

Stephen O'Donoghue
Director
Resource Assessments

21st October 2021

Dear Stephen,

Re: Maules Creek Coal Mine Modification 8 Mobil Coal Crushing & Waste Tyre Disposal

I strongly object to this Modification 8.

This modification should be withdrawn on the following grounds:

1. This modification was presented to the Maules Creek Coal Mine (MCCM) Community Consultative Committee (CCC) as one Modification & the Red Chief Land Council as two separate Modifications that MCCM would be submitting to the Department of Planning for consideration.

Not all the EPA regulations under *clause 115(1) of the EP&A*

2. Assertion by MCCM - *The application for this Modification contains all of the information required under clause 115(1) of the EP&A Regulation.*

Clause 115(8) of the EP&A Regulation also relevantly states:

An application for modification of a development consent under Section 4.55(1), (1A) or (2) or 4.56(1) of the Act relating to land owned by a Local Aboriginal Land Council may be made only with the consent of the New South Wales Aboriginal Land Council.

*The MCCM Project Approval includes land that is owned by Red Chief Local Aboriginal Land Council. As such, the consent requirements of the NSW Aboriginal Land Council **will be attended to in respect of this Modification.***

Firstly, it is my understanding that the NSW Aboriginal Land Council has not given consent, and secondly the statement in the Mod. 8 by MCCM that this issue 'will be attended to in respect of this Modification' is disrespectful and has an arrogance presuming that the NSW Aboriginal Land Council will give their consent.

In this respect the MCCM has not fulfilled the requirements under the clause 115(1) of the EP&A Regulation as they have stated. Yet another retrospective issue to deal with if approval is given without this consent, which would be a breach of clause 115(1) of the EP&A Regulation.

Should be two separate Modifications.

3. Both these requested Modifications, the Mobile Crushing & Waste Tyre Disposal need to be assessed as separate issues given their long-term potential impacts for both Community and environment.

Too short an Exhibition period for Mod. 8

4. 14 days to reply to this very contentious Modification 8 with a submission is an insult to the local community. The usual 28 days should be allowed for the public to reply, given the enormity of the impacts that this modification will cause the environment and the community should it be approved.

No Environmental Impact Assessment

5. This modification should not take the place or represent an 'Environmental Impact Assessment' (EIA). This is sheer indolence of this mining company to think that they are above the proper process of a 'real' Environmental Impact Assessment' process. A Modification is an instrument to outline the changes the company are requesting be approved, it's not an EIA.

Not a minimal Environmental Impact.

6. The Waste Tyre Disposal – should not to be considered by the Department as 'minimal Environmental impact'. Thousands of tons of waste tyres are not minimal impact on the environment of the Leard State Forest. cumulative effect by two other mines burying tyres has not been considered.

Applied unsuccessfully to EPA to amend their EPL to bury ORT tyres.

7. Under a GIPA application, there is proof that on the 10th of June 2016 there was communication from MCCM to EPA that stated that MCCM was contemplating the 'disposal' of 'end of life' tyres, MCC then goes on to state that 'during operations to date, MCC has not generated any 'end of life' tyres that require disposal'. I find that rather hard to believe that there were no waste tyres that required disposal from commencement of approval of the mine till 2016, given that there were contractors, yes, their waste tyre numbers would have been reduced over the first phase of construction, but no waste tyres seem implausible. On the 27th November 2019 MCCM applied to EPA for an amendment or their EPL 20221 to bury waste (ORT) tyres and the EPA denied their application, yet MCCM did not tell EPA that they had already buried 229 ORT the year before.

Guilty of Burying tyres without appropriate EPL

8. MCCM was found to have buried Waste Tyres without the appropriate Environment Protection Licence, two years after they were buried, and only because the local community informed the Environment Protection Authority (EPA) of their concerns of waste Tyre burial at the mine site of MCCM. The EPA carried out an investigation in 2020 and found 229 waste ORT had been buried two years prior to their investigation in 2018 and there was no record of that burial in any of the MCCM Annual reviews. Myself and my community are outraged that they have only been issued a Caution Notice for this unconscionable behaviour. Caution Notices are for offences that are classed 'Minor in Nature' and not knowingly or deliberately committed.

This company cannot be trusted to report accurately to the authorities and comply with their consent approval and should be held accountable and prosecuted for this deliberate hiding of their ORT tyre burial. Furthermore, they should not be granted the privilege of burying 400 of these ORT each year simply to save the company money, along with the already stored tyres that number somewhere between 450 or 500 still onsite.

It is estimated up to approximately 400 waste heavy vehicle tyres from mining equipment would be stockpiled per year of operation and require disposal within waste rock emplacements.

In addition, waste tyres which have been stockpiled since the commencement of operations at the MCCM would also be required to be disposed within waste rock emplacements. Disposal of these tyres would be staggered to optimise disposal locations and volumes.

Never reported burying ORT in any Annual Review

9. There is no reporting of waste tyre burial in MCCM's Annual Reviews and not even after they buried 229 in 2018? A breach of consent conditions by not reporting? How could you not remember burying 229 ORT which weigh approximately 4.5 tons each? Disrespect and dishonesty by a company that has a track record of breaches. For this reason alone, the MCCM should not be issued with a variation on their EPL 20221 to bury tyres in the pit or under the emplacement area on their lease in the Leard State Forest. A penalty and prosecution for a breach should be issued for not having a variation on their EPL & a penalty for not reporting. **This dishonest lack of reporting should signal that this Mod 8 should be withdrawn.**

MCCM buried 229 ORT illegally

10. MCCM told the EPA that they hadn't buried any tyres on site, and then had to admit that they had buried 229 tyres on site in 2018. MCCM has safely stored tyres onsite in the past, and now recycling options for ORT will be available in the near future, so there is no excuse or need to bury any more ORT in pit at the Leard State Forest. So, this Modification is obsolete. The only need to bury waste ORT would be the financial saving by MCCM so they can dispose of these tyres out of site under the Leard State Forest Rehabilitation area at no cost to the mine, only pollution to the environment. There is no excuse these ORT must be stored a little longer to protect the environment from long term toxic breakdown of these thousands of tons of tyres.

MCCM don't follow the rules.

11. From past experience with MCCM words on a page and in any of their Management Plans are just there to get approval and are not always followed. We know they don't follow the rules or why else would they have knowingly buried 229 tyres? They use the word 'Generally' very frequently and use this as an excuse if they don't follow their written plans. So, to just regurgitate the rules that the EPA expect them to follow in regards what would be required if they do get approval to bury tyres, which they should NOT, it's easy to say they will follow the rules set by EPA... but self-reporting is the stumbling block here and if you can't tell the EPA the truth about burying tyres when they ask you, how can we believe them when they are allowed to self-report?

Other Wastes

Other waste such as waste oils and containers, solvents, timber, scrap metal, tyres and used batteries are stored in designated lay down areas, in accordance with the defined waste management practice in the contractor CEMP for collection by a licensed regulated waste contractor when required.

Inspections and audits of waste management practice are carried out regularly by both MCC and contractor personnel. On site disposal of wastes by burning, burial or other means is not permitted. No incidents relating to waste management practice were recorded during the 2013 reporting period.

Recycling – Tyre Stewardship Australia

12. Tyre Stewardship Australia (TSA) is working towards solutions to recycling waste Off Road Tyres (ORT).

<https://www.actiontyres.com.au/news/tyre-stewardship-australia-tsa-say-no-to-tyre-waste/>

Excerpts from the TSA media release:

*'In a landmark commitment, Tyre Stewardship Australia Limited (TSA) is pleased to announce that major OTR tyre importers **Bearcat, Bridgestone Mining Solutions, Goodyear, Kal Tire, Michelin and Yokohama** have committed to joining the voluntary Tyre Product Stewardship Scheme (the Scheme) from January 2022.'*

"Every year that we don't find sustainable outcomes for OTR tyres is a lost opportunity to better recover the valuable resources they contain. The social and environmental harm is likely to be felt for generations.

'The Hon. Trevor Evans MP, Assistant Minister for Waste Reduction and Environmental Management, recently met and personally commended each tyre importer committed to participating in the Scheme from January 2022. The Assistant Minister will continue to work with TSA to monitor the progress of all OTR tyre importers.'

*"Today's announcement is good news for mining companies in Australia. **This levy will be focused on finding real world solutions for end-of-life tyres across all the OTR sectors including mining,**" Goodman explained.*

<https://www.tyrestewardship.org.au/otr/>

CRUSHING IMPACTS

The Modification would not change the MCCM mining or product coal transport rates and involves only a minor increase in mining fleet to include the mobile coal sizing and rock crushing equipment. The Modification is predicted to involve minimal incremental noise and air quality impacts as described in the following sections.

'Potential air quality and noise impacts of the proposed coal sizing and rock crushing activities on nearby land uses are predicted to be minor (Section 6).'

Not Minimal Modification or minor impacts

13. The Mobile Coal Sizing & Rock Crushing equipment, is not of a Minimal concern for the local community, it is of an extreme concern. The community already endure the fallout from blasting from mining in the Leard State Forest Precinct, and an increase in more dust and noise is ludicrous, and to compare this modification with Mod 7 is even more so and far removed from a reasonable comparison.

Mobile Coal Resizing

14. Given that the original fixed coal crushing plant was never properly 'shielded' to prevent or reduce the impact of noise to wider receivers, these mobile crushing units and their constant 24/7 noise, especially during inversions will not have any shielding only placed at the discretion of the company, and moved to many different locations in pit or higher up near the ROM stockpile area, where it would be impossible to shield the offsite noise from the wider community or sensitive receivers.

Legislation is so flexible that it allows four of five noise & dust exceedances over the space of a year to be averaged, which means that the nearby and wider community are disadvantaged from the start because they have no real way of complaining to EPA to address the increased noise or dust that these mobile crushing and resizing plants will cause. There is no real way the regulators can police the mobile units and the noise or dust limits due to the mobility of this equipment, particularly under the cover of darkness with a 24/7 working schedule.

Increase of PM10 & PM2.5 emissions

15. The rock crushing plant is of particular concern if placed higher on the waste rock emplacement areas. Where dust will be almost an impossible issue to control, you only have to look further to the North where the Blue metal mine on the Wave Hill road is consistently covered in a 'dust haze'. Inversions are a real concern, and in the past the community has had no confidence in MCCM when it comes to blasting during weather conditions and inversions that have in the past put the health and safety of community members at risk.

Total Suspended Particulate

16. Total TSP emissions (kg/yr) 442,477

For myself and my community to have this much TSP raining down on them, breathing in this toxic heavy metal laden dust 24/7 for the life of this mine, combined with the other two mines in the Leard State Forest, it is almost unbelievable that the Department of Planning or the EPA can even consider this amount of added air pollution, let alone try and make sure that the air pollution levels are within the site-specific guidelines for best practice for 'Coal Mine Particulate Matter'. This type and size of emissions in a year is totally unreasonable. 88,221 PM10 Kg/yr & the fine 11,683 PM2.5 kg/yr., is a health concern that has to be endured day and night. This fine PM2.5 particulate doesn't know how to stay outside the house where the compromised elderly, children and even healthy individuals sleep and spend a large part of their life. Our homes are already infiltrated with coal mine dust – BLACK DUST. And that's not just near neighbours. We can't have our doors and windows open to gain fresh air.

There is no conscionable way that this Modification should be considered with the health impacts that it would inflict on the local community on top of what they already suffer with the TSP fallout prior to this Modification.

The other issue of this Crusher is the type of rock that will be crushed as it is not of the normal above ground rock formations, but could contain many and varied amounts of traces of heavy metals elements within the rock being processed, including quarts which is known to contribute to health issues if in fine particulate matter such as the PM2.5.

Increase in Noise (dBA) at sensitive receivers.

17. An increase in the mining fleet of three crushing units will be an increase in Noise. The red flag for the community is the 'minimal incremental noise and air quality impacts.

The noise assessment for Modification 7 predicted Receiver 108 would experience exceedances of up to 5 dBA above the noise limits in PA 10_0138 under worst-case meteorological conditions and without the use of real-time and proactive mitigation measures.

Mod. 7 states that there could be as much as 5dBA above the Noise limits in PA 10_0138 at receiver 108. That Modification didn't have an extra 3 crushing plants! So just how is MCCM going to mitigate the noise at Receiver 108?

Receiver 108 just happens to be ME, so just because we have acquisition rights, doesn't mean that we want to move or we should be forced to sell and move out if the noise levels are higher than first predicted levels when MCCM first got its approval as an SSD in 2012, and especially not when it is predicted in the last Mod. 7 to be a possible 5 dBA above the limits, and here in Mod. 8 it will ultimately increase again with 3 crushing plants.

The continual Modification Creep has meant that this mine cannot fit within its original scope of Noise, Dust, Light etc. etc. That is why it has had to buy out almost all the existing near neighbours.

Continual Modifications of such enormous impact to the surrounding communities from this Open Cut Coal mine is a failure of the Approval and the Planning system that need to be reconsidered. Drastic changes that are described by the mining company in these Modifications, described as 'minimal' or worse still as 'Administrative' that are then included in their Management Plans shouldn't allow such an increase of impacts on surrounding communities and such a deviation from the original approval.

Compliance

MCCM has generally been operated in compliance with the existing PA 10_0138 noise criteria through a combination of property acquisition and the implementation of existing noise controls and management measures, including the real-time and proactive noise management system.

Compliance – buy out the neighbour

18. The only way they operate within compliance is as they have stated, they buy out those near neighbours because MCCM can't comply with the Criteria at those receivers, as for proactive management systems, they only tick boxes because they can average the exceedances and still not be found guilty of a breach when the community complain. While the community have no recourse and have to suffer the excessive noise, dust etc. The community was here long before the mines.

Water – MCCM has a questionable past with legal water options & monitoring.

19. There are issues surrounding water that are of concern to myself and my community, the first being that monitoring of buried tyres so close to underground aquifers would be almost impossible, given the MCCM's track record of monitoring water. Monitoring water appears to be difficult for MCCM, in light of the recent court case the mine argued that the monitoring was deficient and not reliable for NRAR to be relied upon to argue the extent of the impacts. So how are we to be assured that any 'self' monitoring by this company will not be turned around as it was with the court case, if there were to be any future toxic leachate situations? Would they simply use the excuse that the modelling or the monitoring is not good enough to convict them for such environmental disasters?

With three crushing plants it is impossible to believe that there wouldn't be a need for more water on site to process both coal sizing and rock crushing along with dust suppression. The Mod. 8 simply states that there would be no change to Water Management. Why is water not addressed at all in this Mod. 8 when 3 dirty dusty crushers will be in use 24/7?

Greenhouse Gas Emissions (GHG)

20. An extra 3,686 (t CO₂-e) on top of the 2011 total of 30,028,092 tons of GHG that this mine is producing is a disgrace when the world is experiencing such drastic climatic disasters. Any modifications should be reducing their emissions not increasing them, the environment is coming to a tipping point and this modification should be rejected and withdrawn due to this increase in GHG, along with all of the above reasons taken into consideration.

The additional fleet associated with the Modification would have additional diesel usage and the exhaust emissions would generate additional GHG emissions.

The Modification involves a negligible increase in total greenhouse gas emissions associated with the new mobile coal sizing equipment (Section 6.2).

Over all this Modification is totally unacceptable and needs to be withdrawn.

There is no need to bury tyres when they can be stored as the mine has done in the past, (except for the 229 illegally buried tyres in 2018) until there is a recycling facility that can process them. Tyre Stewardship Australia was launched by Minister Greg Hunt in 2014 and is working towards a better outcome and a resolving the burial of waste tyres. A circular economy that recycles and reuses our declining resources should be on the agenda, not a trash and bury mindset. It goes against the EPA waste Hierarchy and their Guideline Policy to bury tyres and the local Maules Creek community do not want the Leard State Forest to be a 'landfill' of waste rubber tyres that will cause environmental issues for future generations to deal with.

MCCM have not been good neighbours to our community or the Gomeroi and to inflict more toxic dust, noise and environmental pollution in the Leard State Forest and surrounding Maules Creek district is offensive and will have long-term consequences. Compliance of this modification alone will be impossible to police.

Stephen, as the Director of Resource Assessment you have the power to reject this modification. There are so many environmental and social issues and impacts that are wrong with this modification, I ask that this modification be withdrawn on behalf of myself and my local community.

Sincerely,
Roselyn Druce
Maules Creek.