;
- **accepts and adopts** all of the findings and recommendations in this report as the reasons for making the decision to grant approval to the modification application;
- **agrees to modify** the project approval for Maules Creek Coal Project (10_0138); and
- **signs** the attached Notice of Modification (**Appendix B**).

Recommended by:



13 December 2021

Philip Nevill
Senior Environmental Assessment Officer
Resource Assessments



13 December 2021

Stephen O'Donoghue
Director
Resource Assessments

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



14 January 2022

Clay Preshaw
Executive Director
Energy, Resources and Industry Assessments

as delegate of the Minister for Planning

Appendices

Appendix A – List of Documents

A1 – Modification Report: Refer to folder “Modification Application” on the Department’s website at

[Mod 8 – Mobile Coal Sizing and Waste Tyre Disposal | Major Projects – DPIE \(nsw.gov.au\)](#)

A2 – Submissions: Refer to folder “Submissions” on the Department’s website at

[Mod 8 – Mobile Coal Sizing and Waste Tyre Disposal | Major Projects – DPIE \(nsw.gov.au\)](#)

A3 – Submissions Report: Refer to folder “Response to Submissions” on the Department’s website at

[Mod 8 – Mobile Coal Sizing and Waste Tyre Disposal | Major Projects – DPIE \(nsw.gov.au\)](#)

A4 – Agency Advice: Refer to folder “Agency Advice” on the Department’s website at

[Mod 8 – Mobile Coal Sizing and Waste Tyre Disposal | Major Projects – DPIE \(nsw.gov.au\)](#)

A5 – Additional Information from Applicant: Refer to folder “Additional Information” on the Department’s website at

[Mod 8 – Mobile Coal Sizing and Waste Tyre Disposal | Major Projects – DPIE \(nsw.gov.au\)](#)

Appendix B – Notice of Modification

Refer to folder “Recommendation” on the Department’s website at

[Mod 8 – Mobile Coal Sizing and Waste Tyre Disposal | Major Projects – DPIE \(nsw.gov.au\)](#)

Appendix C – Consolidated Project Approval

Refer to folder “Recommendation” on the Department’s website at

[Mod 8 – Mobile Coal Sizing and Waste Tyre Disposal | Major Projects – DPIE \(nsw.gov.au\)](#)