



21 October 2021

Mr Philip Nevill
Senior Environmental Assessment Officer
Energy, Resources and Industry | Planning and Assessment | Department of Planning,
Industry and Environment
Email: philip.nevill@planning.nsw.gov.au

Dear Mr Nevill,

**Interim Submission to the Assessment of Modification 8 of the Maules Creek
Coal Mine
MP10_0138-Mod8**

Leard Forest Research Node is a citizen science group formed in 2015, which conducts regular monitoring and research in the Leard Forest, Pilliga Forest and Namoi Valley.

Further to discussion with Ms Rose-Anne Hawkeswood and your subsequent email, we wish to lodge this interim submission.

Given the circumstances of the highly significant announcement of Whitehaven Coal's tyre suppliers Bridgestone and Michelin through Tyre Stewardship Australia, that a product stewardship scheme is going to commence on 1 January 2022, we consider it completely inappropriate for the company to persist with this modification to bury 400 OTR tyres per annum for the remaining life of the mine.

We also consider it unacceptable that the rock crushing component of Mod 8 was amalgamated with the tyre modification without notification to the public through the Maules Creek Community Consultative Committee despite the potential severe noise impacts that will affect some residents.

The Modification Report is highly deficient. It relies entirely on industry sources and the Queensland government in a 21 year old report claiming there is no evidence that landfilling industrial tyres causes landform instability. The actual risk of thousands of tonnes of these tyres being landfilled in an area has not been considered in detail in the Modification Report. No evidence from landfill engineers or other suitable experts has been presented.

We refer Australian Coal Association Research Program Project No. C8037 M.H Corbett Centre for Mined Land Rehabilitation. (Attachment “C”) The latter states:

“3.3 Landfill Volume and Stability- There is a common perception that whole tyres disposed to landfill ‘float’ upward and may surface over time. There are numerous theories as to the reason for this ‘floating’ but this review has been unable to identify any case study or experimental evidence of this phenomenon. The often vague explanations of the ‘floating’ theory relate to passenger tyres...”

This is unsubstantiated. Despite the practice of tyres being banned from landfills, in NSW in part due to landform destabilisation, the Report relied on refers this as merely “a common perception” and states that it has been unable to identify any case study or experimental evidence. We would have considered the Modification Report for such a scandalous Modification to be based on more substantial evidence that the practice poses no harm to the landform stability or groundwater contamination.

As for the topic of Whitehaven Coal’s publicised assurances that it will monitor groundwater to ensure no harm, these statements should be read in the light of evidence presented to the Land and Environment Court in the mine’s recent sentencing hearing for the prosecution by the Natural Resource Access Regulator in which surface water monitoring was found to be deficient, and the Water Management Plan has been in breach for 7 years. Promises of future groundwater monitoring are meaningless.

Whitehaven Coal needs to get approval from the NSW Aboriginal Land Council in order to comply with Clause 115(8) of the Environmental Planning & Assessment Regulation 2000 which 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 Department is aware that the proponent has not obtained the requisite approval under clause 115(8) but says it has a Practice Note consistent with the current state of case law, that landowner’s consent may be provided at any time during the assessment period even if not provided with the modification application.

Tyre Stewardship Council published a report about the problem of mining tyres. Download the Report here: <https://www.tyrestewardship.org.au/reports-facts-figures/mining-industry-off-the-road-otr-used-tyre-analysis/>

Clearly the problem of mining tyres has been a long-standing problem, and we are aware that the greatest obstacle has been the persistence of free disposal in the pit and the advocacy of the mining industry to be allowed to continue the practice.

The announcement of Tyre Stewardship Australia of the product stewardship scheme should not be opposed by the immediate endorsement of landfilling of these products.

Mining is responsible for 61% of OTR tyres, with agriculture second at 27%. Farmers have to pay to dispose. Coal mines get to dump them in a hole and pay nothing.

We are also particularly concerned about the acoustic assessment for the rock crushing activities, which do not provide sufficient detail needed for public comment.

There also appear to be a number of anomalies that are not accounted for, including incomplete land ownership particulars and maps which do not show the area owned by the Red Chief Local Aboriginal Land Council. The latter is of particular importance and should be corrected on the Major Projects website with a full map which clearly defines the land ownership concerned. It is really questionable how the Department considers it possible to make an assessment with such incomplete information.

This is just a short list of the criticisms we bring to bear against this hurtful and dishonest modification, which is lacking in form and content.

As a final decision can not be made until clause 115(8) is fulfilled, we therefore request an extension of time in which to provide a fuller submission, particularly in respect of the acoustic impacts.

We request that our further submission be treated as a submission, and not merely a comment, when that time comes. That is, in the event that Whitehaven receives the required land owner's consent.

We await further notice about when the land owner's consent is expected, and therefore, the likely duration of the assessment period.

Yours faithfully,

Leard Forest Research node

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