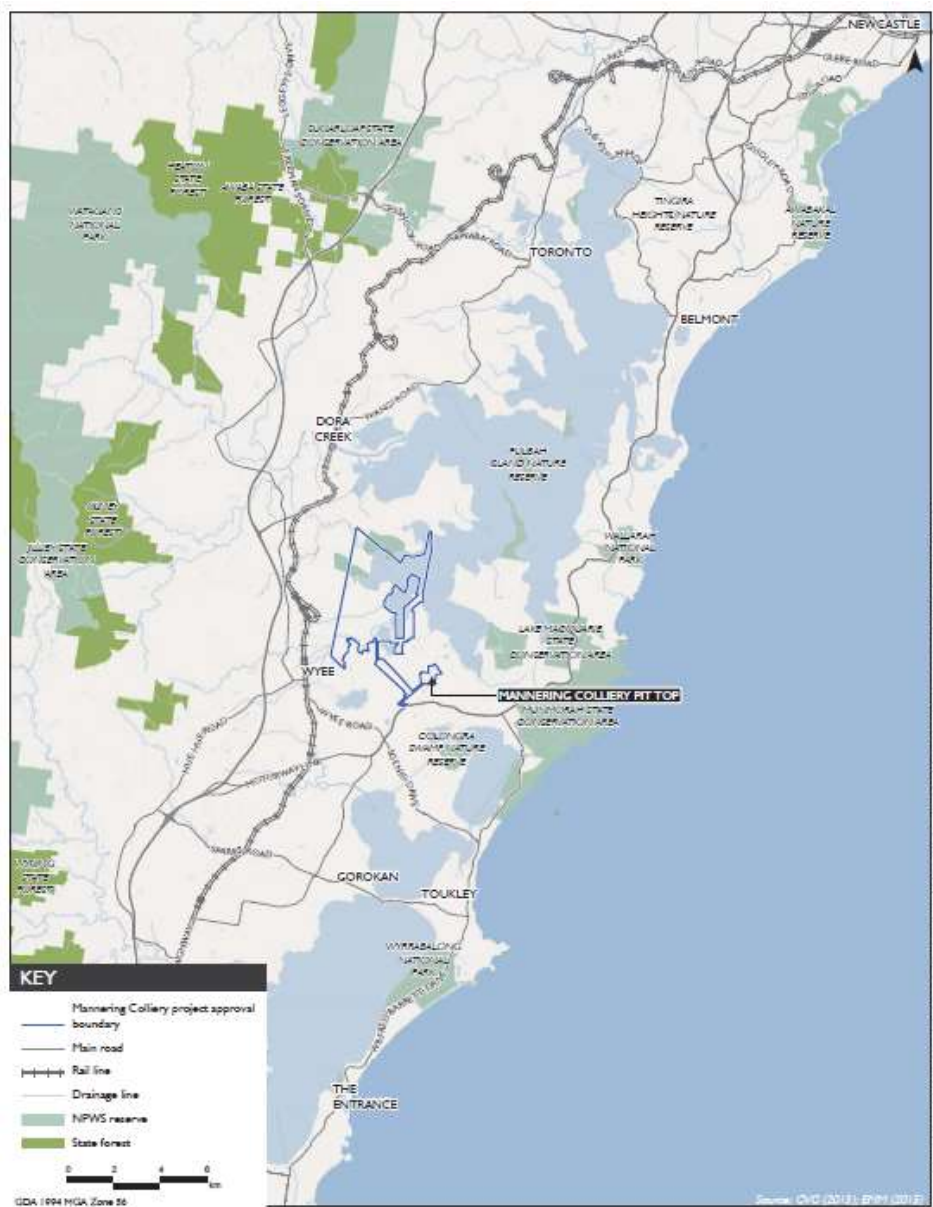


# Manning Colliery (MP 06\_0311 MOD 4) Rotary Breaker Modification

## Environmental Assessment Report Section 75W of the *Environmental Planning and Assessment Act 1979*

### 1. BACKGROUND

Manning Colliery (Manning) is an underground coal mine located on the southern shore of Lake Macquarie, approximately 60 kilometres south of Newcastle, in the Lake Macquarie and Wyong local government areas (see **Figure 1**). The mine is currently operated by LakeCoal Pty Ltd (LakeCoal), under an agreement with the owner, Centennial Coal Company Pty Ltd (Centennial).



**Figure 1: Locality Map**

The project was approved by the then Minister for Planning on 12 March 2008. The project approval has been subsequently modified on three occasions. The most recent modification (Modification 3) was approved on 16 December 2015. Modification 3 involved an increase in the rate of coal handling and dispatch from 1.1 million tonnes per annum (Mtpa) to 1.3 Mtpa, and an extension of the project approval period until the end of June 2022. The mine ceased production in November 2012, and is currently on care and maintenance.

## 2. PROPOSED MODIFICATION

When the colliery is operational, extracted coal is transported via the drift conveyor to a coal crushing facility on site. This facility includes a rotary breaker (also known as the 'raw coal breaker' or 'rock breaker'), which decreases average lump size and removes unwanted rock. The Noise Impact Assessment (NIA) prepared by EMM Consulting Pty Ltd as part of the Environmental Assessment (EA) for Modification 3 stated:

*"It is important to note that the rock breaker assessed in the previous noise assessment (Bridges Acoustics, 2007) will not be in use at MC once operations recommence. Notwithstanding this, the sound power level of the transfer house has been conservatively assumed to be equal to that of the rock breaker (113 dB(A))..."*

LakeCoal submits that this statement was included in error, and that the use of the rotary breaker is critical to ongoing operations at the Colliery. Therefore, the proposed modification seeks to correct this error, and allow the use of the rotary breaker.

## 3. STATUTORY CONTEXT

### 3.1 Section 75W

The Mannering Colliery was approved under the now repealed Part 3A of the *Environmental Planning & Assessment Act 1979* (EP&A Act). However, the project remains a 'transitional Part 3A project' under Schedule 6A of the EP&A Act, and the modification must be determined under the former section 75W of the Act.

The Department notes that the proposed modification is of a minor administrative nature. Consequently, the Department is satisfied that the proposed modification is within the scope of section 75W, and may be determined accordingly.

### 3.2 Approval Authority

The Minister for Planning is the approval authority for the application. However, the Director, Resource Assessments may determine the application under the Minister's delegation of 16 February 2015, as LakeCoal has not declared any reportable political donations, Council does not object to the proposal and there were no public objections.

### 3.3 Environmental Planning Instruments

A number of environmental planning instruments apply to the modification, including:

- State Environmental Planning Policy (SEPP) (*Mining, Petroleum and Extractive Industries*) 2007;
- SEPP (*Infrastructure*) 2007;
- SEPP (*State and Regional Development*) 2011;
- SEPP No 33 – *Hazardous and Offensive Development*;
- *Lake Macquarie Local Environmental Plan 2004*;
- *Lake Macquarie Local Environmental Plan 2014*; and
- *Wyong Local Environmental Plan 2013*.

The Department has assessed the proposed modification against the relevant provisions of these instruments. Based on this assessment, the Department is satisfied that the proposed modification can be carried out in a manner that is consistent with the aims, objectives and provisions of these instruments.

## 4. CONSULTATION

Due to the administrative nature of the proposed modification, the Department considered that public exhibition was not required. However, the application and supporting EA (see **Appendix A**) were placed on the Department's website. No submissions were received.

## 5. ASSESSMENT

The Department has assessed the merits of the proposed modification in accordance with the relevant objects and requirements of the EP&A Act. In assessing these merits, the Department has considered the:

- EA for the original project application;
- conditions of consent for the original project application, as amended by subsequent modifications;
- the modification application (MOD 4) and EA; and
- relevant environmental planning instruments, policies and guidelines.

The Department considers the key consideration for the modification relates to noise impacts.

### 5.1 Noise

While Section 5.2 of the NIA of the EA for MOD 3 stated that the rotary breaker would not be used, LakeCoal submits that the noise modelling, and therefore the Department's assessment of Modification 3, were undertaken on the basis that all existing surface infrastructure would be in operation. This included the rotary breaker.

The original NIA prepared as part of the EA for MP 06\_311 was prepared by Bridges Acoustics. This assessment estimated the sound power levels of the 'raw coal breaker' at 113 dB(A). In Section 5.2 of the MOD 3 NIA, EMM noted, that notwithstanding the fact that the rotary breaker would no longer be used, "the sound power level of the transfer house has been conservatively assumed to be equal to that of the rock breaker (113 dB(A))..." LakeCoal submits that the MOD 3 NIA assumed a worst-case scenario, with all existing infrastructure operating concurrently, under the most unfavourable wind conditions, in order to estimate the highest potential noise levels at each assessment location. The colliery is predicted to comply with the noise criteria specified under the project approval, even with the rotary breaker in operation. In essence, this means that the noise impacts of the rotary breaker have already been assessed and approved, notwithstanding the statement in the NIA that it would not be used.

The statement in Section 5.2 of the NIA was an isolated one. It is not repeated elsewhere in the EA, or in the Department's assessment and subsequent Notice of Modification. The reasons for including this statement are difficult to discern. The colliery has been in operation since the 1960s, and the use of the rotary breaker predates the 2007 project application. Following its acquisition of the colliery in 2002, Centennial carried out noise mitigation works on its surface infrastructure, including enclosure of the rotary breaker. This reduced noise emitted by the rotary breaker by approximately 10dB(A) (down to 113dB(A)). Prior to entering care and maintenance in 2012, Centennial had not received any noise complaints from neighbouring landowners. On this basis, the Department is satisfied that the statement was included in error and should be modified accordingly.

Upon recommencement of underground extraction at the colliery, alternate noise conditions will take effect under condition 1 of Schedule 3. Appendix 4B of the project approval requires LakeCoal to prepare a report on all noise mitigation measures which are required to achieve the specified noise limits for the colliery, and prepare an action plan for implementing any reasonable and feasible recommendations of the report. This report is to be submitted to the Secretary within 6 months following the recommencement of underground operations. The Department considers that this will provide increased certainty regarding the overall noise impacts of the colliery, and ensure that the use of the rotary breaker remains within specified noise limits.

## 6. RECOMMENDED CONDITIONS

The Department has drafted a recommended notice of modification (see **Appendix B**) and a consolidated version of the consent as it is proposed to be modified (see **Appendix C**). The Department considers that the environmental impacts of the project can continue to be managed through the amended conditions of consent.

The Department has taken the opportunity to update the full suite of conditions to reflect its current drafting standards.

LakeCoal has considered a copy of the recommended conditions and has not raised any objections.

## 7. CONCLUSION

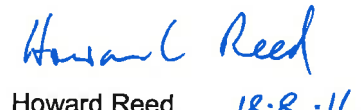
The Department has assessed the merits of the proposed modification in accordance with the requirements of the EP&A Act. This assessment has concluded that the proposed modification would have no adverse environmental impacts, including to any residential receiver. The proposed modification would simply correct an inconsistency within the Environmental Assessment for Modification 3. The Department is therefore satisfied that the proposed modification is in the public interest and should be approved, subject to conditions.

## 8. RECOMMENDATION

It is recommended that the Director Resource Assessments, as delegate of the Minister:

- **considers** the findings and recommendations of this report;
- **determines** that the modification is within the scope of section 75W of the EP&A Act;
- **approves** the modification application, under section 75W, subject to conditions; and
- **signs** the notice of modification at **Appendix B**.

  
Colin Phillips  
Team Leader  
Resource Assessments

  
Howard Reed  
Director  
Resource Assessments

## **APPENDIX A – ENVIRONMENTAL ASSESSMENT**

Refer to the Department's website:

[http://majorprojects.planning.nsw.gov.au/index.pl?action=view\\_job&job\\_id=7809](http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=7809)

## **APPENDIX B – NOTICE OF MODIFICATION**

## **APPENDIX C – CONSOLIDATED PROJECT APPROVAL**