



WATER ● FARMS ● BUSH

Submission to the Independent Planning Authority / Department of Planning

From: North West Protection Advocacy

Project: Proposed expansion / extension of Maules Creek Coal Mine (Whitehaven Coal)

We oppose the Maules Creek Coal mine expansion.

1. Introduction

North West Protection Advocacy is a community-based research and advocacy group focused on the impacts of fossil extraction, transport, and production on forests, water, farms and ecosystems in north-west New South Wales. We vehemently oppose the proposed expansion of the Maules Creek Coal Mine, operated by Whitehaven Coal, on multiple scientific, cultural, environmental and procedural grounds.

2. Whitehaven Coal's track record of regulatory breaches

Included in the cost benefit analysis (CBA) of this project should be the extremely high costs to the NSW taxpayer of regulating the compliance with Management Plans and its Environmental Protection Licence.

→We would like to know what specific, quantitative evaluation of the costs of compliance have been made of the Maules Creek Coal mine?

a) Blasting offences and community health impacts

In October 2024, the NSW Environment Protection Authority successfully prosecuted Maules Creek Coal for a massive blast event that breached environmental licence conditions. The

mine was convicted on four criminal charges, including overloading blast holes, poor stemming, and breach of noise provisions, after a blast forced evacuation at neighbouring Boggabri Coal mine and exposed workers to shockwaves and dust. Victims reported ongoing ear pain and tinnitus as a result: <https://www.abc.net.au/news/2023-09-20/whitehaven-maules-creek-mine-blast-land-and-environment-court/102875454?utm>

Subsequently, Whitehaven was convicted on all 4 charges in the first tranche of blasting prosecutions. Another 8 charges are yet to be heard,

In a wanton act of “lawfare”, Whitehaven Coal undertook a gratuitous and frivolous legal action against a Judge of the NSW Land and Environment, in a baseless claim of apprehended bias. The case, which was heard by the NSW Court of Criminal Appeal, was thrown out by the Appeal Court Judges, but nevertheless cost the prosecution months of time in delays and the cost of mounting a defence which fell to the NSW Environment Protection Authority.

b) Water theft and chaotic regulation

Between 2016 and 2019, Whitehaven extracted approximately one billion litres of surface water without proper licensing—some 60 times the approved entitlement and far exceeding licence conditions. Affected local farmers saw drying creeks and springs, while the Namoi River flow was diverted to fill polluting pit dams. The company was fined just AUD \$200,000—well below the maximum penalty available—and public outrage was unsurprisingly strong.

<https://nwprotectionadvocacy.com/excess-water-harvesting-claims-point-to-chaotic-regulation-at-maules-creek-mine/?utm>

c) Illegal tyre burial in native forest zone

Reports dating back to 2020 revealed that Whitehaven had buried 700–800 massive off-the-road tyres in the open-cut pit area—without prior consent. Despite NSW Government approval in 2022, the decision was made after the fact and without proper environmental impact assessment. Local residents and environmental advocates expressed their devastation over the risk of groundwater contamination and fire hazards.

3. Ecological devastation to Leard State Forest and biodiversity offsets

a) Irrecoverable native forest clearing

Maules Creek open-cut mine sits within the Leard State Forest, which forms one of the largest remaining intact stretches of critically endangered White Box–Yellow Box–Blakely’s Red Gum grassy woodland. It is home to nearly 400 native species—including dozens that are threatened—and encompasses nationally significant ecological communities. The proposed extension would irreversibly degrade additional hectares of that forest.

b) Inadequate offset provisions and public engagement failures

NWPA challenges the adequacy of biodiversity offsets proposed under Modification 9. Our submission identifies serious flaws in the public exhibition process, offset mapping, ecological baseline surveys, and overall transparency. We argued the modification assessment was so deficient it should be withdrawn and reissued with rigorous, community-informed documentation.

4. Broader environmental and climate implications

a) Contribution to greenhouse gas emissions

Maules Creek is approved to produce up to 13 million tonnes per year, with operating life extending beyond 2034. The proposed expansion adds both volume and years of emissions. Australia's climate targets require a rapid phase-out of coal; approving such expansions locks in further carbon emissions inconsistent with the Paris goals .

b) Cumulative harm and community decline

Past approvals of coal projects (including Whitehaven's Narrabri extension and MACH Energy's expansion) have generated legal debate around whether decision-makers have fully accounted for long-term climate and biodiversity risks . Whitehaven's history of under-estimating emissions and regulatory non-compliance heightens the risk of cumulative damage to communities and ecosystems in north-west NSW.

5. Flawed CBA based on outdated assumptions

The Environmental Impact Statement for the Maules Creek Coal Mine expansion echoes the flawed CBA methodology exposed by the Australian Centre for Corporate Responsibility in its *More cost, less benefit for NSW* report. See

https://www.accr.org.au/downloads/hvo_report_july_2025_publication_version.pdf

Like the Hunter Valley Operations (HVO) continuation project, (the subject of ACCR's Report) Maules Creek relies on an outdated emissions-costing framework that vastly understates its greenhouse gas burden. ACCR showed that the HVO CBA undervalued emissions costs by a staggering factor of 1,700: reporting just AUD \$3.7 million instead of more than AUD \$6.34 billion under current NSW Treasury guidance (Office of Impact Analysis) (TPG23-08). If Maules Creek's analysis similarly omits Paris-aligned costs, it likely overstates net benefits by billions.

A second serious flaw is the exclusion of intrastate coal transport emissions. ACCR revealed the HVO CBA failed to include emissions from rail transport within NSW, which alone adds about 9% more emissions and approximately AUD \$560 million in costs. Just because the

National Pollution Inventory does not currently require reporting of coal train emissions, it does not follow that these should not be disclosed in the coal mine EIS.

If Maules Creek's assessment similarly limits its scope to onsite emissions only, it misrepresents the full environmental and economic impact of the supply chain. This omission systematically undervalues the mine's contribution to NSW's greenhouse gas totals and misleads decision-makers about its real cost to the state.

Moreover, ACCR's modelling under Paris-aligned coal pricing scenarios—such as the IEA's Announced Policy Scenario (APS) and Net Zero Emissions (NZE) scenario—finds that projected coal revenues fall sharply: 8% lower under APS and 26% lower under NZE compared to the CBA's assumed prices. For HVO, this collapse in revenues turned its AUD \$7.84 billion net benefit into a net social cost. The submission before the Maules Creek EIS fails to interrogate or sensitivity-test against such realistic pricing assumptions, potentially presenting a similarly over-optimistic economic outlook.

In addition, because private projects like Maules Creek are apparently exempted from the 2023 Treasury guidelines that require alignment with NSW's climate targets, they benefit from a loophole that permits biased cost-benefit outcomes. This creates a two-tiered assessment regime: public projects must internalise emissions costs, while private coal proposals can sidestep them—undermining integrity and consistency in planning. If Maules Creek's EIS uses the same loophole, it renders the analysis incomparable to other infrastructure or energy projects that must account for emissions under the updated framework.

Furthermore, the absence of sensitivity and scenario analysis in the Maules Creek CBA echoes criticisms identified by ACCR: both underestimate carbon costs and overstate benefits without reasonably testing alternative futures. The reliance on long-term flat coal price assumptions is overly optimistic given global decarbonisation trajectories and NSW's own legislated *Climate Change (Net Zero Future) Act 2023*. As ACCR notes, when realistic coal price trajectories are adopted, net benefits vanish or reverse—clearly demonstrating that the original assumptions lack credibility.

Finally, Maules Creek's justification must be scrutinised in light of the structural problems in CBA process itself—as argued by governance scholars (like Flyvbjerg) who expose endemic forecasting bias in public investment analysis. If Maules Creek's proponents follow the same pattern—downplaying non-financial social and environmental costs, applying biased discount rates, and failing to apply before/after 'with/without' scenarios—the submission should demand a comprehensive re-run of the CBA under current, credible NSW Treasury guidance, with full emissions scope, updated coal pricing assumptions, and transparent sensitivity testing.

6. Whitehaven Coal debt of \$10M to State of NSW – “wilful default”

→NWPAs questions whether the CBA for the Maules Creek expansion take into account the debt of \$10Million owed by Whitehaven Coal to the State of NSW in royalty arrears? Has the debt been paid?

Since the judgement in *Whitehaven Coal Mining Limited v Chief Commissioner of State Revenue* [2025] NSWSC 488 it is known that Whitehaven Coal was using an inoperative mines to generate “negative royalties”, a method of avoiding the due payment of royalties by an internal transfer pricing scheme within the group of companies.

We draw attention to the words of the Judgement of Hammerschlag Chief Judge in Equity, describing Whitehaven Coal as being in “wilful default” of its royalty obligations:

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98 The fair and just date that should be chosen for the imposition of penalties and interest should be 2 November 2022, being the date of the positive assessment notices. From then the Plaintiffs knew they had to pay the tax but, they have not done so. This is properly to be characterised as a wilful default, disentitling them to the benefit of any remission from that point on: *Winston-Smith v Chief Commissioner of State Revenue (NSW)* [2018] NSWSC 773; (2018) 108 ATR 63 at [84]-[85].”

We believe this speaks volumes about the duplicitousness of Whitehaven in boasting about its economic contributions to State revenue whilst enjoying a phony scheme, now discredited, to deprive the people of NSW of its just revenues from the production of coal. This level of dishonesty shows bad faith towards the people of NSW and a tendency to provide false and misleading information where it might gain advantage, something that has been proven repeatedly in the court of reality – but never subject to a legal challenge to date.

7. Procedural defects and conflicts of interest

- **Insufficient public consultation:** The Modification 9 process failed to align with NSW’s Engagement Guidelines for State Significant Projects. NWPAs review highlights inadequate responses, rushed timelines, and unaddressed community concerns .
- **Single-action modification strategy:** Whitehaven appears to fragment its expansion into piecemeal “single action modifications” to avoid triggering more thorough impact assessments triggered by larger projects—a tactics NWPAs calls deceptive and counter to good governance .

8. Summary of key objections

Issue	Concern
Regulatory non-compliance	Repeat offences involving water theft, blasting misconduct, illegal tyre burial
Ecosystem destruction	Further loss of critical Leard forest and threatened species habitat
Unreliable offsets	Flawed biodiversity offsets undermining conservation outcomes
Procedural inadequacy	Repeated serious failures to adhere to management plans
Climate inconsistency	Expansion into long-term fossil extraction contradicts climate obligations and transition needs

9. Conclusion

Whitehaven Coal's Maules Creek operation has repeatedly failed to meet environmental and social expectations. Its history spans ill-managed and criminal water extraction, disregard for procedures required under its Blast Management Plan, improper waste dumping of tyres, and insufficient mitigation strategies. The proposed expansion would only deepen existing harms—eroding community trust, destroying critical ecosystems, and exacerbating Australia's climate crisis.

For these reasons, North West Protection Advocacy strongly opposes this expansion and urges the Department / IPC to refuse approval. Instead, we call for a rigorous, transparent, community-driven review process that protects the integrity of our forests, water, farmland, and future generations.

The presumption that Maules Creek Coal mine can be approved under conditions is a sad myth that only the deluded could possibly believe. It has repeatedly been shown to be a fiction.

10. Requested outcomes

We respectfully request that the authority:

1. **Reject the current proposal** for expansion of Maules Creek Coal Mine in full.
2. **Demand comprehensive ecological re-assessment**, including ground-truthing, offset adequacy, and community involvement.

3. **Require rehabilitation and restoration frameworks** that fully restore or compensate for loss of biodiversity, water, and cultural heritage.
 4. **Ensure stronger accountability mechanisms**—including enforceable penalties that deter future non-compliance.
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Thank you for the opportunity to submit

North West Protection Advocacy
PO Box 197 Coonabarabran NSW 2357
Email: northwestpa@protonmail.com