

21 October 2021

Stephen O'Donoghue  
Director – Resource Assessments, Planning and Assessment  
Department of Planning, Industry and Environment  
4 Parramatta Square, 12 Darcy Street  
Parramatta NSW 2150

**Submitted through online portal**

Dear Mr O'Donoghue,

**Maules Creek Coal Mine – Mod 8 Mobile Coal Sizing and Waste Tyre Disposal**

- 1 We refer to the above Modification Application submitted by Whitehaven Coal (**the Proponent**) in relation to Maules Creek Coal Mine and associated Modification Report.

**Background**

- 2 NTSCORP Limited (**NTSCORP**) acts for the Gomeroi People native title applicant (**Gomeroi Applicant**) in relation to the Gomeroi People's Native Title Determination Application (Federal Court Proceedings number NSD37/2019) (**Gomeroi Claim**).
- 3 The area covered by Maules Creek Coal Mine is wholly within the area covered by the Gomeroi Claim.

**Position Statement**

- 4 Gomeroi Applicant strongly objects to the proposed modification.
- 5 Exploration and mining activities are a source of concern for the Gomeroi Applicant and the Gomeroi People whom they represent. Gomeroi People, and the Applicant on their behalf in relation to native title matters, have obligations and duties to protect and heal their country. The activities proposed by the Proponent create risks to the social, cultural, and environmental landscape of the Maules Creek Coal Mine and surrounding areas.

**Native Title Rights and Interests**

- 6 Within the boundaries of the Gomeroi Claim, Gomeroi People hold and actively exercise a range of native title rights including their rights to access, use, camp, gather and use resources, hunt, conduct ceremony, speak for and make decisions in relation to the land, and maintain and protect places of importance.

- 7 The Gomeroi People have a vital cultural and spiritual connection to their country. That connection includes the artefacts and objects which are the physical evidence of the Gomeroi People's occupation of their territories. It also consists of a connection to the cultural landscape. That is, a connection to the plants, animals and geographical forms which the Gomeroi People have cared for, and been cared for by, for millennia.
- 8 The Gomeroi People's cultural landscape incorporates the dreaming stories which pass through their country. These stories and song lines connect and unite the landscape, and tell of the creation and formation the country.
- 9 That connection persists today. The Gomeroi People continue to tell the stories of their country and continue their cultural practices.

### Proposed modification

- 10 The Proponent has indicated in its Modification Report that it proposes to modify its mining approval conditions to facilitate:
  - (a) the use of mobile coal sizing equipment located in the vicinity of the stockpile area and within the open cut pit;
  - (b) the use of mobile rock crushing equipment in some areas of Maules Creek Coal Mine; and
  - (c) disposal of waste heavy vehicle tyres in the waste rock emplacement areas.

### Comments and concerns of the Gomeroi Applicant

- 11 The Gomeroi Applicant is concerned about the environmental and cultural impacts which may stem from the burial of waste tyres.
- 12 The Proponent proposes the disposal of an estimated 400 waste heavy vehicle tyres which are stockpiled per year, along with waste tyres which have already been stockpiled (Modification Report, p.23). The Proponent has not provided an estimate of the volume of tyres presently stockpiled.
- 13 There is little information available on the long-term effects of the proposed disposal method. In support of the Modification, the Proponent relies on a report titled 'Management of Waste Tyres in the Mining Industry' (**Waste Tyres Report**).
- 14 The preservation of the natural resources, including protection of surface and ground water sources in and around the Maules Creek Coal Mine, is a significant concern for the Gomeroi People. The Gomeroi Applicant notes the potential risk of contamination of surface waters and groundwater as a result of the waste tyre disposal. Any contamination resulting from the breakdown of the tyres has the potential to have devastating effects on the water system.

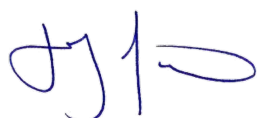
- 15 The Proponent asserts that the 'limited potential for environmental impacts associated with chemical leaching of waste tyres would be further reduced by disposing of the waste tyres whole' (Modification Report p. 25). It is unclear on what grounds this assertion is made. The Waste Tyres Report notes the challenges in assessing the potential for contamination due to the reluctance of tyre manufacturing companies to provide information about the ingredients of tyre manufacture. It further notes that studies of waste tyre degradation and leaching has largely been centred on passenger tyres rather than large off the road tyres. In this context the Gomeri Applicant submits that insufficient information has been provided to say with certainty that there is limited potential for contamination.
- 16 Contamination of the environment, including contamination of surface and sub-surface water resources, has a significant cultural impact on Gomeri People. As described above, Gomeri People understand plant and animal life, the geography of country, and the Gomeri People themselves, as part of a unified, indivisible whole. Contamination of one part of that whole has consequential impacts for every other part.
- 17 Prior to colonisation, the Gomeri People managed Gomeri country in a sustainable manner, including the disposal of waste materials. The disposal of waste on Gomeri Country in the manner proposed the Proponent in this case offends the customs and cultural practices of Gomeri People.
- 18 No site-specific assessment has been made in relation to the disposal of tyres at Maules Creek Coal Mine. The Gomeri Applicant requests a site-specific assessment is undertaken into the long-term environmental impact of the burial of waste off the road tyres at Maules Creek Coal Mine.
- 19 It is the Proponent's position that there is very little risk relating to tyres 'floating' to the surface after being buried, despite there being no specific evidence to support this assertion (Waste Tyres Report, p.4 and 8). There has been little research into the phenomenon of 'floating' as it relates to heavy vehicle tyres. The Gomeri Applicant submits further assessment is needed in relation to this risk.
- 20 The Proponent states that recycling of the waste heavy vehicle tyres is not considered to be feasible as there are no recycling facilities in proximity to Maules Creek Coal Mine and recycling technology is associated with passenger tyres. The Gomeri Applicant notes that the recycling of heavy vehicle tyres is already being implemented in Australia. For example, tyres from BHP's facilities in the Bowen Basin in Queensland are being recycled into heavy and light oils, carbon black, syngas and steel. The disposal of the tyres is the least preferred practice in the waste management hierarchy in Waste Tyres Report.
- 21 The proximity of Maules Creek Coal Mines to other open pit coal mines which also have a large volume of waste tyres that require disposal creates an economy of sale which makes the recycling of tyres more viable. The Gomeri Applicant submits it would therefore be appropriate to require the recycling of waste tyres for

Maules Creek Coal Mine and other similar projects. A condition of any approval in this matter should be that the Proponent invest in developing local recycling facilities.

- 22 The Gomeroi Applicant notes that following on from an investigation by the Environmental Protection Authority (EPA), 6 mines in the north-west NSW area were cautioned for the unapproved burying of waste tyres. The Gomeroi Applicant requests the Proponent provide information relating to present tyre disposal processes at Maules Creek Coal Mine and whether any tyres have already been buried at Maules Creek Coal Mine.
- 23 We thank you for the opportunity to make submissions and look forward to receipt of the Proponent's response to submissions.

If you have any questions in relation to the above, please do not hesitate to contact the author.

Yours sincerely,



**James MacLeod**  
**Senior Solicitor**  
**NTSCORP Limited**



**Maeve Parker**  
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