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Department of Planning, Housing and Infrastructure  
Through the Major Projects Portal

**Modification 8 - Extension of mine life - Mt Pleasant - DA92/97-Mod-8**

Thank you for the opportunity to make a submission on this modification application. Lock the Gate Alliance is a network of more than 120,000 farmers, Traditional Owners, conservationists and community members from across Australia, affected by and concerned about the impacts of coal and unconventional gas mining. We live and work in the communities affected by these industries and undertake research, advocacy and support to protect the environment, cultural heritage and society from damage. Many of our members are regionally-based, and are also experiencing first-hand the consequences of global warming.

We note from the outset that we object to this application and we do not consider the development as proposed to be substantially the same development as DA92/97, as modified by Modification 4. Modification 4 constrained the degree and duration of mining at the Mount Pleasant site compared to the original application, and as such, this application is a virtual doubling of the impacts of mining as it is legally consented under DA92/97. We attach advice obtained from the Environmental Defenders Office to the effect that the Department cannot reasonably be satisfied that Modification 8 is substantially the same as the original development, as is required by section 4.55(2)(a) *EPA Act* read together with the transitional provisions of s75W.

No modification of this scale has been assessed and approved by the Department in recent years and several new development applications have been lodged that have been smaller. We urge the Department to direct the proponent to lodge this application as a new DA.

**Summary**

- This application is not substantially the same development as DA92/97 Modification 4. It is twice the size, mining in a new pit and seeks access to 68 million tonnes of coal. The impacts it will have are substantial and must be assessed and determined as a new development application.
- The proponent has not complied with the Large Emitters Guide and is seeking approval for an extension of mining that will see absolute emissions in NSW and emissions intensity per tonne of production go up, year on year, out to 2030. This is wholly inconsistent with NSW's efforts to prevent dangerous climate change and with its statutory emissions reduction targets.

- This application will enable 108 million tonnes of downstream greenhouse gas emissions which will cause extensive and irreparable harm to the people, environment and economy of NSW, none of which is accurately or adequately described and explored in the assessment material.
- The proponent must provide an assessment of the social, environmental and economic impacts of climate change in the Hunter region, and accept its role in worsening these impacts.
- The social impact assessment makes plain the fear among many in the community of the cascading social impacts of not proceeding with this application, but fails to consider and describe the manner in which the structure and domination of the mining industry is contributing to disadvantage in Muswellbrook.
- Clearly, there will be serious local harm arising if the mine closes suddenly at the end of this year, but this is harm that can be mitigated with investment, care and commitment from the government and the mining company. The cascading harms of climate change, however, disproportionately accrue to young people and cannot be reversed. The SIA fails to carefully evaluate these very difficult competing claims.
- The project has been assessed using outdated meteorological data that does not account for the intensification of rainfall extremes that has already occurred as a result of climate change.

### **Modification 8 is not “substantially the same development”**

The activities proposed in Modification 8 modify the DA 92/97 development in such a way that it is not “substantially the same development” as the original consent or the consent as modified by Modification 4. We provide with this submission an advice from the Environmental Defenders Office examining this question in detail. This advice indicates that the Department cannot reasonably consider or approve this application as a modification under section 4.55(2) of the *Environment Planning and Assessment Act 1979*. We also provide some comment on this question below.

The Modification report outlines the following proposed *new* activities:

- An extension of permitted mining period until 31 December 2032;
- An increase in annual ROM coal production from 10.5Mtpa to 12.5Mtpa and access to an additional 68Mt of ROM coal, though it appears this volume could be far higher if the annual production levels are met;
- “Minor” additions to the DA 92/97 Development Application area “to be consistent with SSD 10418” Mount Pleasant Optimisation consent;<sup>1</sup>
- Increase of waste rock production from 31.5 million bank cubic metres per year under Mod 4 to 46.8 million bank cubic metres per year;
- Two interconnected voids, one in South Pit and one in North Pit;
- Larger landform than depicted in Figure 4 of Development Consent 92/97.

There is conflicting information in the application about the volume of ROM coal to be accessed, but assuming that the figure is 68 million tonnes, we note that this is greater than the volume sought by any modification before the Department in recent years, except initially for Boggabri Modification 8 which was dramatically revised down on amendment. The volume of coal proposed to be accessed is

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<sup>1</sup> Mount Pleasant Operation - Modification 8 - Modification Report, page 12.

more than twice the volume sought by the Moolarben OC3 development application, which is a development application that will be determined by the IPC. This development application should be referred to the IPC for decision, given the reasons above.

The Modification 4 consent defines “the development” as it is described in the documents listed in condition 2 of Schedule 2, “as modified by the conditions of this consent.” This means that while the Applicant must carry out the development “generally in accordance with the [Original] EIS” it must also do so in accordance with the Modification EAs and the project layout plans as set out in condition 2. These documents are not consistent with each other and so it is reasonable to rely on the most recent document where inconsistency arises between the original and its later modifications.

Among the project layout plans included in the consent is “Figure 1: Conceptual Project Layout Plan at 2021” showing active mining only in the south pit and the establishment of the mine infrastructure areas. Figure 2 is the “Conceptual Project Layout Plan at 2025” illustrating mining progressing in the south pit, while Figure 4, “Conceptual Final Landform 2026,” shows the entire south pit site as rehabilitated and the north pit area untouched. In sum, these figures describe mining operations proceeding in the south pit until this year, at which point they will be fully remediated. Therefore, “the development” against which this application is compared is physically constrained to the south pit and the infrastructure area and finally rehabilitated by this year.

Figure 3 of the Modification 4 consent, “Approved Surface Disturbance Plan” is a graphic depicting a much larger “disturbance area” taken from the original EIS, but does not alter the above specific requirements and constraints on the consent created by Modification 4. It appears from the context that this graphic is included to illustrate the location of infrastructure areas, since it is not labeled as a mine plan and is contradicted by the other figures.

As detailed in the attached advice, the legislative text, context and purpose indicates that Modification 4 is the development compared to which this application must be substantially the same. However, should the Department consider that the original development under the 1999 consent is the appropriate comparator, the Department will need to consider the Environmental Impact Statement for that project, including the environmental context in which it was approved. No aspect of the environmental context described in that EIS remains intact or unaltered. This means that the proposed modification cannot be substantially the same, regardless of its similarities of scale. A development does not exist in isolation from its environment but is inseparable from its context and circumstances, as has been established in case law. The environmental impact of an action is measured and evaluated within environmental context and the landscape, air quality, social milieu and atmospheric concentrations of greenhouse gases in which this modification would take place are so altered that it cannot be considered substantially the same development.

#### *Relevant legislation*

Section 4.55(2) of the *Environmental Planning and Assessment Act 1979* determines what the consent authority must be satisfied of, in order to modify a consent:

#### 4.55 Modification of consents—generally

(2) *A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if—*

*(a) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and...*"

The relevant test is whether the development proposed by the modification is substantially the same as the original development. Transitional provisions in clause 3BA(6), Schedule 2, *Environmental Planning and Assessment (Savings, Transitional and Other Provisions) Regulation 2017* (NSW) provides for the comparison to be with the development as last modified under section 75W *Environmental Planning and Assessment Act 1979*. Indeed, it states that the consent authority “*need only be satisfied that the development to which the consent as modified relates is substantially the same development as the development authorised by the consent.*” As the proponent describes, Modification 4 (Mod 4), was approved under s75W on 16 November 2018.

Existing case law provides guidance as to factors to be considered when determining whether a development proposed by a modification is “substantially the same development.” These include whether the “*modified development is “essentially or materially” the same as the (currently) approved development,*”<sup>2</sup> with “*an appreciation, qualitative, as well as quantitative, of the developments being compared in their proper contexts (including the circumstances in which the development consent was granted).*”<sup>3</sup> In addition, whilst the whole developments are to be compared, it is also acknowledged “*that fact does not eclipse or cause to be eclipsed a particular feature of the development, particularly if that feature is found to be important, material or essential.*”<sup>4</sup> Further, “*environmental impacts of proposed modifications to approved developments are relevant to the ultimate factual finding.*”<sup>5</sup>

There are several contextual considerations that are important.

#### *Climate Change (Net Zero Future) Act 2023*

The continuation of Mt Pleasant through the activities suggested in Mod 8 must be considered in the context of the NSW Government’s commitments to achieving net zero emissions through its *Climate Change (Net Zero Future) Act 2023* (NSW). When the Department considers whether or not the development as modified is substantially the same development as originally approved, it will need to consider the large increase in overall ROM coal production that would be enabled by this application and whether, comparing the context of this modification with Modification 4, the development is substantially the same.

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<sup>2</sup> *Moto Projects (No 2) Pty Ltd v North Sydney C* [1999] NSWLEC 280, 55.

<sup>3</sup> *Moto Projects (No 2) Pty Ltd v North Sydney C* [1999] NSWLEC 280, 56.

<sup>4</sup> *Moto Projects (No 2) Pty Ltd v North Sydney C* [1999] NSWLEC 280, 64.

<sup>5</sup> *Moto Projects (No 2) Pty Ltd v North Sydney C* [1999] NSWLEC 280, 62.

With this in mind, we note that approval of Modification 8 is inconsistent with the NSW Government's obligations under the *Net Zero Future Act* as interpreted by the Net Zero Commission, then authority created for the purpose of giving advice under that Act. The purpose of the *Net Zero Future Act* is to give effect to the international commitment established under the Paris Agreement to (a) hold the increase in the global average temperature to well before 2°C, to pursue efforts to limit the temperature increase to 1.5°C above pre-industrial levels and increase the ability to adapt to the adverse impacts of climate change. The *Net Zero Future Act* prevails to the extent of an inconsistency with another Act or law (as per section 7). Our expectation is that *any* new coal mining activity needs to take into account the NSW Government's commitment to a net zero future, and the impact of any future modification on these targets, particularly but not limited to when assessing the environmental impact of a modification that materially increases overall ROM production and increased local greenhouse gas emissions. Our expectation is consistent with recent findings by the Net Zero Commission. In its December 2025 report, *Coal Mining Emissions Spotlight Report*, the Commission found that, "continued extensions or expansions to coal mining in NSW are not consistent with the emissions reduction targets in the Climate Change Act or the Paris Agreement temperature goals it gives effect to." We are waiting for the government's response to this finding, but in the interim, it would be prudent for the Department to err on the side of not approving further extensions and expansions of coal mining.

#### *The International Court of Justice Advisory Opinion*

In addition, approving an extension and an intensification of mining at Mt Pleasant in terms of duration and annual and cumulative emissions is in direct contradiction with the duties that the NSW Government has, as a sub-national government, as per the recent Advisory Opinion of the International Court of Justice on the obligations of States in respect of Climate Change. The International Court of Justice Advisory Opinion has set out binding obligations in relation to climate change. This includes an obligation to prevent significant harm to the climate system, including through the continued approval of fossil fuel production, and to act with due diligence to avoid activities that will cause significant harm to the climate system. Australia is liable to pay damages to nation states who suffer disproportionately from climate harms if it commits an internationally wrongful act.<sup>6</sup> As an organ of the State, actions taken by NSW in approving further coal mining could constitute a wrongful act as per this Advisory Opinion.

#### *Ongoing High Court case*

As you are aware, the modification exists in the context of an existing legal challenge dealing with the approval of the Mount Pleasant Optimisation Project (SSD 10418) in the High Court of Australia. Community group Denman Aberdeen Muswellbrook Scone Healthy Environment Group Inc (DAMSHEG) won a landmark court case in the Supreme Court Court of Appeal in relation to the obligations of proponents to provide (and decision makers to consider) sufficient information in relation to climate impacts in the locality with respect to the Mount Pleasant Optimisation Project.

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<sup>6</sup> International Court of Justice Advisory Opinion on the Obligations of States in respect of Climate Change <https://icj-web.lemna.un-icc.cloud/sites/default/files/case-related/187/187-20250723-adv-01-00-en.pdf>

The proponent is challenging that decision on a number of grounds. The Mount Pleasant Optimisation Project was, appropriately, an entirely new development application for a new mining project that required approval. Modification 8 is effectively a portion of the larger Optimisation Project. It is not the same development as the currently approved operation at Mount Pleasant, as modified. The proponent is arguably subverting the judicial process by seeking to have approved activities that are part of the currently invalid Optimisation project approval.

### **Impacts of climate change**

The greenhouse gas assessment provided with this application contains numerous dangerous misconceptions, misrepresentations and misunderstanding of science and non-compliance with NSW policies. And yet, the assessment makes clear that this application would lead to increased greenhouse gas emissions year on year, at the Mount Pleasant site, and more than 100 million tonnes of downstream emissions over six years.

The Department cannot rely on the proponent's assertion that its modification will be responsible for "0.63 ten thousandths of a degree" of global warming and therefore is not responsible for the consequences of global warming in the Hunter region. The categorisation of the proponent's impacts in this way dismisses the harms caused to the people of NSW, whose livelihoods and homes are already in jeopardy, whose bills are going up, who are suffering the stress and ill-health of heat. Within Lock the Gate's network in New South Wales there are people who have lost their homes to catastrophic fires, lost all their worldly possessions to catastrophic floods, are working outdoors to hand feed cattle in extreme heat waves, are unable to insure their homes, are making plans in their communities to rescue each other from the dangers of extreme weather and are having to explain to their children why their lives will be filled with such danger. The company's claims are nonsensical, given that any facility anywhere in the world would be able to make a similar claim and, if they are all accepted, then no emissions reductions would occur. This is the reason why cumulative emissions are a relevant consideration in NSW planning decisions, as is context and the precautionary principle.

More efforts were needed by the proponent to adequately assess the impacts of climate change in the Hunter region, rather than promoting the benefits of its project, given the misconceptions, misrepresentations and misunderstandings below.

The assessment has erred in only considering potential climate change impacts "*within the 'near term' (i.e. up to 2050 or earlier) as the Modification would not materially contribute to global emissions past this term.*" This statement demonstrates the degree of the proponent's failure to understand the impacts of this project. It is the equivalent of saying that the impact of habitat loss ceases after the bush is cleared. The impacts of the greenhouse gas pollution created by this project will continue well beyond 2050. Methane has an intense warming effect in the near term and has contributed close to a third of the warming currently being experienced, as well as the effects of that warming. Once it breaks down, in about a decade, it contributes to carbon dioxide concentrations. The carbon dioxide that will accrue from the diesel burning on site and the downstream burning of coal produced on the site will remain in the atmosphere for many centuries and will continue to contribute to global warming during that time. The proponent must provide the Department with

information about the expected consequences of a high warming scenario in the Hunter Region and New South Wales to the end of this century and beyond.

The proponent cites the Intergovernmental Panel on Climate Change's (IPCC) Sixth Assessment Report in asserting that "global mean surface temperatures are likely to increase by 0.4 to 1.1°C based on the range of all climate scenarios and relative to the reference period of 1995 to 2014." This is misleading because it discusses model results for the 1995-2014 reference period, not against the pre-industrial reference, which is the relevant comparator for the Paris Temperature goals. The Sixth Assessment Report found, in that regard:

*...that it is very likely that within the near-term (2021–2040) or mid-term (2041–2060), global temperature rise will exceed 1.5°C relative to pre-industrial under all of the priority SSPs, above 2.0°C under most of the priority SSPs, and above 3.0°C under the highest forcing scenarios (medium confidence because of the limited number of models available).<sup>7</sup>*

An SSP is a shared socio-economic pathway. They are the IPCC's scenarios for modelling global greenhouse gas accumulation and the atmospheric response to it. The excerpt above means that the model results indicate that global average temperatures are already now at the cusp of the Paris Agreement goals, which were adopted initially because of the risk that exceeding these goals would cause positive feedback mechanisms pushing global warming beyond human control. It means that the actions and decisions of local authorities, the Department of Planning and the Independent Planning Commission among them, are determining now whether global average temperatures exceed these goals. The Department needs to stop hiding behind the "global" character of climate change as an excuse for its own failure to respond to legislated goals in the *Net Zero Future Act* - the Department needs to refuse this application.

The proponent is labouring under the misconception that it is necessary to ascribe specific numeric causality between its own tonnes of coal and pollution and specific costs and harms accruing to NSW as a result of dangerous climate change. That the greenhouse gases accumulating in the atmosphere cause global warming is established. That adding more makes the situation worse is likewise established. The proponent seeks to add more. Consistent with the precautionary principle, where there is threat of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation. The lack of certainty here is about how specific individual tonnes of greenhouse pollution contribute to global tipping points and about whether a local decision to prevent a specific tonne here will be matched by other local decisions to prevent specific tonnes in other jurisdictions where the Department has no role. It is straightforwardly clear that this uncertainty is not a reason for postponing the Department's own measures to prevent this harm unfolding. As the Sixth Assessment Report states, "Every tonne of CO<sub>2</sub> emissions adds to global warming" and if the Department approves this modification, that is what it will be doing.

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<sup>7</sup> IPCC AR6. Working Group I. First order draft Chapter 4.

[https://www.ipcc.ch/report/ar6/wg1/downloads/report/IPCC\\_AR6\\_WGI\\_FOD\\_Chapter04.pdf](https://www.ipcc.ch/report/ar6/wg1/downloads/report/IPCC_AR6_WGI_FOD_Chapter04.pdf)

### ***Impacts on the locality***

The Greenhouse gas assessment includes statistical information about the local effects of climate change in the Hunter region but provides no analysis of the impacts of this change. For example, what are the social, economic and environmental consequences of a likely 13% reduction in average winter rainfall? How will this change the ecology of the Hunter River and affect the Hunter Estuary Ramsar site? How will it affect the wine industry, the dairy industry and other agricultural and horticultural production in the region?

Mean maximum changes in various weather indicators (extreme hot days, cold nights etc) are presented, but this does not provide the consent authority with the qualitative information necessary to evaluate the harm that additional greenhouse gas emissions will cause. The climate change assessment needs to consider tail risk and compounding risk, and review the National Climate Risk Assessment for relevant risks in the Hunter region including coastal sea-level rise, agricultural productivity, ecosystem collapse, supply chain risk and wellbeing risk. This is a mandatory consideration for the Department and statistical generalities are inadequate to inform the necessary evaluative task.

The Department has failed to update its economic impact assessment guideline since the Court of Appeal decision in DAMSHEG last year, but that does not mean that the economic and social impacts of the downstream greenhouse gas emissions of this project are not a mandatory consideration and that the Department is not required to ensure it has the information necessary to perform its evaluation of this project.

Principle 8(4)(c) of the *Climate Change Net Zero Future Act* mandates that action on climate change should be taken in a way that “considers the economic risks of delaying action to address climate change.” It is incumbent on the Department to undertake this consideration.

We make further submissions about the impacts of climate change in the locality elsewhere in this submission, including social impacts, economic impacts and impacts on water resources.

### ***Principles of Ecologically Sustainable Development***

As mentioned above, the application is not consistent with the principles of ecologically sustainable development, defined as “development that meets the needs of the present without compromising the ability of future generations to meet their own needs.” The ability of future generations to meet their needs has already been compromised and there is no reasonable excuse any longer for worsening this situation by approving this application.

### ***Greenhouse emissions - Scope 1 emissions and trajectory***

The proponent makes the extraordinary claim in this application that it is reducing greenhouse gas emissions by increasing greenhouse gas emissions.

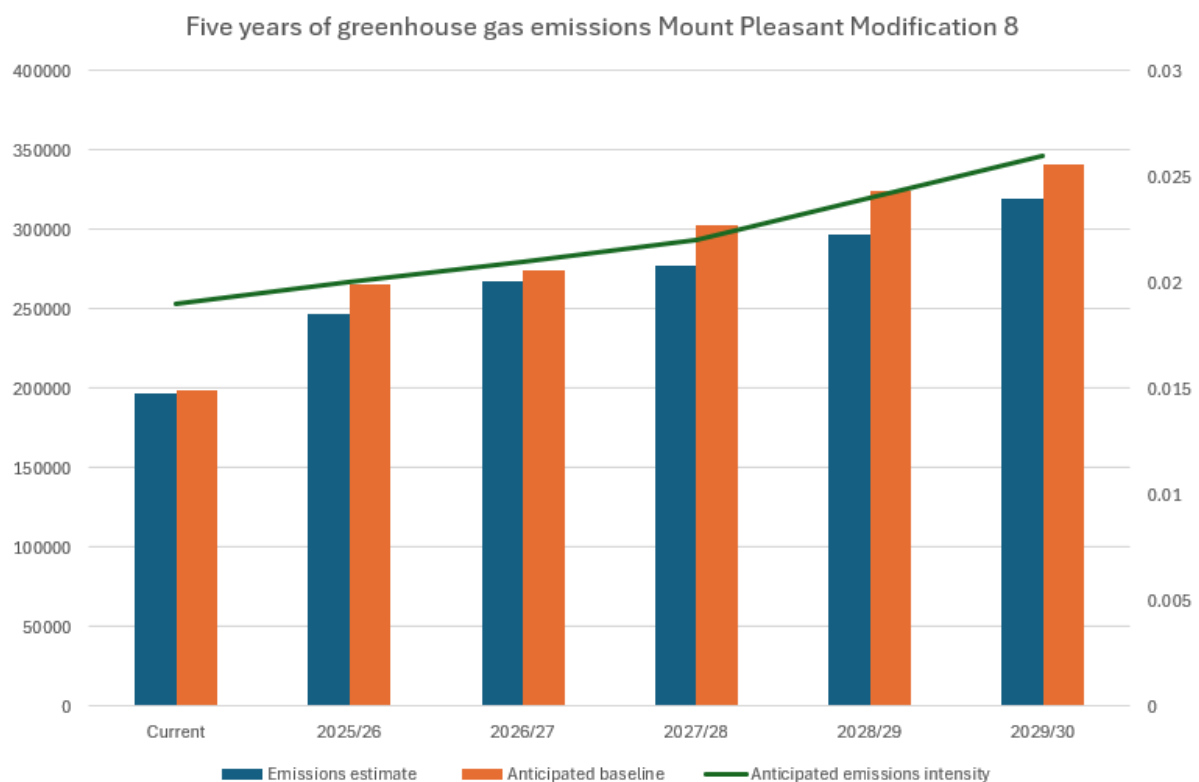
Faced with the requirement to make a meaningful contribution achieving NSW’s targets, the proponent opts for stating that this is the case, in defiance of its own disclosure that it is not:

*MACH is of the opinion that Mount Pleasant Operation’s proposed compliance with the Commonwealth Safeguard Mechanism over the life of the Modification will result in the mine making a meaningful contribution to achieving the State’s emission reduction target for 2030.<sup>8</sup>*

The proponent makes this assertion despite the information provided clearly showing that:

- **Emissions intensity goes up**, year on year, from now to 2030 under this proposal;
- **Total emissions go up**, year on year, from now to 2030 under this proposal; and
- The company expects **its Safeguard baseline to also go up** by an even greater volume, enabling it to claim Safeguard Mechanism credits for this additional pollution.

We have plotted the emissions information provided by the proponent for this modification for the years 2026-2030 to demonstrate this in the graph below.<sup>9</sup>



Notably, the proponent asserts that neither the Commonwealth *Climate Change Act*, nor the NSW *Net Zero Future Act* “nor any other relevant NSW policies impose specific requirements on the

<sup>8</sup> Appendix I, Mount Pleasant Operation Modification 8 - Greenhouse Gas Assessment, p 54.

<sup>9</sup> The source of greenhouse gas volumes, emissions intensities and projected baseline from 2026-2030 and for current emissions intensity is Table 15 of Appendix I of the EA for this modification. The source for current emissions is the most recent Annual Review published by the mine.

*Modification to implement measures to reduce, avoid and monitor greenhouse gas emissions.*<sup>10</sup> With this statement, we can agree, but it does not follow that this application should be approved. The proponent's claims about the non-specific requirements of these laws is essentially a reiteration of the reflections of the Net Zero Commission, which informed the NSW Government in December 2025 that the Safeguard Mechanism was not sending a strong enough signal to trigger actual reduction in emissions at NSW coal mines, and that the planning system was likewise failing to respond to the mandate of the *Net Zero Future Act*. This observation in our view adds to the reasons to refuse this application, since mitigation is obviously not intended or expected.

The proponent claims that the Safeguard Mechanism “will act to drive further industry **net** emission reductions” (our emphasis) – which is the same as saying it will drive offset purchases. The Net Zero Commission has said “Current policy settings under the Safeguard are unlikely to deliver strong enough signals to progress on-site abatement with the urgency required to achieve the legislated targets within the Climate Change Act”<sup>11</sup> and has particularly pointed to the unlimited offsets and the emissions intensity basis of the baseline calculations as reasons this is the case.

The greenhouse assessment makes the claim that the additional emissions proposed for this modification are “well within the current NSW modelling projections” but the projections show that NSW is not on track to meet its targets and so being within the projections does not indicate consistency with the targets. **To be consistent with the targets, greenhouse gas emissions have to be reduced.**

### ***Downstream greenhouse gas emissions***

This modification will enable downstream emissions of more than 100 million tonnes over six years. The impacts of these emissions on the people, nature and economy of New South Wales have not been assessed by the proponent but there is ample information available to the Department to demonstrate that they are unacceptable and that the application must be refused.

It's not clear why the Greenhouse Chapter indicates that Scope 3 is only 850,000 tonnes higher in the “Modification only” scenario, when the technical report shows 108Mt of downstream emissions from the “modification only.” What is clear is that the proponent is not taking the impacts of these emissions seriously.

### ***Principles of the Net Zero Future Act.***

Table 4, Guiding Principles and Objectives of the Net Zero Future Act, lists the guiding principles for action on climate change under NSW's *Net Zero Future Act* with a column for “Mach's position” and a cheerful tick beside most of them. The proponent informs us “MACH generally concurs with the application of these guiding principles to development in the State.” This is reassuring, given that they are law in NSW. However, no reflection is provided on the modification's consistency with these principles. In our view, this Modification application is clearly inconsistent with principle 3 set out in

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<sup>10</sup> Appendix I, Mount Pleasant Operation Modification 8 - Greenhouse Gas Assessment, p 23.

<sup>11</sup> Net Zero Commission, *Net Zero Commission Coal Spotlight Report 2025*” p 23.

section 8(3) of the Net Zero Future Act, “Action to address climate change should be taken as early as possible to minimise the cost and adverse impacts of climate change” since the proponent is urging delay and substitution.

The proponent’s consideration of these issues has also failed to take into account the factors listed under subsection 8 of the statutory principles:

- There is no evidence that the knowledge and perspectives of Aboriginal communities about the impacts of climate change in the Hunter and elsewhere in NSW and the proponent’s actions in driving it have been sought;
- The proponent has failed to respond to the best available science given its mischaracterisation of the Sixth Assessment Report as described above;
- There is no evidence that the knowledge of rural, regional and remote communities in New South Wales has informed the proponent’s greenhouse gas assessment;
- The proponent has not responded in any way to the need to support local communities who may be affected by the action, including failure to consider the impact on local employment and industries, and diversifying local economies in the Hunter, for example and the impact of the action on consumer costs in New South Wales, and equity and social justice impacts on socially disadvantaged groups and economically vulnerable regions;
- There is no assessment or mention of the need to reduce the risk climate change poses to the survival of all species.

The Department must undertake adequate and reasonable evaluation of this application against the above principles and each of the principles in the *Climate Change (Net Zero Future) Act*.

### **Mitigation actions**

Of the EPA’s proposed best practice mitigation measures in the draft circulated for consultation last year, the company says “Based on its understanding of the current state of development of zero-emission equipment and the current supply and cost of low-carbon fuels, MACH is of the view that these proposed requirements would not be reasonable and feasible at the Mount Pleasant Operation during the life of the Modification” (which is 2027-2032).

### **Impacts on water resources**

The social impact researchers were told by more than one person apparently that water was seeping from the bottom of the fines emplacement dam into the local waterway where their cattle drink: *“Water from the fines emplacement dam comes into our creek. They tested it, but we haven’t heard (the results). Water from the creek is a water source for our beef cattle. The creek goes out to Wybong, Mangoola, then into the Hunter River, so has a big consequence.”*<sup>12</sup>

The response to this in the social impact assessment says:

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<sup>12</sup> Appendix G, Social Impact Assessment, p 38.

*“The Surface Water Assessment for the Modification found Mount Pleasant Operation activities have had no discernible impact on the water quality of Sandy Creek. Exceedances in levels of some metals exist in baseline conditions, and occasional elevations in water quality variables are attributable to natural causes.*

*Notwithstanding the technical assessment findings and management measures in place, the fears and anxieties around potential dam failure and water quality remain high for some.”<sup>13</sup>*

In fact, the surface water assessment shows a “spillway” from both the dam ED2 which is below the fines emplacement and from the fines emplacement area itself, both spilling into Sandy Creek. The Surface Water Assessment also notes that:

*Overflow from some water storages, such as sediment dams and environment dams, may occur when rainfall exceeds the design event. Overflow from dams SD1, SD4, SD6, SD7, ED2 and TSB2 (since decommissioned) has occurred.<sup>14</sup>*

Data from the monitoring station that is downstream of the fines emplacement area and dam ED2 “indicates exceedances of the ANZG (2018) default guideline values for total aluminium, chromium, copper, lead, nickel and zinc.” The assessment concludes that this is not due to Mount Pleasant’s activities but this seems disputable and no “natural” explanation is provided.

There are also apparently high levels of metals in the dam ED3, which the assessment material describes as being designed only against a 1% AEP flood risk. It does not appear that the surface water assessment has accounted for the influence of climate change on extreme weather. Given the intensification of rainfall extremes that has already occurred as a result of climate change, it is necessary that all water management systems be designed to protect against a 0.1% AEP.

## **Economic impacts**

In the brief time available to us in the public exhibition of this application, we have not had time to review the economic impact assessment in detail. We note, however, that it fails to include the social cost of downstream greenhouse gas emissions, and fails to describe the economic impacts of climate change in the Hunter region and NSW more broadly, to which this application will add. This is a mandatory consideration for the Department so further analysis of this matter is required.

## **Social impacts**

The Social Impact Assessment presents a picture of a community resigned to the cumulative social, economic and environmental harm of expanding open-cut mining (“that’s life isn’t it”) but not at all resigned to the closure of a mine that is filling gaps in essential services and providing support for local creative and recreational activities.

It fails, however, to evaluate these immediate concerns against the lasting intergenerational harm of climate change. It is stated that:

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<sup>13</sup> Appendix G, Social Impact Assessment, p 39.

<sup>14</sup> Appendix D, Surface Water Assessment, p 32.

*This report acknowledges current discussion about the assessment of social impacts as a result of climate change caused by projects on their social localities. This SIA has assessed potential impacts of climate change as a result of the Modification based on stakeholder feedback and findings of the Greenhouse Gas Assessment and Mitigation Plan.<sup>15</sup>*

But this is not the case. The SIA makes no attempt to investigate the social impacts on climate change in the locality of the Mount Pleasant mine because it accepts the mining company's characterisation of its contribution to these harms as tiny and short-lived. While the individual contribution is small, it is not considered cumulatively, nor does the SIA reflect the lasting consequences. A small contribution to a huge harm is highly significant and the SIA's finding that this is not the case is frankly bizarre.

The social impacts of climate change locally were raised with the researchers but are diminished in the SIA by the use of statistics. It is not credible for the researchers to conclude a low overall significance for the social impacts of climate change based on "the Modification's contribution to climate change" of "0.63 ten thousandths of a degree celsius." The SIA is perfectly willing to concede the cumulative nature of other impacts – whether positive or negative (noise, dust, lighting and traffic) – but for this most severe and lasting harm, chooses to minimise and brush-off matters raised during the assessment process by members of the community. The impacts of climate change are evident in other remarks made to the SIA preparers, such as "Insurance costs have increased significantly," but the SIA fails to make this connection between the impact of climate change in the locality and the Mount Pleasant operation.

In the summary table of negative social impacts, the impacts of climate change are designated as something that will last for "Life of the modification" (ie, six years!) which demonstrates a fairly profound misunderstanding of climate change. Are they expecting us to think the impacts will cease when the mining ceases? The information provided is not credible.

The summaries of feedback in interviews in the SIA show that many of the people engaged by the assessment researchers value the contributions that Mount Pleasant is making to Muswellbrook, not just through employment, but through direct contributions to community programs and to Council. This is important. But the summaries also show how vulnerable the community feels about mine closure and transition, how dependent they feel their social services and basic wellbeing are on the continuation of the mine. This dependency and vulnerability is itself a highly alarming situation that indicates that the mine has not, thus far, had a positive social impact on the community overall.

The results specifically cite:

- Fear of reliance on mining and community's vulnerability when mining ceases;
- Lack of tangible government investment in and commitment to transition/diversification planning for the town and region's future creates uncertainty for people's way of life;
- Community services and organisations, including mental health services and police, "won't be able to cope" with the impacts of Mount Pleasant Operation closures;

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<sup>15</sup> Appendix G, Social Impact Assessment, p 12.

- Mental health as a huge issue in the Upper Hunter and fear that stress of change will result in significant increases in alcohol and drug misuse, domestic violence, family breakups, homelessness, and suicides.

In short, many of the people interviewed see this planning application as carrying responsibility for a range of government and social failures that it cannot and will not fix. Lack of services, social strain, cutting the community out from decision-making – approving this extension will not address any of these problems, but there is clearly a perception among those interviewed that failure to grant the modification will significantly intensify them. Granting it, however, intensifies other stresses: the traffic problems, the poor air quality, the lack of diversity in the local economy.

The Baseline Study acknowledges that Muswellbrook is the most disadvantaged LGA in the Hunter without reflecting on how this status jars with what might have been expected after 25 years of expanding mining in the region. The Baseline Study explains Muswellbrook’s alarming level of disadvantage as a result of “lower educational attainment and higher proportion of lower skilled employment.” But data on the same and the facing pages shows:

- Muswellbrook has a higher proportion of people working in coal mining than other parts of the region, with two thirds of workforce employed in mining;
- Muswellbrook has a higher median income than other parts of the region;
- People who work for the mines on average earn 20% more than the next highest paid industry (information, media, and telecommunications), and 40% more than the median industry earnings.

Reference is made in the Baseline Study to previous findings about Muswellbrook having a two-tier economy but there is no exploration in the SIA about whether extending this mine for six years will further entrench this pattern. Given the high salaries in the mining sector and the large proportion of people in Muswellbrook working in the mines, the degree of disadvantage documented in Muswellbrook requires detailed investigation. All the wealth generated by mining in the last twenty-five years has not raised the living standards of the LGA, nor has it resulted in the enjoyment of basic services, like health, public transport and education. Given, too, the high degree of concern expressed about the prospect of the workforce being made unemployed if the Modification is not granted, we would have expected some discussion of labour market dynamics and unemployment in the region. Mention is made of the need for temporary accommodation for construction workers, indicating that there is more work than there are people in Muswellbrook. Some data is needed on job vacancy rates before assumptions are accepted that the mine’s closure will inevitably result in unemployment for its workforce.

There are places where the SIA veers away from neutrality. For example:

*Maintenance of agricultural culture from the management of biodiversity offsets (biodiversity management areas [BMAs]) positively impacts people living and working on the BMA properties and the services they access. The Modification represents a continuation of six years of agricultural operations on the BMA properties. While not raised in discussion with stakeholders, this impact is assessed as of moderate magnitude and high overall significance rating.*

No one raised this in interviews, and the cessation of mining does not end Mach's obligation to manage its biodiversity offsets. On the contrary, the cessation of mining would intensify the scale and extent of landscaping, environmental management and care. One stakeholder is reported as saying, "The relationship we have with Mount Pleasant also means there is Aboriginal input in the design of rehabilitation – we are part of the design." This is a positive that would be *amplified* by mine closure, since Aboriginal input would be able to extend to the entire site and to discussions about Aboriginal involvement in post-mining land use. Yet these positives are not discussed.

More seriously, the Social Impact Assessment skirts around the health impacts of ongoing open cut coal mining so close to a major town, despite the impacts of dust being repeatedly raised in interviews. At one point, coal dust is treated as a housekeeping issue, but little attention is paid to the data in the SIA's own Baseline Study showing considerably higher prevalence of asthma in the Hunter region than in NSW broadly, and higher rates in Muswellbrook than the Hunter with more than one in 10 people reporting as asthmatic. This negative social impact is mentioned in the SIA, but treated in the following manner: "Although the link between coal mining and asthma has not been established, it has been raised as a concern by stakeholders." This, too, is contradicted in the Baseline Study, where a study from the University of Sydney is cited:

*The study (Colagiuri et al. 2012) found that adults in coal mining communities were found to have higher rates of mortality from lung cancer, chronic heart, respiratory and kidney diseases; higher rates of cardiopulmonary disease, chronic obstructive pulmonary disease (COPD) and other lung diseases, hypertension, kidney disease, heart attack and stroke, and asthma; increased probability of a hospitalisation for COPD, and for hypertension; and poorer self-rated health and reduced quality of life (Colagiuri et al. 2012).*

*The study also found that children and infants in coal mining communities were found to have increased respiratory symptoms including wheeze, cough, and absence from school with respiratory symptoms. Although not all studies reported this effect, others were found to have high blood levels of heavy metals such as lead and cadmium, higher incidence of neural tube deficits, a high prevalence of any birth defect, and a greater chance of being of low birth weight (a risk factor for future obesity, diabetes, and heart disease) (Colagiuri et al. 2012).*

Despite the high rates of asthma and high rates of poor mental health, the SIA did not explore whether the extension of the mine is likely to continue and entrench these trends.

We are glad to see acknowledgement in the SIA that "Continuation of the accumulated impacts of mining may result in individuals choosing not to submit complaints with mining companies out of continuing frustration from dust, noise, blasting and lighting impacts and the perception that lodging a complaint will result in no perceived change in impact." This is certainly our observation and is also reflected in the SIA's findings that people are "resigned" to the air pollution, noise and social impacts of mining. Ironically, in the section of the SIA dealing with the quality of the environment, after noting that the highest number of complaints are about noise and air pollution, this extraordinary response is made:

*It should be noted that most of the subjects of complaints were found to be compliant or have appropriate mitigations in place, suggesting that the quality of environment impacts*

*experienced may be cumulative with other mining operations, or mistakenly attributed to the Mount Pleasant Operation.*

It does not seem to occur to the author of the SIA that being compliant with conditions of consent does not mean that the mine is not affecting other people's quality of life? Perhaps the conditions of consent aren't strong enough to keep the air clean and the night peaceful?

The SIA claims a "major" positive result of the expansion among "Individuals and families who experience environmental impacts" being "Reduction in people experiencing eritalgia when the Modification enables time for full closure planning, engagement with stakeholders, and best practice rehabilitation." Was the concept of "eritalgia" raised in interviews or has this concept been imaginatively projected onto the people cited as a way of making a "positive" from their distress, belittlement and grief for a loved place being harmed? It is not necessary for mining to continue for closure planning and rehabilitation to occur. Mach has an obligation to rehabilitate and care for its workforce regardless of whether mining continues. We infer from the material that the newly-minted term "eritalgia" is a sadness arising from a sense of loss for what you thought your future was going to be like. People in Muswellbrook who have "resigned" themselves to the environmental impacts of mining and the effect these have on their lives may well be experiencing this. Many of us are having to come to grips with it, but it is not at all clear how approval of this modification and a six year continuation of those impacts eases such distress?

Improved wellbeing, including mental wellbeing, as a result of Mach support health services support from Mach is cited as a "transformational" positive of the application but there is no discussion as to why Muswellbrook has a suicide rate double the rate of the rest of the Hunter-New England and Central Coast after a quarter of a century of mining approvals being granted. The SIA authors are willing to perceive positive transformational change resulting from six years of privately-propped up health services with an uncertain future beyond the life of this mine, but when it comes to "Intergenerational impacts on people's sense of place, connection to place, and experience of community and culture resulting from changes to the landscape" which is already being experienced, the impact is not deemed transformational because the SIA considers only the six year period of the modification. As a result, this profound impact is rated "negligible overall," which in no way reflects its significance.

Comments from the community about decision-making and powerlessness should be treated seriously by the Department. If decisions about the Mount Pleasant site had been made by Muswellbrook Council, for example, informed by a panel of local people including coal miners, landholders and people who work in local businesses and social services, decisions about the management of the site, its hours of operation, impacts and mitigation for local amenity would have been made by people that are answerable to the community.

There are other anomalies in the SIA. Isolation of partners is raised for "households where workers live including Maitland, Cessnock, Newcastle and the Central Coast" but elsewhere in the SIA it appears to be assumed that the workforce is locally based in Muswellbrook, since so much of the discussion hangs on the volunteering, local economic effects and role of the mine and its workforce in the life of the town. It is telling, too, that the SIA chooses not to consider the acquisition of agricultural land and "flow on effect in the continued loss of agriculture-based social networks, and

community cohesion” as transformational, given the evidence before everyone’s eyes that this has indeed transformed Muswellbrook in the last 25 years.

It is unacceptable that these huge issues: climate change, environmental degradation, social governance, dearth of social services in the regions, should all be made to hang on a decision over a six year extension to this coal mine, when all require planning, investment and care over the long term to address. Indeed, one respondent in the SIA is cited saying that meaningful dialogue is the means to resolve local conflict over climate change, mining and renewable energy (but that “Crossing these divisions to create meaningful dialogue for resolution continues to be extremely difficult.”) And yet, the Government is doing nothing to foster such dialogue, and the community is reduced to using and seeing the planning process as a proxy for this dialogue.