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Objection to Whitehaven Maules Creek Coal Mine proposed changes to Transportation (PA_0138 Condition 63, Schedule 3)

This submission concerns MOD 3 of PA_0138 is on exhibition until 7 July, seeking changes Condition 63, as follows (at par 3.1 of the EA):

The Proponent shall ensure that a shuttle bus service is available to facilitate the transportation of construction and operational employees to site. MCC will target that 70% (averaged over a week) of the operations, maintenance and CHPP wages employees would utilise the bussing service. are predominantly transported to the site by shuttle bus, consistent with the assumptions used in the traffic study undertaken for the EA. Note: The EA assumed that 90% of construction employees and 90% of operational workers based on peak travel movements would be transported to site by shuttle bus from Boggabri township. However, the shuttle bus service could also operate from Gunnedah and Narrabri. [sic] – from EA

We request that the Department of Planning and Environment not consider the Whitehaven request to modify MOD 3 condition 63 as a minor adjustment. It has significant impacts on biodiversity and interferes with core obligations of Whitehaven Coal, i.e. the Biodiversity Offset Strategy and We would like to submit our objection to the proposed changes to Transportation (PA_0138 Condition 63, Schedule 3) for Maules Creek Coal Mine. We want the Department of Planning to reassure local communities and the general public that approval conditions defined are meaningful and enforced, rather than a whimsical process that is easily modified to suit the proponent.

Summary

1. Whitehaven Coal **has been infringing condition 63 since its last penalty notice** and one in 2015 and **should be fined** again by the Department of Planning and Environment
2. No modification should be permitted without a **biodiversity impact statement the continuing breaches of condition 63**

3. No evidence whatsoever has been provided by Whitehaven to suggest **driver fatigue and risk of wildlife collisions** has decreased or is less likely
4. The economic motivations of the company to reduce costs by minimising the burden of proving shuttle buses should be disregarded by the NSW Govt. Whitehaven is by its own admission the “**lowest cost coal producer in Australia**” with (anecdotal) some of the highest paid senior executives. Whitehaven is capable of maintaining its commitments under PA_0138, condition 63.

Biodiversity corridors and EPBC Act

Maules Creek Coal Project is a “controlled action” under the Environment Protection and Biodiversity Conservation Act 1999 – under the EPBC Act Part 3, Division 1 with controlling provisions sections 18 and 18A (Listed threatened species and communities), and section 20 and 20A (Listed migratory species). Considering the East-West Biodiversity corridor and Maules Creek Corridor (between Maules Creek and Boggabri mines) are both in close proximity to roads, why hasn’t the potential impact on fauna been undertaken?

Some local residents and mine workers have observed an increase in road kill since tree removal in Leard State forest started in 2015. We have also been informed that the **shuttle bus has had wildlife collisions** several times and required panelbeating for repair. Rushing workers, driving fast on dark country roads, are at higher risk of impact with animals, especially as the shift changeover coincides with the most active time for wildlife, i.e. in the early morning and at dusk/early evening. Where are the records of fauna killed by mine workers/contractors travelling to and from Maules Creek Mine?

The east-west biodiversity corridor is a core foundation of the Maules Creek and Boggabri Coal ‘offset’ strategies and the Leard Regional Biodiversity Strategy. The entire Maules Creek ‘offset’ strategy has been based on this corridor which theorises animals will follow a westwards path to the Pilliga Forest, traversing the Kamilleroi Highway and mine feeder roads. As a consequence, the land acquisition strategy of Maules Creek mine has also been based on the east-west corridor.

How has Whitehaven Coal been permitted to lodge a modification without being asked to provide a **biodiversity impact statement** demonstrating:

1. the inherent problem that the east-west biodiversity corridor is supposed to cross over roads, highway
2. what impacts have occurred between mine workers and animals
3. reports on roadkill numbers, broken down into species and other diagnostics such as age/sex of animals

4. what measures are made to remove roadkill daily

The conflict between the mine's biodiversity management plan and its transport plan are an extreme concern to community members. A community feedback submission is being prepared to address issues with the draft revised Biodiversity Management Plan of Maules Creek mine – one such issue is the conflict between the East-West Biodiversity Corridor and the fact that the corridor traverses the main approach roads to the mine (Figures 1-3).

Whitehaven Coal has again given the NSW false and misleading information by stating at Para 3.2 that “there would be **no change** to the following key components of the existing/ approved MCCM due to the Modification including.... Biodiversity offsets” [Emphasis supplied]. This presupposes that there is NO connection between the east-west bio corridor and the fact that the biodiversity corridor traverses roads.

The newly proposed condition does not address the ‘offsets’ despite striking at the heart of the east-west offset strategy, and seeks to legitimise non-compliance of the current project approval conditions.

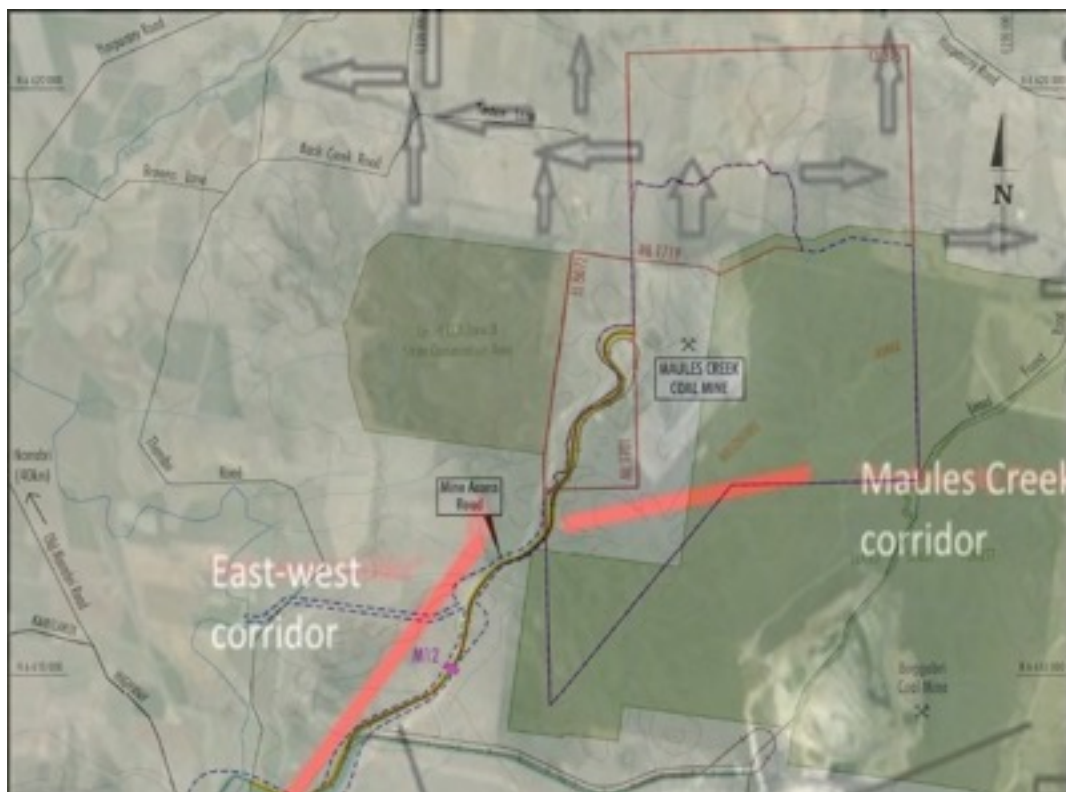


Figure 1. Overlaying a section of wildlife image movement map with biodiversity corridors shown onto the transport modification proposal map (Figure 2) of the Maules Creek Coal Mine Access Road, shows the potential road hazard to wildlife fleeing mining activity in the Leard State Forest. Increased traffic poses increased risk of vehicles colliding with wildlife.



Figure 2. Aerial image of the main access road to Maules Creek Mine showing Boggabri (Idemitsu) Mine in the top far-right-hand corner and sections of the landscape (including roads) that wildlife must traverse to meet the East-West Biodiversity Corridor (west of the road, out of view).



Figure 3. Aerial image of the Whitehaven Coal spur, where it converges with the Idemitsu rail line. These roads & high voltage power lines, as well as the rail line, need to be crossed if the native wildlife are to utilise the East-West Biodiversity Corridor (running along the top of the image).

Wando CCC has determined that MOD changes to the Maules Creek Mine Transport Management Plan (presented to the MCCM CCC on 20 June 2016) poses a **serious risks** to wildlife using the WHC assigned **biodiversity corridor** as the access for wildlife fleeing the felled Leard State Forest. The **biodiversity corridor** is an **essential aspect of the Maules Creek mine offset strategy** and changes that allow more traffic has **regional ramifications** to the offset strategy.

The ongoing breach of condition 63 by Whitehaven Coal that has resulted in one fine, and has resulted in a higher incidence of roadkill (as reported by Maules Creek mine staff and local residents). Continued defiance of the condition poses a continued danger to wildlife in the area.

Current complaints from community members around Maules Creek and Boggabri mines about the number of vehicles and speeding mine employees with the current regulation in place provides further concern for the Wando CCC if any modification of condition 63 is approved. Risks to other road users, including fatigued mine workers themselves who work lengthy and gruelling shifts at the mine, must be taken into consideration before lightening condition 63 requirements.

Inadequate CCC Consultation

“MCC wrote to the Community Consultative Committee (CCC) in May 2016 regarding the Modification. MCC will provide CCC members with a copy of the EA once finalised.”

There was no mention of any potential modification to transportation at the MCCM CCC meeting 18 May 2016 and the notice dated 31 May 2016 of the proposed modification was not emailed to CCC members (from John Turner) until 20 June 2016. Also, there was no mention of the public exhibition of the modification or closing date for public comment in the notice.

In addition, at the last two Joint Mines CCC meetings there have been regular reference to mine worker vehicle complaints and ongoing problems with mine traffic. Why haven't these issues been included in the assessment rather than complaints solely from 2014?

Reasons why the modification to transportation should be refused

Wando CCC calls on Department of Planning and Environment to reject modification to Condition 63, Schedule 3 transportation for the following reasons:

- 1. None of the reasons for imposing condition 63 in the original project approval have changed.**

In justifying reasons Whitehaven wants to remove the requirement of 90% bussing of employees, refers to changed employee trends in employee domicile and preferences of staff to use their own cars. The EA reveals original staffing projections have changed dramatically, from mine employees living in Narrabri, Maules Creek or Boggabri and environs, and a large contingent commuting from Gunnedah, some 1 hr drive from Maules Creek to now living more local. While car-pooling for local workers is stated to be encouraged, only 1.6 mine workers are currently car-pooling. Providing a local bus for pick-up drop off, or enforcing higher level car pooling needs to be enforced.

It is true that the MAC worker villages at Narrabri and Boggabri have suffered high vacancy rates and rumoured possible closure as a result of the unexpected changes in the Whitehaven workforce. However, we believe the longer commuting distance to Gunnedah is actually a reason **against** the Modification. After all, the longer drive to Gunnedah poses increased driver risks after a 12-hour shift in the coal mine.

It appears that Whitehaven Coal wants to save money by cutting back the bus service because it has an unpredicted number of contractors who use their own tools, and to avoid ongoing breaches of the condition requirements (stating that bus patronage has only been 65-84% - below the 90% requirement). This is another example of how Whitehaven Coal submitted misleading information to the Department of Planning, subsequently retracted.

2. Economic preference of Whitehaven Coal insufficient justification

Whitehaven Coal is self-proclaimed to be one of the “lowest cost coal producer in Australia”. This statement to shareholders and included in Annual Reports, reflects the fact that the company has low-cost targets to maintain. However, it is not the role of the NSW Government to take responsibility for the company achieving any low-cost targets.

Whitehaven Coal senior executives are believed to be among the highest paid mining executives in the corporate world. Internal financial matters like this should not be externalised to the NSW Government, local communities, or the environment that bear the ultimate cost. The company's motivation to reduce costs must not be compensated by relaxing regulatory requirements. MOD 3 seeks to legitimise ongoing breaches of condition 63, Schedule 3

The EA treats Condition 63 as if the requirement is entirely optional. The EA itself discloses openly and with statistics that Maules Creek mine has been breaching this condition. Maules Creek mine was fined for breaching condition 63 in 2015 as a result of community complaints about the excessive number of vehicles and abundance of the shuttle bus.

Essentially the modification seeks to legitimise, and make legal, continuous breaches of Condition 63 that have been occurring since the end of the construction phase of the mine, i.e. non-compliance with the requirement to bus 90% of operational workers to work.

Locals have been complaining about the ratcheting up of traffic in the approach roads between Kamilleroi Highway and Maules Creek mine, for some time, leading in April 2015 to the Department fining Whitehaven Coal. The infringement did not bring about any changes behaviour or contrition by Whitehaven Coal.

We question why the Department acquiesces to the continuous breaching of condition 63, knowing the biodiversity and public safety risks posed. Stricter enforcement to send a message of the necessity for compliance should be applied for all breaches, including condition 63 requirements, are required by our government agencies.

3. Worker safety should be upheld by the 90% bussing condition

It was originally envisaged that the majority of the workforce would be domiciled in Boggabri, Maules Creek, or Narrabri. At the time of the Project Approval it was ruled that 90% of mine employees should be bussed. Now, this has changed and the bulk of workers come from Gunnedah over twice as far away from the Maules creek mine, yet Whitehaven is trying to **weaken** the safety provisions – this seems illogical. Mine workers on 12-hour shifts doing heavy demanding work then drive 1 hour to Gunnedah, for example. So while the driving risks have **increased**, the company has actively ignored condition 63, and now seeks to legitimise its breaches by **reducing** worker safety provisions provided by condition 63. Whitehaven has submitted evidence that the volume of traffic is much lower than originally envisaged, but this fact speaks to the wear and tear of roads, and only in part to the contribution of fatigue to collisions. Even with less vehicles we submit the risks to workers remains a concern.

The “6:30 rush” that occurs at the shift changeover involves columns of cars driving at speed from the mine to Kamilleroi Highway. Community members note that it is not a good time to be traversing these roads due to the speed of drivers anxious to get home. This is understandable, as the workers may be on 12 hour shifts, and with 2 hours of commuting daily, it leaves 10 hours to sleep, eat and conduct other personal activities. Practices such as dangerous overtaking and tailgating are common around the shift changeover time as a result, and are of great concern for local residents, other motorists, and fauna traversing roads. The EA negates such concerns by omission.

4. New plan envisages successive increases in private car usage up to 2020

We refer to Section 5.2 Table 5.1. The EA predicts that the 2020 workforce to have a “target” of 70% but a prediction of 25%, or 117 out of 470 using shuttle buses.

This is based on the “travel characteristics” of the workforce, as though it is the travel preferences of the workers rather than the Project Approval conditions imposed by the NSW Government which determine the allowed levels of private car usage. The **assumption that worker preferences should determine the level of private car usage is totally flawed** and changing Condition 63 Schedule 3 based on these forecasts is completely unacceptable.

How did experienced Australian coal industry executives employed by Whitehaven Coal not know at the outset the workforce characteristics for mine transportation post-construction of the Maules Creek Mine?

NSW Government must obtain fleet accident records with wildlife

Due to the reported multiple collisions of Whitehaven Coal mine staff or contractors (including bus) with wildlife, records of incident should be reported to DP & E to allow transportation impact on biodiversity be monitored. This seems imperative considering the EPBC Act controlling provisions that are in place within the project approval.

Does Whitehaven have records of its own fleet, contractors and mine workers in private vehicles that had collisions with wildlife? What happens with injured animals hit by mine workers or contractors?

Given the poor track record of Whitehaven Coal in providing false and misleading information to the NSW Government, its hard to see how the Department can accept the EA without requiring a lot more details about wildlife collisions/roadkill?

About Wando Conservation and Cultural Centre Inc

Wando CCC is an environmental organisation based in Maules Creek, NSW, whose objectives include:

1. To protect Maules Creek and the Liverpool Plains, rural farming communities that provide food and fibre to the wider Australian and international community that is under threat from current and future coal mining and imminent coal seam gas extraction.
2. To protect what is left of Aboriginal culture and sacred sites in Leard Forest.
3. To protect Leard State Forest, the largest intact remnant of CEEC Grassy White Box Woodland on the northern Liverpool Plains.
4. To preserve habitat of Australian native birds, bats, reptiles, animals, plants and other organisms, as threatened fauna and flora inhabit remnant bushland.
5. To ensure that coal mines in the Leard Forest precinct accept responsibility for the ongoing viability of the White-Box Grassy Woodland under their conditions of consent, both State and Commonwealth.
6. To ensure that coal mines accept the many responsibilities towards farming neighbours in the affected zones surrounding the mines, including minimising noise and dust.
7. To provide education about environment, culture, farming and social issues through bush walks, bird-watching, artwork, tours, sharing stories, and other means.