




# Wilpinjong Coal Mine



## Attachment 2 Detailed Statutory Compliance Reconciliation Table

**Peabody**

**Table A2-1  
Summary Statutory Compliance for Key State Legislation**

Relevant Legislation or Instrument	Consideration / Pre-condition	Relevant Section in Modification Report	Modified Project Compliance Status
<i>Environmental Planning and Assessment Act 1979 (EP&amp;A Act)</i>			
section 1.3	Relevant objects of the EP&A Act: <ul style="list-style-type: none"> <li>• 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.</li> <li>• Facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment.</li> <li>• Promote the orderly and economic use and development of land.</li> <li>• Protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats.</li> <li>• Promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage).</li> <li>• Promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State.</li> <li>• Provide increased opportunity for community participation in environmental planning and assessment.</li> </ul>	Sections 4.1.2 and 7.5.1	✓
sections 4.15 and 4.55(3)	Relevant environmental planning instruments: <ul style="list-style-type: none"> <li>• <i>State Environmental Planning Policy (Planning Systems) 2021.</i></li> <li>• <i>State Environmental Planning Policy (Resources and Energy) 2021.</i></li> <li>• <i>State Environmental Planning Policy (Resilience and Hazards) 2021.</i></li> <li>• <i>State Environmental Planning Policy (Biodiversity and Conservation) 2021.</i></li> <li>• <i>State Environmental Planning Policy (Transport and Infrastructure) 2021.</i></li> <li>• <i>Mid-Western Regional Local Environmental Plan 2012 (Mid-Western Regional LEP).</i></li> </ul>	See Table A2-3 below.	✓
	The Development Control Plan 2013.	See Table A2-3 below.	✓
	The planning agreement between Wilpinjong Coal Pty Ltd (WCPL) and Mid-Western Regional Council entered into under the EP&A Act.	Section 4.1.4	✓
	The EP&A Regulation (to the extent that it prescribes matters for the purposes of section 4.15(1)(a)(iv) of the EP&A Act).	See below.	✓
	The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality.	Section 6	✓
	The suitability of the site for the development.	Sections 2.3, 6 and 7.4	✓
	Any submissions made in accordance with the EP&A Act or the EP&A Regulation.	Section 5	✓
	The public interest.	Section 7	✓

**Table A2-1 (Continued)  
Summary Statutory Compliance for Key State Legislation**

Relevant Legislation or Instrument	Consideration / Pre-condition	Relevant Section in Modification Report	Modified Project Compliance Status
section 4.55(2)-(3)	Section 4.55(2)-(3) relevantly provides for the consent authority to modify Development Consent (SSD-6764) subject to and in accordance with the EP&A Regulation.	Section 4.1	✓
<i>Environmental Planning and Assessment Regulation 2021 (EP&amp;A Regulation)</i>			
clause 61(1)	In determining a development application for the demolition of a building, the consent authority must consider Australian Standard 2601-2001: <i>The Demolition of Structures</i> . Any demolition of buildings would be carried out having regard to this standard.	Section 3.8	✓
clause 61(3)(b)(i)	For certain development (including State Significant Development) on land less than 200 km from the Siding Springs Observatory, the consent authority must consider the requirements of the <i>Dark Sky Planning Guideline</i> (DPE, 2023a).	Section 6.15	✓
clause 98	<p>Clause 98 provides for the circumstances in which a modification application may be made.</p> <p>Clause 98(3) relevantly provides that the consent of the owner of the land is not required for a modification application for "public notification development", if the applicant complies with clauses (4) and (5).</p> <p>On the basis that the Modification is a modification application for "public notification development", WCPL will comply with the public notification requirements in clauses (4) and (5).</p> <p>With respect to clause 98(6), the Wilpinjong Coal Mine incorporating the Modification does not relate to land owned by a Local Aboriginal Land Council.</p>	-	✓
clauses 99 and 100	<p>Clauses 99 and 100 of the EP&amp;A Regulation provide for the making and content of a modification application. With respect to these two clauses, this Modification application:</p> <ul style="list-style-type: none"> <li>• contains the information required by the EP&amp;A Act and EP&amp;A Regulation;</li> <li>• has been prepared in consideration of <i>State Significant Development Guidelines</i> (Department of Planning Housing and Infrastructure, 2024a), in particular <i>Appendix E – preparing a modification report</i> (DPE, 2022a);</li> <li>• contains the information required by clause 100, including the information identified in clause (1)(a) to (c), a description of the Modification, a description of the intended effect of the Modification and a description of the expected impacts of the Modification;</li> <li>• gives an undertaking here that the modified development will remain substantially the same as the development originally approved (refer to section 4.1.1 above); and</li> <li>• is accompanied by a Biodiversity Development Assessment Report (BDAR) detailing biodiversity credits information.</li> </ul>	<p>Sections 1 to 8 Appendices A to N</p> <p>Appendix F</p>	✓
clause 103	<p>Clause 103 of the EP&amp;A Regulation concerns applications to modify a development consent that relates to "mining or petroleum development" on certain land requiring a Gateway Certificate or Site Verification Certificate.</p> <p>WCPL has obtained a Site Verification Certificate for the Modification.</p>	Section 6.3 and Attachment 5.	✓
Division 2 of Part 5	Division 2 of Part 5 of the EP&A Regulation provides for the notification of modification applications. The consent authority is required to attend to the relevant public notice requirements in this Division.	-	-

**Table A2-1 (Continued)**  
**Summary Statutory Compliance for Key State Legislation**

Relevant Legislation or Instrument	Consideration / Pre-condition	Relevant Section in Modification Report	Modified Project Compliance Status
<i>Dams Safety Act 2015</i>			
section 48(4)	Before a consent authority modifies a development consent for the carrying out of any mining operations in a notification area of a declared dam, the consent authority must refer the application to Dams Safety NSW and take into consideration any matters that are raised by Dams Safety NSW within the prescribed period.	Sections 4.2 and 6	✓
<i>Mining Act 1992</i>			
section 380AA	An application for the modification of a 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.  Under the Modification, mining operations at the Wilpinjong Coal Mine would continue to occur within existing Mining Leases (MLs), and within MLA1. WCPL is the applicant for the Modification (Section 1.1) and also the current holder of relevant mining and exploration tenements.	Section 4.2	✓

**Table A2-2  
Summary Statutory Compliance for Other State Legislation**

Relevant Legislation or Instrument	Consideration	Relevant Section in Modification Report	Modified Project Compliance Status
<i>Biodiversity Conservation (Savings and Transitional) Regulation 2017 (BC(S&amp;T) Regulation)</i>			
sections 7.13-7.14	<p>Section 7.13 applies to certain applications for development consent (but not an application for development consent for State significant development) and section 7.14 applies to certain applications for development consent for State significant development. These sections provide for how the relevant consent authority is to consider the impact of the proposed development on biodiversity values as assessed in a BDAR and regulate the determination of development applications.</p> <p>To the extent that these provisions are relevant to the Modification, WCPL considers that the consent authority can be satisfied that approval of the Modification is consistent with these provisions.</p>	Section 6.9 and Appendix F	✓
section 7.16	<p>Section 7.16 provides for the determination of development applications where the relevant consent authority is of the opinion that the proposed development is likely to have "serious and irreversible impacts on biodiversity values".</p> <p>In this regard and as assessed in the BDAR, WCPL considers that the consent authority can be satisfied that:</p> <ul style="list-style-type: none"> <li>• the impact on threatened species and communities resulting from the Modification would not constitute a Serious and Irreversible Impact (SAIL); and</li> <li>• the cumulative impact on threatened species and communities resulting from carrying out the overall Wilpinjong Coal Mine as proposed to be modified (including previous disturbance) would not / is not likely to constitute a SAIL.</li> </ul>	Section 6.9 and Appendix F	✓
<i>Crown Land Management Act 2016</i>			
sections 5.3 and 5.21	<p>Under sections 5.3 and 5.21 of the <i>Crown Land Management Act 2016</i>, a Crown licence can authorise the use or occupation of Crown Land for various purposes. WCPL may obtain such a Licence, if necessary, following detailed engineering design of supporting infrastructure.</p>	Section 4.2	✓
<i>Protection of the Environment Operations Act 1997 (PoEO Act)</i>			
section 43	<p>The Wilpinjong Coal Mine currently operates under Environmental Protection Licence (EPL) 12425, 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.</p> <p>It is anticipated that only minor changes to EPL 12425 would be required as a result of the Modification.</p>	Sections 4.2, 6.4 to 6.8	✓

**Table A2-2 (Continued)**  
**Summary Statutory Compliance for Other State Legislation**

Relevant Legislation or Instrument	Consideration	Relevant Section in Modification Report	Modified Project Compliance Status
<i>Water Management Act 2000</i>			
Part 2 of Chapter 3 (Access licences)	WCPL holds appropriate licences under the <i>Water Management Act 2000</i> for the existing activities at the Wilpinjong Coal Mine, and the proposed Modification. Appropriate licences under the <i>Water Management Act 2000</i> would continue to be held, or where necessary obtained via purchase or trade according to the operating rules of the water market.	Sections 6.7, 6.8 and Appendices D and E	✓
Part 3 of Chapter 3 (Approvals)	In addition to relying on licences to account for the licensable take of water associated with the Wilpinjong Coal Mine, WCPL would apply for any approvals under the <i>Water Management Act 2000</i> which may be required for the Modification.	Sections 6.7, 6.8 and Appendices D and E	✓

**Table A2-3  
Summary Statutory Compliance for Environmental Planning Instruments**

Relevant Legislation or Instrument	Consideration/Pre-condition	Relevant Section in Modification Report	Modified Project Compliance Status
<i>State Environmental Planning Policy (Planning Systems) 2021 (Planning Systems SEPP)</i>			
clause 2.6	<p>Clause 2.6 declares certain development to be State significant development for the purposes of the EP&amp;A Act.</p> <p>To the extent that clause 2.6 is relevant to this Modification application, clause 2.6(1) (in conjunction with clause 5 in Schedule 1 to the Planning Systems SEPP) provides that development for the purpose of coal mining is declared to be State significant development if the development is not permissible without development consent.</p>	-	-
clause 2.7	<p>Clause 2.7(3) provides for the Independent Planning Commission to be the declared consent authority for certain applications to modify a development consent for State significant development, if the application is made by a person who has disclosed a "reportable political donation" under section 10.4 of the EP&amp;A Act in connection with the modification application.</p> <p>In this respect, this Modification application is not made by a person who has disclosed a reportable political donation.</p> <p>It is noted that as the original development consent was granted by the NSW Planning Assessment Commission as a delegate of the NSW Minister for Planning, and the consent authority for this Modification application is the NSW Minister for Planning and Public Spaces, or Delegate.</p>	-	✓
<i>State Environmental Planning Policy (Resources and Energy) 2021 (Resources and Energy SEPP)</i>			
clause 2.1	<p>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:</p> <ul style="list-style-type: none"> <li>• 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;</li> <li>• to facilitate the orderly and economic use and development of land containing mineral, petroleum and extractive material resources;</li> <li>• to promote the development of significant mineral resources; and</li> <li>• 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.</li> </ul> <p>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 4.1.2 with respect to the objects of the EP&amp;A Act.</p>	Section 4.1.2	✓
clause 2.9	<p>Clause 2.9(1)(b) provides that development for the purpose of mining carried out on land where agriculture or industry may be carried out (with or without development consent), may be carried out with development consent.</p> <p>To the extent that the provisions in the Resources and Energy SEPP and Mid-Western Regional LEP relating to the permissibility of proposed development are relevant to determining this proposed modification of development which is already authorised by Development Consent (SSD-6764), WCPL considers that the consent authority can be satisfied that the Modification is consistent with these provisions.</p>	Section 4.3.1	✓

**Table A2-3 (Continued)**  
**Summary Statutory Compliance for Environmental Planning Instruments**

Relevant Legislation or Instrument	Consideration/Pre-condition	Relevant Section in Modification Report	Modified Project Compliance Status
<p><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></p>			
<p>clause 2.16</p>	<p>Clause 2.16 provides various non-discretionary development standards for mining. In this regard, it is noted that:</p> <p>The Modification would not result in exceedances of the cumulative noise level, airblast overpressure, or ground vibration standards (i.e. the non-discretionary development standards listed under clause 2.16[3] and [5] to [6]) at any private receivers without existing noise agreements. One private receiver with an existing negotiated noise agreement would exceed the cumulative noise level due to the Wilpinjong Coal Mine incorporating the Modification.</p> <p>The Modification would not result in exceedances of the cumulative annual average criteria for PM<sub>10</sub> or PM<sub>2.5</sub> at a privately owned dwelling.</p> <p>The minimal impact considerations in the <i>NSW Aquifer Interference Policy</i> (NSW Government, 2012) were considered in the Groundwater Assessment (Appendix D).</p>	<p>Section 6.4 Appendix A</p> <p>Section 6.6 Appendix B</p> <p>Sections 6.7 Appendix D</p>	<p>✓</p>
<p>clause 2.17</p>	<p>Before determining an application for consent for the purposes of mining the consent authority must:</p> <p>(a) consider –</p> <p>(i) the existing uses and approved uses of land in the vicinity of the development, and</p> <p>(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</p> <p>(iii) any ways in which the development may be incompatible with any of those existing, approved or likely preferred uses, and</p> <p>(b) evaluate and compare the respective public benefits of the development and the land uses referred to in paragraph (a)(i) and (ii), and</p> <p>(c) evaluate any measures proposed by the applicant to avoid or minimise any incompatibility, as referred to in paragraph (a)(iii).</p> <p>Land use in the vicinity of the Wilpinjong Coal Mine is generally characterised by a combination of coal mining, agricultural land uses, rural residential, plus large tracts of reserved lands and crown lands.</p> <p>Open cut mining in the Pit 8 Extension area is a logical extension of the existing mine and operations would continue to be located to the south of the Sandy Hollow-Gulgong Railway and within the existing WCPL MLs and Exploration Licence (EL) 9399 (MLA1). The Pit 8 Extension is located on lands zoned RU1 (Primary Production), R5 (Large Lot Residential) and SP2 (Infrastructure) under the Mid-Western Regional LEP, consistent with the approved Pit 8. Proximal lands also include land zoned C3 (Environmental Management) associated with elevated ridges of Crown Land and RU5 (Village) associated with Wollar under the Mid-Western Regional LEP. It is noted the RU5 zoned land to the south of the Pit 8 Extension is effectively controlled by WCPL, with one private landholding currently remaining within Wollar (dwelling currently unoccupied).</p> <p>Mining of the proposed Pit 8 Extension would be a temporary activity and could be conducted within the approved life of the Wilpinjong Coal Mine, with operations to extend into the first half of 2034 for infilling the mine void and landform shaping. Accordingly, the Wilpinjong Coal Mine incorporating the Modification (namely an open cut coal mine that would be rehabilitated to primarily conservation final land uses) is considered to be compatible with existing and approved uses of land. The Wilpinjong Coal Mine incorporating the Modification is also considered to be compatible with the likely preferred uses of land in the vicinity of the mine site (having regard to the existing and proposed environmental management measures to be implemented by WCPL).</p>	<p>Sections 6 and 7</p>	<p>✓</p>

**Table A2-3 (Continued)**  
**Summary Statutory Compliance for Environmental Planning Instruments**

Relevant Legislation or Instrument	Consideration/Pre-condition	Relevant Section in Modification Report	Modified Project Compliance Status
clause 2.18	<p>Clause 2.18 requires consideration of the <i>Voluntary Land Acquisition and Mitigation Policy</i> (VLAMP) (NSW Government, 2018a). Before determining an application to modify a development consent for SSD for the purposes of mining, the consent authority must consider:</p> <p>(a) any applicable provisions of the policy for the mitigation or avoidance of noise or particulate matter impacts outside the land on which the development is to be carried out, and</p> <p>(b) any applicable provisions of the policy relating to the developer making an offer to acquire land affected by those impacts.</p> <p>The Modification would result in exceedances of the applicable VLAMP criteria for operational noise at three privately-owned residences the subject of existing negotiated noise agreements with WCPL. Two of these receivers are also afforded acquisition rights in accordance with Development Consent (SSD-6764).</p>	Sections 6.4 and 6.6 Appendices A and B	✓
clause 2.19	<p>Before determining an application for consent for development to which clause 2.19 applies, 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.</p> <p>In this regard, the Wilpinjong Coal Mine incorporating the Modification would relinquish extraction of more than 7 Million tonnes (Mt) of run-of-mine (ROM) coal within the approved surface development plan (i.e. associated with the proposed Cumbo Creek and Rocky Hill complex mine exclusion areas) and would add approximately 14 Mt of ROM coal in the proposed Pit 8 Extension area. The proposed Pit 8 Extension would therefore compensate for the loss of Cumbo Creek and Rocky Hill ROM coal reserves and act to reduce the natural rate of workforce decline at the Wilpinjong Coal Mine for the ongoing benefit of WCPL, employees, contractors and the regional community (Section 2.3). Accordingly, no additional measures to avoid or minimise incompatibility with existing and approved surrounding land uses are considered to be required.</p>	-	✓
clause 2.20	<p>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 ensuring that the development is undertaken in an environmentally responsible manner, including conditions to ensure the following:</p> <p>(a) that impacts on significant water resources, including surface and groundwater resources, are avoided, or are minimised to the greatest extent practicable,</p>	Sections 6.7 and 6.8. Appendices D and E	✓

**Table A2-3 (Continued)**  
**Summary Statutory Compliance for Environmental Planning Instruments**

Relevant Legislation or Instrument	Consideration/Pre-condition	Relevant Section in Modification Report	Modified Project Compliance Status
clause 2.20 (Cont.)	<i>(b) that impacts on threatened species and biodiversity, are avoided, or are minimised to the greatest extent practicable,</i>	Sections 6.9 and 6.10 Appendices F and G	✓
	<i>(c) 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.	Section 6.11 Appendix C	
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, refer to the response above to clause 2.19.	Sections 2 and 3	✓
clause 2.22	Before granting consent for development for the purposes of mining or extractive industry that involves the transport of materials, the consent authority must consider whether or not the consent should be issued subject to certain conditions.  If the consent authority considers that the development involves the transport of materials on a public road, the consent authority must, within 7 days after receiving the development application, provide a copy of the application to each roads authority for the road, and the Roads and Traffic Authority (now Transport for NSW [TfNSW]) (if it is not a roads authority for the road).  The consent authority must not determine the application until it has taken into consideration any submissions that it receives in response from any roads authority or the Roads and Traffic Authority (now TfNSW) within 21 days after they were provided with a copy of the application, and must provide them with a copy of the determination.	Section 6.14 and Appendix J	-
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: <ul style="list-style-type: none"> <li><i>(a) require the preparation of a plan that identifies the proposed end use and landform of the land once rehabilitated, or</i></li> <li><i>(b) require waste generated by the development or the rehabilitation to be dealt with appropriately, or</i></li> <li><i>(c) 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></li> <li><i>(d) 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></li> </ul> WCPL would continue to progressively rehabilitate the Wilpinjong Coal Mine site in accordance with existing approvals and the approved Rehabilitation Management Plan and Rehabilitation Strategy. WCPL would review and revise the Rehabilitation Management Plan (or equivalent) to incorporate the Modification.	Sections 3.10 and 6.3	-

**Table A2-3 (Continued)**  
**Summary Statutory Compliance for Environmental Planning Instruments**

Relevant Legislation or Instrument	Consideration/Pre-condition	Relevant Section in Modification Report	Modified Project Compliance Status
<i>State Environmental Planning Policy (Resilience and Hazards) 2021 (Resilience and Hazards SEPP)</i>			
clause 3.12	<p>Chapter 3 of the Resilience and Hazards SEPP concerns hazardous and offensive development.</p> <p>In determining an application to carry out development to which Part 3 of the Resilience and Hazards SEPP applies, a consent authority must consider current circulars or guidelines published by the DPHI 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 (in the case of development for the purpose of a potentially hazardous industry), feasible alternatives to the development and likely future use of surrounding land.</p> <p>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.</p> <p>Hazardous materials associated with the Modification and associated continuation of mining operations would continue to be managed in accordance with Development Consent (SSD-6764) as proposed to be modified by this Modification and approved management plans.</p>	-	✓
clause 4.6	<p>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:</p> <p><b>4.6 Contamination and remediation to be considered in determining development application</b></p> <p>(1) A consent authority must not consent to the carrying out of any development on land unless—</p> <p>(a) it has considered whether the land is contaminated, and</p> <p>(b) 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</p> <p>(c) 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.</p> <p>(2) 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.</p> <p>The Modification would involve change of use of the land specified in clause 4.6(4) with respect to the MLA1 area.</p> <p>JBS&amp;G Australia Pty Ltd (2025) has prepared a “Stage 1 Preliminary Investigation” Land Contamination Assessment (Appendix N) in accordance with <i>State Environmental Planning Policy No 55 – Remediation of Land</i> for the Modification which included a desktop review of previous land uses and aerial photographs, followed by a site inspection. JBS&amp;G Australia Pty Ltd (2025) concluded that the site was suitable for the proposed land use with the implementation of appropriate mitigation measures.</p> <p>To the extent that clause 4.6 is relevant to the Modification application, the consent authority can be satisfied that the mine site (as proposed to be modified) is suitable for the purpose of the Wilpinjong Coal Mine incorporating the Modification.</p>	Section 6.3 and Appendix N	✓

**Table A2-3 (Continued)**  
**Summary Statutory Compliance for Environmental Planning Instruments**

Relevant Legislation or Instrument	Consideration/Pre-condition	Relevant Section in Modification Report	Modified Project Compliance Status
<i>State Environmental Planning Policy (Biodiversity and Conservation) 2021</i>			
Chapter 3	<p>Chapter 3 (Koala habitat protection 2020) relevantly applies to land zoned RU1 Primary Production in the Mid-Western Regional LEP (see clause 3.3). There is land associated with the Development Footprint that is zoned RU1 Primary Production.</p> <p>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.</p> <p>Koala have not been previously recorded at the Wilpinjong Coal Mine, but one was sighted on one occasion in 2013 along Wollar Road (Appendix F). Based on the dearth of sightings in the immediate and surrounding area, it is unlikely that a viable population exists in or near Wilpinjong Coal Mine and that the single Koala sighted in 2013 was an individual moving between areas. There is no evidence of Koala breeding within the locality.</p> <p>Extensive surveys between 2022 and 2024 showed no sign of Koalas using, or had used, the potential habitat in the Development Footprint, however, possible scratches were found on a Grey Gum, along with possible scats underneath the tree, approximately 1.1 km north of the Development Footprint in September 2022 (Appendix F). The potential habitat as defined under the Biodiversity and Conservation SEPP (Koala Habitat Protection 2020) is not connected due to fragmentation and past land clearing.</p> <p>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.</p>	Section 6.9 and Appendix F	✓
Chapter 4	<p>Chapter 4 (Koala habitat protection 2021) relevantly applies to certain land not zoned RU1 Primary Production in the Mid-Western Regional LEP (see clause 4.4)</p> <p>Part 4.2 in Chapter 4 provides for development control of koala habitats in relation to the determination of a development application by a local council.</p> <p>Koala have not been previously recorded at the Wilpinjong Coal Mine, but one was sighted on one occasion in 2013 along Wollar Road (Appendix F). Based on the dearth of sightings in the immediate and surrounding area, it is unlikely that a viable population exists in or near Wilpinjong Coal Mine and that the single Koala sighted in 2013 was an individual moving between areas. There is no evidence of Koala breeding within the locality.</p> <p>Extensive surveys between 2022 and 2024 showed no sign of Koalas using, or had used, the potential habitat in the Development Footprint, however, possible scratches were found on a Grey Gum, along with possible scats underneath the tree, approximately 1.1 km north of the Development Footprint in September 2022 (Appendix F). The potential habitat as defined under the Biodiversity and Conservation SEPP (Koala Habitat Protection 2021) is not connected due to fragmentation and past land clearing.</p> <p>To the extent that Chapter 4 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.</p>	Section 6.9 and Appendix F	✓

**Table A2-3 (Continued)**  
**Summary Statutory Compliance for Environmental Planning Instruments**

Relevant Legislation or Instrument	Consideration/Pre-condition	Relevant Section in Modification Report	Modified Project Compliance Status
<i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i>			
Clause 2.48	<p>Clause 2.48 relates to certain development likely to affect an electricity transmission or distribution network.</p> <p>It is noted that the Wilpinjong Coal Mine is traversed by an existing high-voltage 330 kilovolt (kV) Electricity Transmission Line (previously relocated to allow Pit 8 to be developed) and construction of the EnergyCo Transmission Project will establish a further two 550 kV Electricity Transmission Lines through the mine site. The Modification would also require some further relocation of minor local electricity transmission infrastructure (i.e. various local 11 kV and 22 kV transmission lines as managed by Essential Energy).</p> <p>If clause 2.48 applies to this Modification application (see sub-clause (1)), the consent authority must comply with the notification related obligations in sub-clause (2).</p>	-	✓
Clause 2.99	<p>Clause 2.99 applies to certain development relating to excavation in, above, below or adjacent to rail corridors, and regulates the determination of development applications for development to which the clause applies (see subclauses (2)-(5)).</p> <p>To the extent that clause 2.99 is relevant to the Modification and the continuing interaction of the Wilpinjong Coal Mine with the Sandy Hollow-Gulgong Railway, the consent authority can be satisfied that the Modification will not have any unacceptable impacts on this rail corridor.</p>	-	✓
Clause 2.118	<p>Clause 2.118 relates to development on proposed classified roads.</p> <p>WCPL notes that the development of the Wilpinjong Coal Mine (e.g. the construction of the relocated Ulan-Wollar Road) may result in some interaction with land that may potentially be reserved by TfNSW for a Classified Road (i.e. public road network upgrades may occur within the Central-West Orana REZ over the life of the Wilpinjong Coal Mine to assist with the transport of oversize overmass [OSOM] loads to renewables projects).</p> <p>If clause 2.118 applies to this Modification application, the consent authority must comply with the notification related obligations in sub-clause (2).</p>	Appendix J	✓
Clause 2.141	<p>Clause 2.141 (6) relates to development for the purposes of an underground telecommunications network cable.</p> <p>WCPL notes that the development of the Modification would require the relocation of existing Telstra underground telecommunications associated with the current alignment of Ulan-Wollar Road to facilitate the proposed Pit 8 Extension.</p> <p>If clause 2.141 applies to this Modification application, the person relocating the network cable (i.e. Telstra) must comply with the notification related obligations in sub-clause (7).</p>	-	✓

**Table A2-3 (Continued)**  
**Summary Statutory Compliance for Environmental Planning Instruments**

Relevant Legislation or Instrument	Consideration/Pre-condition	Relevant Section in Modification Report	Modified Project Compliance Status
<i>Mid-Western Regional LEP</i>			
clause 2.3	If applicable, a consent authority must have regard to the objectives for development in a zone when determining a development application in respect of land within the zone.	Section 4.3	✓
clause 5.10(4)	If applicable, a consent authority must, before granting consent under this clause in respect of a heritage item or heritage conservation area, consider the effect of the proposed development on the heritage significance of the item or area concerned.	Sections 6.12 and 6.13 and Appendices H and I	✓
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 6.12 and Appendix H	✓
clause 6.1(2)	If applicable, a consent authority must, before granting consent under clause 6.1 to the carrying out of development that is subject to salinity or may affect the process of salinisation, consider the effect of a proposed development on the salinity processes on the land, whether salinity would have an impact on the development and any appropriate measures to minimise or mitigate impacts.	Sections 6.7 and 6.8 and Appendices D and E	✓
clause 6.3(3)	If applicable, a consent authority must, before granting development consent for earthworks, consider the effect of proposed earthworks on drainage patterns, soil stability, quality of fill, likely amenity impacts, likelihood of disturbing relics and proximity to and potential impacts on water courses.	Sections 6.7, 6.8, 6.12 and 6.13 and Appendices D, E, H and I	✓
clause 6.4(3)	If applicable, a consent authority must, before granting development consent for development on land identified as vulnerable, consider the likelihood of groundwater contamination, adverse impacts on groundwater dependent ecosystems, cumulative effects and appropriate measures to avoid, minimise or mitigate the impacts of the development.	Sections 6.8 and Section 6.10 and Appendices D and G	✓
clause 6.5(3)	If applicable, a consent authority must, before granting development consent for development on land identified as moderate biodiversity sensitivity or high biodiversity sensitivity consider the likely adverse impacts on biodiversity values and appropriate measures to avoid, minimise or mitigate the impacts of the development.	Sections 6.9 and 6.10 and Appendices F and G	✓
<i>Development Control Plan 2013 (Mid-Western Regional DCP) It is noted that this Plan is not an environmental planning instrument.</i>			
<p>The Mid-Western Regional DCP applies to all land within the Mid-Western Regional LEP and comprises 8 parts and 5 appendices, including various parts which are not relevant to the Modification. The Mid-Western Regional DCP does not include a part or section which specifically addresses coal mining development.</p> <p>Pursuant to section 3.43(5) of the EP&amp;A Act, any provision of the Mid-Western Regional DCP which is inconsistent or incompatible with a provision of an applicable environmental planning instrument has no effect.</p> <p>To the extent that the Mid-Western Regional DCP contains content which is potentially relevant to the consent authority's determination of the Modification, the consent authority can be satisfied that the development as proposed to be modified is generally consistent with the Mid-Western Regional DCP and its objectives (including its environmental management related objectives).</p>		-	✓