

Objection to Metropolitan Mine Modification 4

My name is Luke Gelder, I am a young person and a resident within the Illawarra. I object to the Metropolitan Mine Modification 4 (“**the modification application**”) proposed by Metropolitan Coal (“**the Applicant**”), a wholly owned subsidiary of Peabody Energy Australia Pty Ltd (“**Peabody**”). The modification application will cause significant environmental harm, particularly on the climate, but also to the water catchment and biodiversity of the area. As part of the generation who is currently, and will continue to live through the worsening effects of climate change, expansion of this mine is unconscionable and should be refused on the grounds I identify below.

My understanding is the NSW Planning Minister, Paul Scully, is the deciding authority in this matter. I submit that assessment of the modification application should be deferred to the Independent Planning Commission (“**IPC**”) determination. My understanding is this is within your power and such a process would provide for more transparency and accountability in determining the modification application.

This modification application cannot be granted due to the emissions caused by the expansion of this mine. The Applicant has measured the emissions as follows between 2028 and 2030 (excluding decommissioning):

- Scope 1 emissions: 1.8 Mt CO₂-e
- Scope 2 emissions: 0.003 Mt CO₂-e
- Scope 3 emissions: 8.9 Mt CO₂-e
- Total emissions from the modification: 10.703 Mt CO₂-e

Measured with the development consent itself:

- Scope 1 emissions: 3.6 Mt CO₂-e
- Scope 2 emissions: 0.049 Mt CO₂-e
- Scope 3 emissions: 21.5 Mt CO₂-e
- Total emissions from the Applicant: 25.149 Mt CO₂-e

Based on these numbers, the modification application represents a 42.5% increase in emissions. Noting that fossil fuel emissions, particularly methane, are notoriously under reported in coal mines,¹ and the modification application appears to involve both current works and preparation for a future modification for further expansion, into land in which the Applicant has not yet received consent for (see purple highlight in figure ES-2), this modification application proposes a significant increase to emissions from the total

¹ <https://www.climatecouncil.org.au/resources/australias-methane-challenge-fossil-fuels-agriculture-waste/>

operation of the mine and does not enable assessment of a further modification application resulting in further emissions.

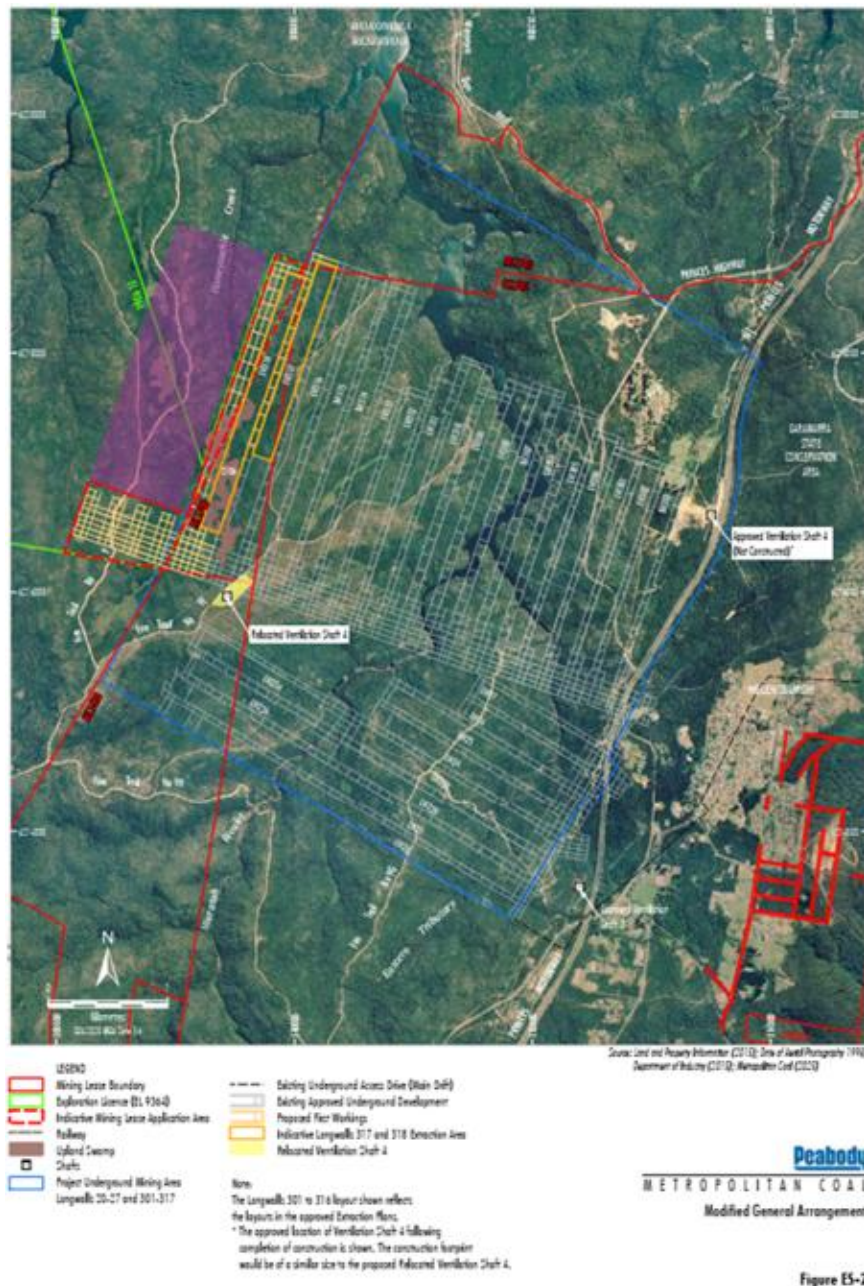


Figure ES-2

Turning to what the Applicant did consider, there are fundamental flaws. In considering the impact of these emissions on climate change broadly, its impact to Australia's commitments on an international and national level, and whether the locality itself will be impacted by the emissions caused, the Applicant only considers Scope 1 and 2 emissions. Consideration of all climate emissions is a mandatory consideration, including scope 3 emissions, as most recently determined in *Denman Aberdeen Muswellbrook Scone Healthy Environment Group Inc v MACH Energy Australia Pty Ltd* [2025] NSWCA 163. Not only will climate change impact the locality, this form of mining in a water catchment, prohibited under Zone C2 Environmental Conservation pursuant

to the Wollongong Local Environmental Plan 2009, will further degrade the water quality that is not drained from the catchment.² The impact to biodiversity and the environment from the modification application generally will cause a feedback loop in combination with the impacts to the water catchment and further exacerbation of climate change.

The Applicant relies on logical fallacies within their Biodiversity Development Assessment Report (“**BDAR**”) by excluding scope 3 emissions as referenced above and raising an argument that due to market forces, the coal would be mined anyway. Excluding the fact that fossil fuel development is being phased out of countries globally and is one of the most expensive forms of energy,³ this argument was refuted in *Gloucester Resources Ltd v Minister for Planning* (2019) 234 LGERA 257; [2019] NSWLEC 7. Additionally, from the international perspective, the International Court of Justice’s advisory opinion identifies that fossil-fuel production, the granting of exploration licences or the provision of subsidies “may constitute an internationally wrongful act” attributable to the state who approved such projects.⁴

Turning back to what is modelled, in just 2024, the Applicant’s Scope 1 emissions (direct from their mining operations) reached nearly 700,000 tonnes of CO₂-equivalent, the mines highest recorded figure since the Safeguard Mechanism began in 2016. Over 80% of these emissions were methane, which has 86 times greater warming potential than CO₂ over 20 years making the Applicant’s mining project the fifth highest Scope 1 emitter among all coal mines in NSW.

NSW and Australia are not on track to meet 2030 targets.⁵ The Illawarra has already experienced climate impacts which will only worsen in the coming years.⁶ This modification application cannot be approved due to the high levels of emissions, in particular methane, the impacts to the Illawarra, the inability for NSW and Australia to meet climate targets.

Additionally, even if the Applicant received development consent for the modification application, the Applicant has a checkered past when it comes to compliance and environmental protection. On numerous occasions, the Applicant has released toxic waste throughout the Royal National Park and been found guilty and fined.⁷ Despite the multiple interventions from the NSW Environment Protection Authority, despite alterations to their conditions of consent in response to these incidents, and the Court

² <https://www.abc.net.au/news/2024-08-27/longwall-mining-causes-irreversible-damage-illawarra-water/104255888>

³ <https://www.csiro.au/en/research/technology-space/energy/Electricity-transition/GenCost>

⁴ <https://www.carbonbrief.org/icj-what-the-world-courts-landmark-opinion-means-for-climate-change/>

⁵ <https://climateanalytics.org/publications/15c-aligned-2030-and-2035-ghg-emissions-targets/australia> and <https://www.netzerocommission.nsw.gov.au/2024-annual-report>

⁶ <https://www.climatecouncil.org.au/resources/heatmap/> and <https://www.climatecouncil.org.au/resources/climate-risk-map/>

⁷ <https://www.abc.net.au/news/2025-03-24/coal-mine-polluter-peabody-ordered-to-pay-half-million-dollars/104658030>

convictions, the Applicant has continually proven to have little regard for the environment or compliance with conditions of consent. It would be irresponsible to grant development consent to an applicant of this reputation.

I urge the Minister, or the IPC if the matter is referred to them, refuse the modification application on the above grounds.