

Submission: Objection to the Maules Creek Continuation Project (SSD-63428218)

Lodged by: Dean Foley, Managing Director at Barayamal Limited

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View: I object to the project

1. Introduction

Barayamal Limited is an Indigenous-led organisation dedicated to advancing Aboriginal and Torres Strait Islander economic empowerment, protecting Country and ensuring decision-making that upholds cultural rights.

The Maules Creek Continuation Project proposes to:

- Extend mining to **December 2044** and
- Increase coal processing capacity from **13 to 14 million tonnes per annum (Mtpa)** .

This submission objects to the proposal on public-interest grounds because the proposal does not meet the standard of transparency, cultural consent, environmental protection and governance accountability required by the **Secretary's Environmental Assessment Requirements (SEARs)** .

2. Cultural heritage and unresolved land justice matters

The Department of Planning, Housing and Infrastructure has described this exhibition period as a “crucial moment for Aboriginal community members to ensure their cultural heritage, environmental concerns and community values are appropriately considered and protected”.

Crown Lands' advice for projects in this area confirms that Travelling Stock Reserves are “**currently the subject of undetermined Aboriginal Land Claims (ALC)**” and that concurrence with the NSW Aboriginal Land Council is required before use or access. It also notes that some areas may be **subject to Native Title**, meaning formal consent is required prior to works.

The EIS does not provide evidence of:

- **Free, prior and informed consent** from all relevant Traditional Owner groups; or
- Binding heritage management agreements that meet Aboriginal Land Council and Native Title requirements.

Condition if approved: No works should proceed until binding agreements with all relevant Traditional Owner groups are in place, independently facilitated, and published.

3. Environmental impacts flagged as critical by the Commonwealth

The Supplementary SEARs for Matters of National Environmental Significance (MNES) identify two Commonwealth-triggered risk areas:

1. **EPBC-listed threatened species and ecological communities**, including:
 - *White Box–Yellow Box–Blakely’s Red Gum Grassy Woodland* (critically endangered)
 - Swift Parrot (*Lathamus discolor*), Koala (*Phascolarctos cinereus*), Regent Honeyeater (*Anthochaera phrygia*), and others.
2. **Water resources** (surface and groundwater quantity and quality) impacted by large coal mining.

DPHI’s own **DPE Water SEARs** require:

- A consolidated site water balance for the project life.
- Full disclosure of all water take (direct and indirect), by source and licence type, with Water Access Licence (WAL) details or market-depth proof if purchasing.
- Assessment of impacts on surface and groundwater, including groundwater-dependent ecosystems.

The EIS does not reconcile cumulative water impacts from existing MCCM operations, other Whitehaven sites and cross-site transfers via the proposed pipeline - which the company says will “**reduce external water requirements from the Namoi River and groundwater bores**”.

Condition if approved: Publish a reconciled, independently audited water-take ledger for the full project life, with drought-sequence modelling and WAL sufficiency verified against market depth.

4. Governance, accountability and trust deficit

4.1 Indigenous workforce and procurement claims

Whitehaven Coal’s own community materials state:

“Approximately 20% of the MCCM workforce identify as Aboriginal and/or Torres Strait Islander”.

However:

- Figures rely on **self-identification** with no independent verification.
- There is no breakdown by role, employment type or turnover.
- Indigenous supplier claims are also self-declared, with no evidence of verification through bodies such as Supply Nation.

Given the Australian National Audit Office's warnings about "black cladding" and Indigenous identity fraud in procurement, unverified statistics undermine confidence in the claimed benefits.

Condition if approved: Require annual, independently audited reporting on Indigenous employment and procurement, with methodology and definitions disclosed.

4.2 Corporate culture and engagement

The SEARs require the EIS to "detail the engagement undertaken... [and] identify where the design... has been amended in response" .

To date:

- Engagement records are summary-level and do not show specific design amendments from First Nations feedback.
- Independent reporting has raised concerns about "systemic failures in Indigenous engagement practices" in similar contexts, where contractors or consultants are used to create an appearance of Aboriginal involvement without substantive benefit.

Condition if approved: Publish a response-to-engagement changes log before determination, showing how First Nations feedback altered the project design.

5. Social impacts and "sacrifice zone" risk

The Social Impact Assessment acknowledges historic and ongoing disadvantage faced by local Aboriginal residents and that mining projects can "**amplify social inequalities**" if benefits are not equitably distributed.

Independent research warns of "community sacrifice zones" in coal and gas regions, where environmental, health and cultural costs are borne locally while benefits flow elsewhere.

Without:

- Verified local benefit delivery,
- Binding procurement targets with genuine Indigenous businesses, and

- Enforceable cultural heritage protections,

This proposal risks becoming another example.

6. Cumulative, climate and strategic considerations

Extending the mine to 2044 will lock in decades of coal extraction at a time when climate science and Australia's commitments under the Paris Agreement require rapid emissions reduction.

This is a governance choice about whether NSW continues to approve projects incompatible with its climate and biodiversity objectives.

7. Decision test and recommendation

On the public record, the Maules Creek Continuation Project:

- Does not satisfy SEARs requirements for transparent water-take accounting.
- Does not demonstrate amended design in response to First Nations engagement.
- Relies on unverified claims for Indigenous participation and procurement.
- Proceeds despite unresolved cultural heritage and land claim issues (Crown Lands - Advice on SEAR)

Recommendation: Refuse consent.

If consent is nevertheless considered, apply the following enforceable conditions:

1. **Cultural consent** – No works until binding agreements with all relevant Traditional Owner groups are in place and published.
2. **Water transparency** – Annual independent audits of a full-life water-take ledger, WAL sufficiency, and drought-sequence modelling.
3. **Biodiversity safeguards** – Independent ecological monitoring with public reporting; enforceable offset and habitat restoration plans.
4. **Indigenous participation verification** – Annual, audited workforce and procurement reporting with clear definitions.
5. **Engagement accountability** – Publish a response-to-engagement changes log before determination.

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