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Submission: Maules Creek coal mine Modification 4

Thank you for the opportunity to submit to this proposed modification of the Maules Creek coal mine.

Lock the Gate Alliance objects to this modification and we urge the Department to uphold the conditions of consent issued for the Maules Creek coal mine.

The Environmental Assessment provided for this modification fails to mention several pertinent compliance actions, assessments and actions as outlined in this submission. It also fails to provide modelling, analysis and assessment that we understand has been undertaken. In the absence of this information, the proponent of this mine asks the public and the Department of Planning to believe its assertion that this modification is necessary and will not result in worsened impacts on the local community. The missing information, modelling and analysis must be provided prior to any determination being made.

Furthermore, the mine is already causing significant impacts and the community has the right to expect improvement. Maules Creek coal mine is causing distress and sickness among the people that live surrounding it. Local community members report failure by the company to keep commitments made by the company prior to securing development consent and the company has several times been found to be non-compliant with its various approvals.

The community also reports that it has difficulty in getting action from regulators to improve the management of the impacts they are experiencing. In part, this is a consequence of the loose and ineffective conditions of the consent but Whitehaven has also been granted concessions by the Department of Planning for the very late development of Management Plans and in changing conditions originally imposed on it for local amenity and safety, such as traffic restrictions.

Because of its compliance problems, Maules Creek is now one of three coal mines in NSW given the highest environmental risk rating by the EPA.

The community at Maules Creek was poorly served by the Department of Planning during the assessment of this mine and ignored community objections that the modelling presented for the noise assessment was not accurate. The Planning Assessment Commission that granted approval to the mine was particularly critical of the Department for adopting an “artificially high” background level against which to measure change in noise caused by mining projects. In some cases, this meant doubling of noise experienced by mine neighbours.

This condition (Condition 12a of Schedule 3) stipulates that the Sound Power Levels (SWLs) of fixed and mobile machinery at the mine must be “equal to, or better than, the indicative SWLs adopted for modelling purposes in the Maules Creek Coal Project Environmental Assessment”

In other words, the Environmental Impact Statement that assessed the impact the mine was likely to have on the environment back in 2011 assumed certain noise levels coming out of the trucks, plants and other equipment at the mine and modelled the effect on surrounding residents based on those “sound power levels.”

Whitehaven’s most recent annual environmental review in 2016 admitted that the company was not compliant with this “sound power level” condition. That report also details non-compliance with blast level criteria and blast monitoring requirements. Unable to comply, Maules Creek coal mine has applied to the Department of Planning to remove one of the conditions imposed on it when it was granted approval.

The community at Maules Creek has long argued that false and misleading noise modelling was provided by Whitehaven Coal in its original Environmental Assessment in order to gain approval and are now experiencing noise impacts that are ruining their lives.

This is borne out by the monitoring conducted by the EPA in 2015, when it installed noise monitors at a Maules Creek property that was not predicted to experience more than the licence limit of LAeq (15 minute) 35dBA. The equipment monitored sound levels at the property during six months and found exceedances in March, April, May, July and August 2015. Seventeen exceedances were recorded in March 2015, twenty-eight were recorded in April 2015, four in exceedances were recorded in May 2015, twelve were recorded in July 2015 and twenty nine were recorded in August 2015.¹ Following this finding, the proponent was required to undergo a mandatory noise audit, which was completed in February 2017. That audit found 15 residences that were not identified and for which noise impacts were not modelled during the Environmental Assessment. A review of compliance noise monitoring by the audit also found several more instances of noise exceedance.

That audit found the mine was generally employing “good” though not “best” industry practice in noise management and monitoring, which raises serious questions if these good practices are still having disruptive impacts on the surrounding community. Notably, the audit was provided with modelling the “expected revised worst case future year of operations” at the mine, following changes made since approval was granted.

Furthermore, the conditions of the consent for this mine require “best” not good practice. Condition 15a requires the proponent to “implement best management practice to minimise the construction, operational, low frequency, road and rail traffic noise of the project.”

This modelling was not made public with the audit and though it is referred to in the Environmental Assessment for this modification, it is not provided here either. The EA reveals that detailed mine planning undertaken since the approval was granted has changed the proposed open cut mining operation and that Whitehaven commissioned noise modelling in 2016 to assess potential noise impacts associated with these changes and that this modelling was provided to the noise audit. It is claimed that the results show that the changed mining operation will result “in noise predictions at nearby private receivers *generally* consistent with the noise modelling conducted for the original Environmental Assessment.” The full results of this modelling should have been provided with this environmental assessment to substantiate the proponent’s assertion that no additional residences will experience noise in excess of the statutory limit.

The noise audit recommended that “A detailed assessment should be completed of plant with sound power levels remaining above EA levels” including assessment of each item’s off-site noise contribution “to determine whether rectification work would result in a reduction of total site noise

¹ EPA 15 February 2016. Notice of variation of licence no. 20221

at privately owned residences.” This aspect of the audit’s recommendations is not mentioned in the Environmental Assessment, nor is this assessment provided.

The Environmental Assessment admits that test work on sound power levels in both 2015 and 2016 revealed that these were above the values in the modelling for some plant equipment. The EA claims that “Modelling has indicated that the plant items measuring above the indicative SWLs have negligible impact at receivers” but the results of this modelling are not presented either.

The EA claims that the mine can comply with the 35dBA limit at private residences without complying with the specified sound power levels for its various plants and equipment. But the community at Maules Creek has the right to expect continuous improvement in the environmental performance of the mine. Given that the operation will soon be reaching the peak of its intensity, all environmental conditions, including the sound power levels, should be met, and all efforts made to reduce noise where there is any practical way to do so. Indeed, best management practice to minimise noise is a requirement of the consent. The evidence presented in the noise audit, and this EA, indicates that condition is not being met, and that the proponent is not intending to meet it.

A substantial environmental assessment needs to be conducted for this modification with the data, modelling and analysis produced by Whitehaven provided to the public for scrutiny. The EA also makes reference to “real time monitoring data from around the [Maules Creek coal mine]” having been “analysed to ascertain trends in noise impacts including identification of instances or combinations of operations and meteorological conditions which typically generate higher mine-contributed noise levels off-site.” This data and analysis is also not presented.

The Department of Planning already let down the community at Maules Creek by ignoring community concerns and objections prior to the mine being approved. The Planning Assessment Commission that granted approval to the mine was particularly critical of the Department for adopting an “artificially high” background level against which to measure change in noise caused by mining projects. In some cases, this meant doubling of noise experienced by mine neighbours.

For this modification, Whitehaven has presented a 15 page environmental assessment document that does not present any of the information needed to understand the impacts of this modification, including cumulative impacts with the nearby Boggabri mine.

According to Maules Creek’s 2016 Annual Environmental Review, in May 2016, the Department of Planning issued Maules Creek mine with an advisory letter and show cause letters regarding 2015 Sound Power Levels of mobile and fixed plant equipment and the company’s failure to comply with this condition of consent. Maules Creek reportedly provided a written response and action plan, but this is not publicly available. These compliance letters, written response and action plan are also not provided and need to be released.

In the next twelve months, Maules Creek mine is expected to reach the peak of its noise impact on the surrounding community. This is not a time to be watering down requirements for the mine to take any and all actions to reduce the noise burden it is inflicting on the Maules Creek community.

This company must be held to their commitments and promises they made to the local community and the wider community of NSW when it obtained its approval, not be given a free pass by government because they can’t achieve the conditions of that approval.