

## **SUBMISSION — ULAN COAL MINE AMENDED MODIFICATION 6 (Revised)**

Thank you for the opportunity to make a submission in relation to the Ulan Coal Mine Amended Modification 6.

I am a former resident of Bylong, NSW, having lived there from 2001 until 2016. During that period, I witnessed the inception and subsequent development of both the Moolarben mine and the neighbouring Wilpinjung mine, and became increasingly aware of mining activities at Ulan and their impacts on the surrounding landscape and communities.

I now own property in Kandos and continue to observe developments associated with coal mining and other large-scale infrastructure in the region. I have also taken a close interest in planning and land-use issues associated with the Central West–Orana Renewable Energy Zone.

I am opposed to the amended proposal.

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### **Submission structure**

This submission is structured in two parts.

**Part A** addresses the decision-making considerations under s 4.15(1)(a)–(e) of the Environmental Planning and Assessment Act 1979, as applied by s 4.55. It considers a range of matters including environmental impacts, threatened species and biodiversity, water resources, climate change, Aboriginal cultural heritage, cumulative impacts, site suitability and the public interest.

Within each issue, short subsections address:

- the nature and extent of impacts arising from the amended proposal;
- whether those impacts can be avoided, minimised or mitigated;
- the residual impacts likely to remain if the amended proposal were approved; and
- the implications of those residual impacts for the overall planning balance and public interest.

**Part B** provides more detailed commentary on whether the combined effect of Modification 6 and the proposed Modification 8 should be assessed as a single new project, rather than in isolation as separate modifications under s 4.55.

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### **PART A — KEY ISSUES**

#### **1. Environmental impacts and ecologically sustainable development**

*s 4.15(1)(b) — significant likely impacts; s 4.15(1)(e) — public interest (ESD)*

##### **Nature and extent of impacts**

The amended proposal would extend underground coal mining at Ulan to 2035 and facilitate a substantially larger future expansion under the foreshadowed Modification 8. Read together,

Modification 6 and Modification 8 would extend both the scale and duration of impacts associated with the Ulan Coal Complex beyond those assessed for the currently approved operations.

These impacts include effects on native vegetation, threatened species habitat, groundwater systems, Aboriginal cultural heritage and greenhouse gas emissions. Although presented as a modification, the amended proposal involves a material extension of mining activity, with impacts extending beyond the immediate project footprint through subsidence, additional surface infrastructure, altered hydrological regimes and downstream greenhouse gas emissions.

### **Residual impacts**

Many of these impacts are irreversible or long-term in nature, including permanent vegetation loss, habitat fragmentation, groundwater disruption and increased cumulative emissions. They arise in the context of an extension of a finite, export-focused operation, the benefits of which are time-limited when compared with the permanence of many of the environmental effects identified.

### **Planning consequence**

Given the scale of impacts, their longevity and the uncertainty associated with mitigation and recovery, the precautionary principle is directly engaged. These considerations weigh against approval in the overall planning balance.

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## **2. Characterisation of the proposal: modification or new project**

*s 4.55; s 4.15(1)(e) — public interest*

### **Nature of the issue**

The amended proposal is advanced as a modification under s 4.55 of the Act. However, Modification 6 must be considered in the context of its acknowledged interdependence with the proposed Modification 8.

Modification 6 does not operate as a self-contained change to an existing approval. Instead, it extends mine life, finalises infrastructure placement and establishes the operational and spatial preconditions necessary for Modification 8 to proceed.

### **Substance over form**

When Modification 6 is considered together with Modification 8, the combined outcome involves a material change in the scale, duration and cumulative impacts of mining at Ulan, including impacts on biodiversity, water resources, climate change and Aboriginal cultural heritage.

Viewed in combination, the proposals raise a real question as to whether they remain within the scope of what was originally approved, or instead amount in substance to a new project.

### **Procedural consequences**

Proceeding by way of successive modification applications necessarily narrows the assessment task to discrete components of what is, in practical terms, a continuing development program.

It also limits the opportunity for the combined proposal to be considered through assessment pathways that may otherwise apply to a new project. This has implications for transparency, public participation and the integrity of the assessment process.

### **Planning consequence**

Whether the amended proposal has been correctly characterised under s 4.55 goes directly to the public interest under s 4.15(1)(e), as it determines the scope and rigour of the assessment framework applied. In circumstances where Modification 6 is closely linked to a further life-extension proposal, careful consideration of its characterisation is necessary to ensure that assessment is commensurate with the scale and implications of what is being proposed. Further consideration of this issue is provided in Part B of this submission.

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### **3. Threatened species and biodiversity**

#### *s 4.15(1)(b) — significant likely impacts*

The amended proposal would affect threatened species and ecological communities through vegetation clearance, subsidence effects, habitat fragmentation and disturbance associated with additional surface infrastructure.

These impacts occur within a broader regional context of cumulative habitat loss arising from multiple coal mining operations. The assessment material does not undertake a consolidated evaluation of whether cumulative impacts on threatened species and ecological communities, assessed at a landscape scale, approach thresholds of serious or irreversible impact.

The residual biodiversity impacts weigh against approval.

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### **4. Water resources and groundwater**

#### *s 4.15(1)(b) — significant likely impacts*

The amended proposal would result in subsidence and groundwater drawdown, altering aquifer connectivity, baseflows to creeks and surface–groundwater interactions, against a background of existing hydrological stress in the Talbragar River catchment.

Cumulative impacts on surface water and groundwater systems, including downstream Murray–Darling Basin values, are not adequately assessed in an integrated way.

These unresolved and potentially irreversible impacts weigh against approval.

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### **5. Climate change and greenhouse gas emissions**

#### *s 4.15(1)(b); s 4.15(1)(e)*

The amended proposal would facilitate additional coal extraction and associated greenhouse gas emissions, predominantly from downstream combustion, together with fugitive methane and on-site emissions. The Amended Assessment Report for Modification 6 was prepared to address a specific deficiency identified by the Court in relation to s 4.15(1)(b): the absence of express consideration of the likely impacts of climate change on the locality. In that narrow

sense, the amendment amounts to a procedural correction. It now includes a discrete discussion of projected climate change impacts for the Central West and Orana region and identifies how those impacts may manifest for local environmental and land-use receptors.

However, the treatment remains tightly framed and largely descriptive. The discussion does not meaningfully interrogate how those localised climate change impacts interact with the extended life of the mine, nor does it revisit the overall balancing exercise required under s 4.15 in light of a development extending well into the 2030s and beyond. It consequentially fails altogether to translate the modelled changes into social and economic impacts.

While the amended material may formally respond to the specific deficiency identified by the Court, it does so in a limited way and does not materially broaden the assessment of local climate change impacts as part of a holistic evaluation of the proposal.

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## **6. Aboriginal cultural heritage**

s 4.15(1)(b)

The amended proposal would adversely affect Aboriginal cultural heritage values associated with long-standing Wiradjuri connection to Country. There is no adequate assessment of cumulative heritage loss arising from Modification 6 in combination with Modification 8 and other regional mining activities.

These impacts cannot be fully mitigated and weigh against approval.

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## **7. Cumulative impacts**

s 4.15(1)(b)

The amended proposal must be considered alongside existing and proposed expansions at Ulan, Moolarben and Wilpinjung. The assessment material does not present a single, integrated evaluation of cumulative impacts across these developments.

The Amended Assessment Report for Modification 6 illustrates the risks of fragmented assessment, in that it addresses discrete surface infrastructure refinements and a narrowly framed climate change assessment, while leaving unexamined the broader implications of successive life-extension modifications and expansion into new tenement areas when viewed as a combined program.

This fragmentation increases the risk that cumulative impacts — including subsidence effects, groundwater drawdown, biodiversity loss, noise, air quality, greenhouse gas emissions and socio-economic effects — are understated.

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## **8. Suitability of the site**

s 4.15(1)(c)

The mine is located within the Central West–Orana Renewable Energy Zone, where strategic planning priorities emphasise economic transition and alternative land uses. Continued coal

expansion at this site is poorly aligned with those priorities and raises questions about long-term site suitability.

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## **9. Public interest and economic considerations**

s 4.15(1)(b); s 4.15(1)(e)

No clear regional employment or economic need for the amended proposal has been demonstrated. Environmental, cultural and climate costs are borne locally and at broader scales, while economic benefits are time-limited and largely export-oriented.

On balance, the amended proposal does not demonstrate a net public benefit.

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## **10. Overall planning balance**

s 4.15(1)(e)

When the matters under s 4.15(1)(a)–(d) are considered cumulatively, the amended proposal would result in significant residual impacts that are not clearly outweighed by the benefits claimed.

In these circumstances, the amended proposal does not sit comfortably with the public interest.

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## **PART B — WHETHER MODIFICATION 6 AND MODIFICATION 8 SHOULD BE ASSESSED AS A SINGLE NEW PROJECT**

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### **1. Summary**

Modification 6 and Modification 8 are presented as separate applications under s 4.55(2) on the basis that each is “substantially the same development” as the approved project.

Read together, however, the Modification Reports describe these proposals as sequential components of a continuing program that extends mining activity well beyond the previously approved end date and into the 2040s. Assessment of these proposals in isolation risks fragmenting decision-making and understating their combined consequences.

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### **2. The “substantially the same development” requirement warrants close examination**

The “substantially the same development” test in s 4.55(2) is a substantive statutory threshold that must be examined, not assumed. When Modification 6 and Modification 8 are viewed together, a reasonable question arises as to whether the combined effect remains within the development envelope originally approved.

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### **3. Extension of mine life and alteration of the approval envelope**

Modification 6 and Modification 8 together do more than extend the operational life of the Ulan Coal Complex. They progressively expand the spatial and regulatory envelope within which mining is proposed to occur, including into areas that are not presently subject to a granted mining lease and have not previously formed part of the approved project footprint.

Modification 6 extends mine life to 2035 and proposes an expansion of the Project Approval Boundary to include land within Exploration Licence EL 7542. The Modification Report acknowledges that part of the proposal would require conversion from an exploration licence to a mining lease.

The Schedule of Lands accompanying the Amended Modification 6 confirms that the project area comprises a mixture of mining leasehold land, UCMPL-owned land, leased land, private land and Crown land. While the Schedule does not quantify the extent of land by tenure or present this information spatially, it confirms that Modification 6 relies on a broader land footprint than existing mining leases alone.

Modification 8 goes further, proposing an expansion of the Project Approval Boundary by approximately 1,743 hectares and mining within land currently held under exploration licences that would require the grant of new mining leases.

When the Schedule of Lands for Modification 6 and Modification 8 are read together, they demonstrate that successive modifications progressively expand the Project Approval Boundary across land of multiple tenure types, including land not currently subject to a mining lease. While the schedules do not provide a consolidated spatial or quantitative analysis, they confirm that the combined program is not confined to an existing approval or mining lease envelope, reinforcing the need for close scrutiny of whether the proposals remain “substantially the same development” when viewed as a whole.

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### **4. Operational interdependence of Modification 6 and Modification 8**

Both Modification Reports describe the proposals as extensions intended to optimise the use of existing infrastructure and facilities. Each emphasises continued reliance on the existing CHPP, rail loading facilities, workforce and operational regime over the extended life of the mine.

This framing, as presented by the proponent, underscores that Modification 6 and Modification 8 are not independent or self-contained proposals in practical terms. Importantly, however, rather than supporting treatment of the proposals as discrete modifications on a single continuation pathway, the highlighted interdependency points in the opposite direction: it heightens the need for the proposals to be scrutinised together, including whether their combined effect is more appropriately characterised as a new development requiring assessment on that basis.

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### **5. Risk of fragmented assessment and understatement of cumulative impacts**

The issue raised by the combined Modifications is not merely one of form. It bears directly on the risk that successive life-extension proposals, each assessed in isolation, obscure the scale, duration and consequences of what is, in effect, a materially extended mining project.

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## **6. Appropriate assessment approach**

Given the combined scale, duration and physical extent of Modification 6 and Modification 8, the appropriate and transparent approach would be to assess them together as a single new project.

If that approach is not adopted, an equivalent integrated assessment should be required that:

- a. describes the combined program as a single development envelope;
- b. assesses impacts consistently across the combined timeframe; and
- c. demonstrates, with clear reasons, how the combined program satisfies the “substantially the same development” test when viewed as a whole.