

Our Reference:

InfoXpert No. 395194

Your Reference:

10\_0138 (Mod 4)

Contact Name:

Daniel Boyce

Telephone:

(02) 6799 6882

Matthew Riley  
NSW Government Planning and Environment

11 October 2017

**Online lodgement**

Dear Matthew,

**RE: Maules Creek Coal Mine  
Maules Creek Modification (Mod 4) - Sound Power Levels**

Thank you for the opportunity to make a submission on the Maules Creek Modification (Mod 4) - Sound Power Levels (**Modification**) to the Maules Creek Coal Mine.

1. Whilst Council acknowledges that in recent times the NSW Government has focused on encouraging the community to become more involved in the strategic planning phase, rather than being reactive at the development application stage, there is a need for meaningful consultation with the community at the development application stage on significant projects such as the Maules Creek Coal Mine. Council questions whether the NSW Government has genuinely committed to a fully participatory process in relation to the Modification in relation to the timing and length of public exhibition.

**Council requests that the public exhibition period for the Modification be extended by 14 days.**

2. Council contends that in order for meaningful community participation to occur the capacity of the community to understand specific planning issues needs to be improved through direct engagement and / or communicative discussions on the implications of one decision over another. The environmental assessment report submitted with the Modification contains complex technical sound transmission and noise monitoring information that is difficult for the majority of the community to understand. If the NSW Government is committed to meaningful consultation with the community, it is incumbent on it to communicate the specific planning issues to the public in a form that is more easily understood.

**Council requests that the specific planning issues be communicated in a format that the public can understand.**

3. The Department stated in the *New England North West Regional Plan 2036* that:

*'Mining activities need to be undertaken sensitively to minimise negative impacts on the environment, important agricultural land, neighbouring businesses and the community.'* (Page 24)

It is incumbent on the Minister for Planning (**Minister**) and the Department of Planning and Environment (**Department**) to ensure that it meets this commitment in the assessment of the Modification. Council advocates that the Minister and the Department adopt a precautionary approach to the assessment of the impacts of the Maules Creek Coal Mine on the amenity of the

locality including in its assessment of the Modification. Council relies on the Minister and the Department to ensure that officers with the appropriate expertise conduct a thorough assessment of the Modification and interrogate the assumptions and data relied upon by the proponent. Ongoing compliance with noise limits should be independently monitored with results made publically available to ensure public confidence in the implementation phase of the planning process.

**Council requests that the Department specify actions that will be initiated to deliver on the commitments in the *New England North West Regional Plan 2036* including but not limited to ongoing independent and transparent monitoring of compliance with the noise related conditions of the consent.**

4. Council does not raise objection to the principle on which the Modification is proposed. Achieving compliance with acceptable noise limits at private receivers is the critical measure of negative impacts on adjoining land owners. In terms of the obligation of the proponent to implement measures to minimise impacts Council advocates adoption of the Land and Environment Court of New South Wales planning principle for noise impacts. In *Stockland Developments v Wollongong Council and others [2004] NSWLEC 470* Roseth SC and Brown C held that ‘*where there is conflict between a noise source and a sensitive receptor preference should be given to the attenuation of any noise from the source rather than at the sensitive receptor*’. The proponent should be required to continue to implement any and all noise attenuation measures to achieve compliance with acceptable noise limits at private receivers throughout the life of the project.

**Council requests that the Department require, via conditions of consent, the proponent to implement noise attenuation measures, including but not limited to attenuation of plant, as required to achieve compliance with acceptable noise limits at private receivers.**

5. In terms of whether current noise limits and assessment methods are appropriate to minimise negative impacts on adjoining land owners Council has been made aware of concerns from the residents in the vicinity of the Maules Creek Coal Mine as to the appropriateness of applying the NSW Industrial Noise Policy (**Policy**) and the Draft Industrial Noise Guideline (**Guideline**) to rural areas, particularly in relation to the application of background noise levels for assessment purposes.

**Council requests that the Department provide an update to the public explaining the basis upon which it considers it appropriate to apply the Policy and Guideline to rural areas with specific reference to background noise levels used for assessment purposes.**

6. In addition to the above it is considered essential that the effects of temperature inversions and wind be considered in the assessment of the Modification and ongoing operations of Maules Creek Coal Mine. In this regard is noted that Parnell (2016) suggests that some “*G-Class inversions have been observed ... to increase noise in the order of 15 dB*” (the inversion class currently listed on the Maules Creek Coal Mine Environment Protection Licence).

**Council requests that the Department consider meteorological/weather conditions that may increase noise levels during the assessment of the Modification and require, via conditions of consent, the proponent to achieve compliance with acceptable noise limits at private receivers under an appropriate range of meteorological conditions.**

If you wish to discuss the matter please contact Daniel Boyce, Manager Planning and Regulatory Services, on 02 6799 6882 or [danielb@narrabri.nsw.gov.au](mailto:danielb@narrabri.nsw.gov.au)

Yours sincerely,

A handwritten signature in black ink, appearing to be 'TM' or similar initials, followed by a horizontal line.

Tony Meppem

**DIRECTOR DEVELOPMENT AND ECONOMIC GROWTH**

