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6 October 2017

Ms C. McNally,  
Secretary of Planning,  
NSW Department of Planning and Environment  
GPO Box 39, Sydney NSW 2001

Dear Madam,

Re: Sound Power Levels, Modification 4 of the Maules  
Creek coal mine approval, Application by Maules Creek  
mine to delete Condition 12(a)

May I say first up that I work generally 7 days a week, being a farmer, and this Modification by Whitehaven Coal is a severe imposition on my time. Added to that that we have had only 2 weeks to formulate our submission. This is disrespect to the community by your Department to encourage Whitehaven Coal to apply for a modification, taking up peoples precious time, and putting us on the defensive against new threats to our rights and health. A company that has joined the ranks of the most high risk coal mines in NSW with its High risk level 3 licence should not be allowed to burden the Department or the Community with a scandalous request like this.

My wife and I are residents of Maules Creek, and our property Kumbogie is situated around 18km north of Maules Creek coal mine at the foothills of Mt Kaputar.

Although Whitehaven Coal promised locals that we wouldn't even know they were there, unfortunately, that was a blatant falsehood. My home has a direct view of the mine. At night, the light pollution from the daymakers shines into bedrooms on the southern side of both houses, especially the north-easternmost 3 or 4 of them which last week were extremely intrusive – from a distance of 18km.

It should not be a surprise, therefore, that my home is also in the path of noise pollution from the Maules Creek mine. I have made many complaints to the EPA but my complaints have always been ignored because of an

assumption there is not excessive noise north of Harparary Rd. Not only noise, but blasting vibrations, blasting noise and severe air pollution are also out of control and give me cause for complaints.

No serious investigations are carried out by Whitehaven Coal or any of the Government authorities to examine who is to blame for the errors that were made in approving the noise limits that were modelled by Mr Bridges in the 2011 Acoustic Assessment. There is plenty of evidence that excessive levels of offensive noise are heard far from the predicted worst case scenario line at Harparary Road.

On the 6<sup>th</sup> July 2017 near my property, community members using a Class 1 acoustic metre measured an average of 34.87dB over 15 minutes, which required the addition of the 5dB low frequency noise penalty (under the Industrial Noise Policy) making this 39.87dB over 15 minutes, and well over the 35dB contour line (Harparary Rd) which was predicted as the worst-case envelope – and I am some 14km north of Harparary Rd.

This is an error on the part of Whitehaven Coal and the Dept of Planning alike, but no one has been called to account yet over these errors which have resulted in people having to sell up and become refugees in our own country.

There are some facts of climate and geography that I would like you, and the Planning Assessment Commission to note when considering this modification.

### **1. Our background noise levels are under 20dB**

It is no secret, and the EPA and other officials have all agreed that the background noise levels in Maules Creek are under 20decibels. Yet, your Department approved the mine on the basis of 30 decibels background noise, which placed us at a severe disadvantage. Even the Planning Assessment Commission issued this warning about its “concerns” about “*the Department’s approach to noise impacts at rural residences*”:

*"The Department has also acknowledged informally that the differential between the real background level and the acquisition criterion will have significant impacts on rural*

*residences and that complaint patterns in mining precincts appear to bear this out.*

*The Commission remains concerned at the Department's approach to noise impacts at rural residences."*

The PAC was right to be confirmed, as proved by the history of the Maules Creek mine which has evaded its duty to stay within its noise conditions even since it was operating at a quarter of capacity. This modification should be referred to the PAC to see for themselves how their warning came to pass.

Your Department, which the PAC states "acknowledged informally" that the low background levels would cause 'significant impacts' appear to be encouraging Whitehaven Coal to apply for this modification to get rid of the noise controls on site.

## **2. Horseshoe shaped valley**

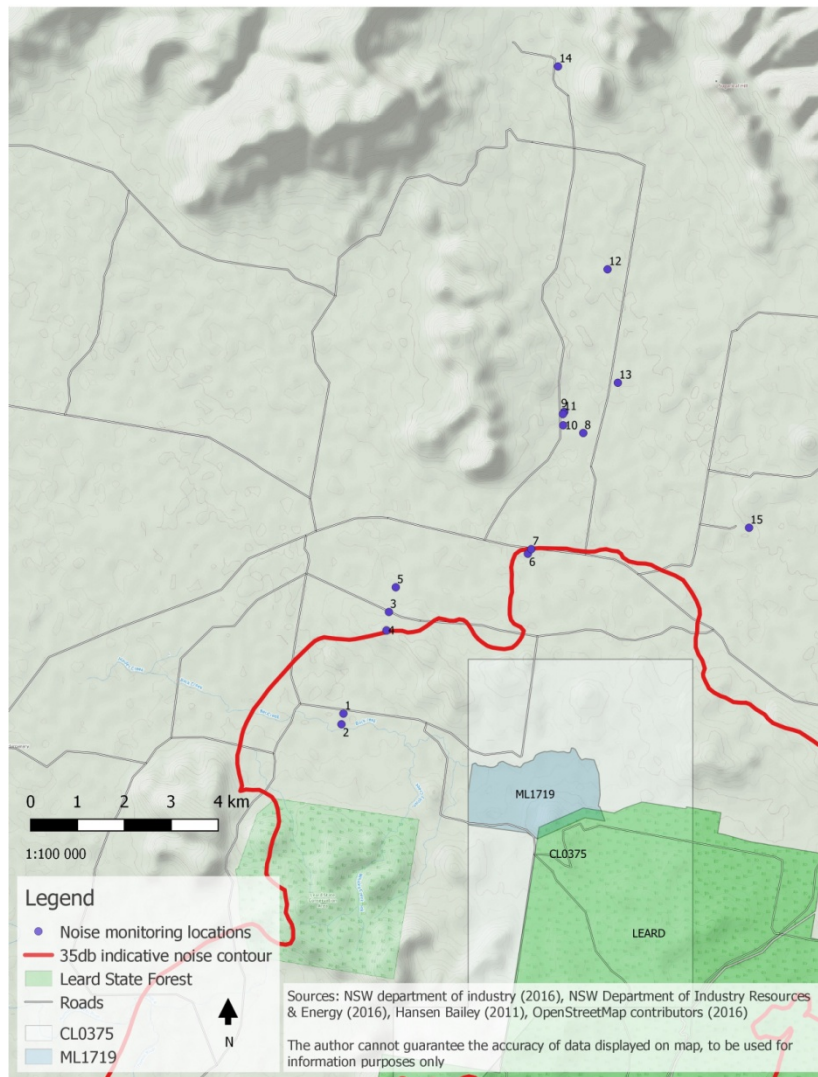
See map below, my property is number 14. At the northern end of Maules Creek valley. As you can see there is an unobstructed pathway for noise to travel from the mine in a northerly direction to my home. There are no land masses or vegetation to obstruct noise. Immediately to the west is the Turkey Ridge and to the east Nandewar Range, these sometimes have been heard to form an echoing effect.

Those people who sit in their offices in front of a computer, being Mr Parnell who is referred to by Whitehaven in its EIS, do not have a comprehension of what it is like to endure the mine noise. Busy doing "desktop modelling", he continues to support the view that mine noise cannot carry as far as our house and if it does it is barely audible and that there is no offensive noise at my residence.

However, the noise readings on the 6<sup>th</sup> June 2016 show otherwise. The full data for this noise reading has been sent to the EPA, but there has never been a detailed response saying why it is rejected other than the backroom theories of Mr Parnell.

I believe the catcher's mitt Geography is relevant and is a factor making the noise much worse than Whitehaven admitted.

## Noise Monitoring Locations



### 3. Expansion plans

Here in this area we are faced with major expansion of the Maules Creek mine to the west and north, which will bring the working areas of the mine closer to us. A 346, the exploration licence that is next to be developed by Whitehaven Coal is to the North of the existing mine, and you can see it in the diagram above – it is the light shaded area north of ML1719 and the corners of it reach nearly to the red line which is the 35dB line. It is obvious that the noise predictions based on the current mine will change when the mine expands to the North.

When that occurs, you Ms McNally will not be in a position to request that Condition 12(a) be reinstated.

We, the affected community, will not be in a position to have Condition 12 (a) reinstated.

Condition 12 (a) was inserted to protect us for the life of the mine, and included reference to continuous improvement and “best available technology economically achievable” for the specific reason that the mine will change and the Company is expected to keep up with those changes and maintain protections towards us.

#### **4. Inversions**

You are no doubt aware of the phenomenon known as inversion, which affects Maules Creek throughout the winter and also at other times, and leads to an intensification of noise.

Whitehaven has made no mention in the Environmental Impact Statement about its known intentions to seek changes to the rules about measuring noise during inversions.

The noise conditions of the Maules Creek mine are meant to cover worst case scenario conditions, ie the Class G inversion which occurs in 10% of cases.

This is double-dealing, for Whitehaven to apply for noise modifications on one hand without mentioning what is known by the common knowledge of the community, that they have other plans which should be considered together.

The EIS is therefore misleading and deceptive.

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Now, I would like to move on to discuss some further reasons why you should reject this application.

1. Maules Creek coal mine Environmental Protection Licence has been downgraded to level 3 – only the 3 worst out of 49 coal mines in NSW have this bottom of the ladder status - confirming less than desirable environmental performance.
2. Whitehaven Coal has a poor reputation in Maules Creek, and its supporters appear to be limited to those who have a pecuniary benefit from the Maules Creek mine. Even some who obtained pecuniary

benefit privately speak of the disgust they have for Whitehaven Coal and its polluting ways, although they are prevented from speaking out due to gag clauses

3. Members of NSW EPA have repeatedly told community members that the State Govt has had to direct considerable resources to monitoring environmental compliance of Maules Creek mine because the company is not up to scratch, and that Maules Creek mine is a drain on the resources of NSW EPA
4. Noise filters are being incorrectly or inappropriately applied during monthly compliance monitoring and Whitehaven refuses to disclose the filters being used to the community
5. We do not have any trust in Whitehaven Coal's reporting,
6. A Mandatory Noise Audit revealed that in 2015 and 2016 the fixed and mobile plant did not comply with conditions, and these problems have not been overcome.
7. Your staff Mike Young and others who have caused this mine to be approved under the conditions now being appealed against are also responsible for ongoing planning, including this modification. They should not be entrusted with this role, as they have clearly failed in the case of Maules Creek mine.

I have nil confidence in the ability of the Dept of Planning to make a scientifically-based assessment of the noise impacts of removing Condition 12(a). The PAC was right to be concerned about the Department's approach.

Nor does the company's performance justify the changes proposed.

This Modification should be refused.

**Graeme Leys**