Whitehaven

2025

# Gunnedah Open Cuts Coal Haulage Increase Modifications

## Modification Report

Attachment 1 - Detailed Statutory Compliance Reconciliation Tables



Whitehaven

**Table A1-1**
**Summary Statutory Compliance for State Legislation**

| Relevant Legislation or Instrument | Mandatory Consideration | Relevant Section of the Original EIS | Relevant Section in the Modification Report | Modified Project Compliance Status |
|---|---|---|---|---|
| **New South Wales (NSW) *Environmental Planning and Assessment Act 1979* (EP&A Act)** | | | | |
| section 1.3 | Relevant objects of the EP&A Act:<br>▪ Promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources.<br>▪ Facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment.<br>▪ Promote the orderly and economic use and development of land.<br>▪ Protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats.<br>▪ Promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage).<br>▪ Promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State.<br>▪ Provide increased opportunity for community participation in environmental planning and assessment. | Section 6.9.4 in the Tarrawonga Coal Project Environmental Assessment (EA)<br>Section 6.6.5 of the Vickery Coal Project Environmental Impact Statement (EIS)<br>Section 2.1.5 of the Belmont Coal Project EA | Section 4 provides an overview of the statutory requirements relevant to the assessment of the Modifications. | ✓ |
| section 4.15 | Relevant environmental planning instruments:<br>▪ *State Environmental Planning Policy (Planning Systems) 2021* (Planning Systems SEPP).<br>▪ *State Environmental Planning Policy (Resources and Energy) 2021* (Resources and Energy SEPP).<br>▪ *State Environmental Planning Policy (Resilience and Hazards) 2021* (Resilience and Hazards SEPP).<br>▪ *State Environmental Planning Policy (Transport and Infrastructure) 2021*.<br>▪ *State Environmental Planning Policy (Biodiversity and Conservation) 2021.*<br>▪ *Gunnedah Local Environmental Plan 2012* (Gunnedah LEP).<br>▪ Any planning agreement or draft planning agreement that a developer has entered into under section 7.4 of the EP&A Act.<br>▪ The NSW Environmental Planning and Assessment Regulation 2021 (EP&A Regulation).<br>The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality; the suitability of the site for the development; any submissions made in accordance with the EP&A Regulation; the public interest. | Section 6.5.1 in the Tarrawonga Coal Project EA<br>Attachment 3 of the Vickery Coal Project EIS | Table A1-2 | ✓ |

**Table A1-1 (Continued)**
**Summary Statutory Compliance for State Legislation**

| Relevant Legislation or Instrument | Mandatory Consideration | Relevant Section of the Original EIS | Relevant Section in the Modification Report | Modified Project Compliance Status |
|---|---|---|---|---|
| ***NSW Environmental Planning and Assessment Regulation 2021*** | | | | |
| clause 98 | Clause 98 provides for the circumstances in which a modification application may be made.<br>In accordance with the requirements of clause 98(4), Whitehaven Coal Limited (Whitehaven) will give notice of the modifications to the three Gunnedah Open Cuts (GOCs) approvals (the Modifications) application via newspaper no later than 14 days after the Modification applications are made.<br>With respect to clause 98(6), the GOCs incorporating the Modifications does not relate to land owned by a Local Aboriginal Land Council. | - | Table A1-1 | ✓ |
| clauses 99 and 100 | Clauses 99 and 100 of the EP&A Regulation provide for the making and content of a modification application. With respect to these two clauses, these Modification applications:<br>▪ contains the information required by the EP&A Act and EP&A Regulation;<br>▪ has been prepared in consideration of the State Significant Development (SSD) Guideline, in particular State significant development guidelines - preparing a modification report (Department of Planning, Industry and Environment, 2022);<br>▪ contains the information required by clause 100(1)(a) to (c) and a description of the Modifications and its expected impacts. | - | Sections 1 to 8 | ✓ |
| clause 103 | Clause 103 of the EP&A Regulation concerns applications to modify a development consent that relates to “mining or petroleum development” on certain land.<br>The proposed Modifications would not change the development areas. | - | N/A | ✓ |
| clause 106 | Division 2 of Part 5 of the EP&A Regulation provides for the public notification of modification applications. The consent authority is required to attend to the relevant public notice requirements in this Division. In this regard, clause 106 applies to a section 4.55(2) modification application if the original development application was for SSD and clause 107 applies to a section 4.55(2) modification application to which clause 106 does not apply. | - | No change | ✓ |
| ***NSW Biodiversity Conservation Act 2016*** | | | | |
| section 7.16 (2) | The consent authority is to take into consideration the likely impact of the proposed development on biodiversity values as assessment in the Biodiversity Review. The Modifications do not require additional surface development beyond the approved areas and would therefore not increase the impact on biodiversity values, including threatened species and ecological communities.<br>The Modifications do not involve any surface disturbance. | - | N/A | ✓ |

**Table A1-1 (Continued)**
**Summary Statutory Compliance for State Legislation**

| Relevant Legislation or Instrument | Mandatory Consideration | Relevant Section of the Original EIS | Relevant Section in the Modification Report | Modified Project Compliance Status |
|---|---|---|---|---|
| ***NSW Biodiversity Conservation Act 2016* (Continued)** | | | | |
| section 7.16 (3) | If the consent authority is of the opinion that the Tarrawonga Coal Mine (TCM), Vickery Coal Mine (VCM) and Rocglen Coal Mine (RCM) (as modified) are likely to have serious and irreversible impacts on biodiversity values, the consent authority is required to:<br>▪ take those impacts into consideration; and<br>▪ determine whether there are any additional and appropriate measures that will minimise those<br>▪ impacts if consent or approval is to be granted.<br>The Modifications do not involve any surface disturbance. | - | N/A | ✓ |
| **NSW *Mining Act 1992*** | | | | |
| section 380AA | An application for development consent to mine for coal cannot be made or determined unless the applicant is the holder of an authority that is in force in respect of coal for the relevant land, or the applicant has the written consent of the holder of such an authority to make the application. | Section 6.4.1 of the Tarrawonga Coal Project EA<br>Section 6.3.1 of the Vickery Coal Project EIS<br>Section 2.1.5 of the Belmont Coal Project EA | No change | ✓ |
| **NSW *Protection of the Environment Operations Act 1997* (PoEO Act)** | | | | |
| section 43 | The GOC operations currently operate under the Environmental Protection Licences (EPL) for the Tarrawonga Coal Mine (EPL 12365), Vickery Coal Mine (EPL 21283), Rocglen Coal Mine (EPL 12870) and Whitehaven Coal Handling Processing Plant (EPL 3637), granted under the PoEO Act, which allows for coal works and mining for coal as scheduled activities. The EPL contains conditions that relate to emission and discharge limits, environmental monitoring and reporting. The Modifications would not require any variation to these EPLs. | Section 6.4.1 of the Tarrawonga Coal Project EA<br>Section 6.3.1 of the Vickery Coal Project EIS<br>Section 2.1.5 of the Belmont Coal Project EA | No change | ✓ |

**Table A1-1 (Continued)**
**Summary Statutory Compliance for State Legislation**

| Relevant Legislation or Instrument | Mandatory Consideration | Relevant Section of the Original EIS | Relevant Section in the Modification Report | Modified Project Compliance Status |
|---|---|---|---|---|
| ***NSW Water Management Act 2000 (WM Act)*** | | | | |
| sections 89, 90 and 91 | Whitehaven obtains and holds appropriate licences under the WM Act for the existing activities at the GOC operations. Appropriate licences under the WM Act would continue to be held. | Section 6.4.1 of the Tarrawonga Coal Project EA<br>Section 6.3.1 of the Vickery Coal Project EIS<br>Section 2.1.5 of the Belmont Coal Project EA | No change | ✓ |
| ***NSW Heritage Act 1977*** | | | | |
| section 139 | No items of historic heritage would be directly disturbed by the modified GOC operations as there would be no additional surface development. | Section 6.4.1 of the Tarrawonga Coal Project EA<br>Section 6.3.1 of the Vickery Coal Project EIS | No change | ✓ |
| **NSW *Crown Land Management Act 2016*** | | | | |
| section 5.30 | The Modifications would not change the development area for any of the GOC operations. | - | No change | ✓ |

**Table A1-2**
**Summary Statutory Compliance for Environmental Planning Instruments**

| Relevant Legislation or Instrument | Mandatory Consideration | Relevant Section of the Original EIS | Relevant Section in the Modification Report | Modified Project Compliance Status |
|---|---|---|---|---|
| ***State Environmental Planning Policy (Planning Systems) 2021*** | | | | |
| Part 2.2 | The Planning Systems SEPP provides for the declaration of SSD.<br>In this respect, the approved TCM, VCM and RCM developments were declared to be SSD under clause 6 of Schedule 2 to the NSW *Environmental Planning and Assessment (Savings, Transitional and Other Provisions) Regulation 2017.* | - | Table A1-2 | ✓ |
| clause 2.7 | Clause 2.7(1) relevantly provides for the Independent Planning Commission to be the declared consent authority for certain applications to modify a development consent SSD, if the application is made by a person who has disclosed a "reportable political donation" under section 10.4 of the EP&A Act in connection with the modification application.<br>In this respect, this Modification applications are not made by a person who has disclosed a reportable political donation. | - | Table A1-2 | ✓ |
| clause 2.10 | Under clause 2.10, development control plans do not apply to SSD. | - | Table A1-2 | ✓ |
| **NSW *State Environmental Planning Policy (Resources and Energy) 2021* (Resources and Energy SEPP)** | | | | |
| clause 2.1 | Clause 2.1 of Chapter 2 (Mining, petroleum and extractive industries) of the Resources and Energy SEPP relevantly states that the aims of the Policy are, in recognition of the importance to NSW of mining, petroleum production and extractive industries:<br>▪ to provide for the proper management and development of mineral, petroleum and extractive material resources for the purpose of promoting the social and economic welfare of the State;<br>▪ to facilitate the orderly and economic use and development of land containing mineral, petroleum and extractive material resources;<br>▪ to promote the development of significant mineral resources; and<br>▪ to establish appropriate planning controls to encourage ecologically sustainable development through the environmental assessment, and sustainable management, of development of mineral, petroleum and extractive material resources.<br>The consent authority can be satisfied that the Modifications are consistent with the relevant aims of the Resources and Energy SEPP for the reasons given in Section 4.1.1 with respect to the objects of the EP&A Act. | - | Table A1-2 | ✓ |

**Table A1-2 (Continued)**
**Summary Statutory Compliance for Environmental Planning Instruments**

| Relevant Legislation or Instrument | Mandatory Consideration | Relevant Section of the Original EIS | Relevant Section in the Modification Report | Modified Project Compliance Status |
|---|---|---|---|---|
| ***Resources and Energy SEPP* (Continued)** | | | | |
| clause 2.9 | Clause 2.9 states that development for the purpose of mining may be carried out (with consent) on land where agriculture or industry may be carried out (with or without development consent).<br>The Modifications do not involve a change in the development areas of the GOC operations. | - | Table A1-2 | ✓ |
| *Part 2.3 of the Resources and Energy SEPP identifies matters for consideration in the determination of development applications. Noting that this is a modification application, the provisions detailed in clauses 2.16 to 2.23 below are nevertheless addressed for completeness in this statutory compliance table.* | | | | |
| clause 2.16 | Clause 2.16 provides various non-discretionary development standards for mining. In this regard, it is noted that:<br>▪ The potential impacts on cumulative noise level, cumulative air quality level, airblast overpressure, or ground vibration (i.e. the non-discretionary development standards listed under clause 2.16[1] to [6]) have been assessed and are presented in a Road Transport Assessment (Appendix A), and discussed in Section 6.4 (Air Quality), and a Road Noise Assessment (Appendix B). The Modifications do no propose any change to mining operations at the TCM, VCM and RCM.<br>▪ The Modifications would not change the water supply and demand of the approved TCM, VCM and RCM. In this regard, it was concluded there would be no impact to any water resources, and the minimal impact considerations in the NSW Aquifer Interference Policy (NSW Department of Primary Industries, 2012) are not applicable to the Modifications. | - | Section 6<br>Table A1-2<br>Appendix A | ✓ |

**Table A1-2 (Continued)**
**Summary Statutory Compliance for Environmental Planning Instruments**

| Relevant Legislation or Instrument | Mandatory Consideration | Relevant Section of the Original EIS | Relevant Section in the Modification Report | Modified Project Compliance Status |
|---|---|---|---|---|
| ***Resources and Energy SEPP* (Continued)** | | | | |
| clause 2.17 | Before determining an application for consent for the purposes of mining the consent authority must:<br>*(a) consider –*<br>*(i) the existing uses and approved uses of land in the vicinity of the development, and*<br>*(ii) whether or not the development is likely to have a significant impact on the uses that, in the opinion of the consent authority having regard to land use trends, are likely to be the preferred uses of land in the vicinity of the development, and*<br>*(iii) any ways in which the development may be incompatible with any of those existing, approved or likely preferred uses, and*<br>*(b) evaluate and compare the respective public benefits of the development and the land uses referred to in paragraph (a)(i) and (ii), and*<br>*(c) evaluate any measures proposed by the applicant to avoid or minimise any incompatibility, as referred to in paragraph (a)(iii).*<br>Land use in the vicinity of the GOC operations is dominated by agriculture, mining associated with the GOC operations and other nearby mines, and current and proposed biodiversity conservation areas associated with the GOC operations and other nearby mines.<br>ROM coal haulage under the Modifications would continue along the existing Approved ROM Coal Transport Route and requires no new surface development.<br>Accordingly, the GOC operations incorporating the Modifications is considered to be compatible with existing and approved uses of land, namely open cut and underground coal mine rehabilitated to conservation and agriculture final land uses. | - | Table A1-2 | ✓ |
| clause 2.19 | Before determining an application for development in the vicinity of mining, petroleum or extractive industry, the consent authority must (among other things) consider whether or not the development is likely to have a significant impact on current or future extraction or recovery of minerals, petroleum or extractive materials (including by limiting access to, or impeding assessment of, those resources), and any ways in which the development may be incompatible with any of those existing or approved uses or that current or future extraction or recovery.<br>The Modifications do not involve a change in the GOC operations development areas. | - | Table A1-2 | ✓ |

**Table A1-2 (Continued)**
**Summary Statutory Compliance for Environmental Planning Instruments**

| Relevant Legislation or Instrument | Mandatory Consideration | Relevant Section of the Original EIS | Relevant Section in the Modification Report | Modified Project Compliance Status |
|---|---|---|---|---|
| ***Resources and Energy SEPP* (Continued)** | | | | |
| clause 2.20 | Clause 2.20(1) of the Resource and Energy SEPP requires that, before granting consent for development for the purposes of mining, petroleum production or extractive industry, the consent authority must consider whether or not the consent should be issued subject to conditions aimed at conducting the development is undertaken in an environmentally responsible manner, including conditions to ensure the following:<br>*(a) that impacts on significant water resources, including surface and groundwater resources, are avoided, or are minimised to the greatest extent practicable,*<br>*(b) that impacts on threatened species and biodiversity, are avoided, or are minimised to the greatest extent practicable,*<br>*(c) that greenhouse gas emissions are minimised to the greatest extent practicable.*<br>In addition, clause 2.20(2) requires that, without limiting clause 2.20(1), in determining a development application for development for the purposes of mining petroleum production or extractive industry, the consent authority must consider an assessment of the greenhouse gas emissions (including downstream emissions) of the development and must do so having regard to any applicable State or national policies, programs or guidelines concerning greenhouse gas emissions.<br>The Modifications do not seek to change the approved surface development extent and, therefore, would not involve additional potential impacts on biodiversity or water resources.<br>The Modifications would include an increase of an additional 0.3 million tonnes per annum of run-of-mine coal to the Whitehaven CHPP for calendar year 2025. The emissions from the additional truck haulage would be within the emissions assessed as part of the Vickery Extension Project. This is described further in Section 6 of the Modification Report. | - | Table A1-2<br>Section 6 | ✓ |
| clause 2.21 | Before granting consent for development for the purposes of mining, petroleum production or extractive industry, the consent authority must consider the efficiency or otherwise of the development in terms of resource recovery, and whether or not the consent should be issued subject to conditions aimed at optimising the efficiency of resource recovery and the reuse or recycling of material.<br>The Modification provides greater flexibility to the GOC operations. | - | Table A1-2 | ✓ |

**Table A1-2 (Continued)**
**Summary Statutory Compliance for Environmental Planning Instruments**

| Relevant Legislation or Instrument | Mandatory Consideration | Relevant Section of the Original EIS | Relevant Section in the Modification Report | Modified Project Compliance Status |
|---|---|---|---|---|
| ***Resources and Energy SEPP* (Continued)** | | | | |
| clause 2.23 | Clause 2.23 of the Resource and Energy SEPP requires that, before granting consent for development for the purposes of mining, petroleum production or extractive industry, the consent authority must consider whether or not the consent should be issued subject to conditions aimed at ensuring the rehabilitation of land that will be affected by the development. In particular, the consent authority must consider whether conditions of the consent should:<br>*(a) require the preparation of a plan that identifies the proposed end use and landform of the land once rehabilitated, or*<br>*(b) require waste generated by the development or the rehabilitation to be dealt with appropriately, or*<br>*(c) require any soil contaminated as a result of the development to be remediated in accordance with relevant guidelines (including guidelines under clause 3 of Schedule 6 to the Act and the Contaminated Land Management Act 1997), or*<br>*(d) require steps to be taken to ensure that the state of the land, while being rehabilitated and at the completion of the rehabilitation, does not jeopardize public safety.*<br>The Modifications do not involve a change to the GOC operations development areas. | - | Table A1-2 | ✓ |

**Table A1-2 (Continued)**
**Summary Statutory Compliance for Environmental Planning Instruments**

| Relevant Legislation or Instrument | Mandatory Consideration | Relevant Section of the Original EIS | Relevant Section in the Modification Report | Modified Project Compliance Status |
|---|---|---|---|---|
| ***Resources and Energy SEPP* (Continued)** | | | | |
| Part 2.4 | Part 2.4 of the Resource and Energy SEPP concerns "mining or petroleum development", which is defined under clause 2.24 to mean:<br>*(1) In this Part, mining or petroleum development means—*<br>*(a) development specified in clause 5 (Mining) of Schedule 1 to State Environmental Planning Policy (State and Regional Development) 2011, but only if—*<br>*(i) a mining lease under the Mining Act 1992 is required to be issued to enable the development to be carried out because—*<br>*(A) the development is proposed to be carried out outside the mining area of an existing mining lease, or*<br>*(B) there is no current mining lease in relation to the proposed development, or*<br>*(ii) the development is for the purposes of extracting a bulk sample as part of resource appraisal or a trial mine comprising the extraction of more than 20,000 tonnes of coal or of any mineral ore, or …*<br>*(2) However, mining or petroleum development does not include development carried out on land that is outside—*<br>*(a) the mining area of a proposed mining lease, or*<br>*(b) the area of a proposed production lease*<br>The Modifications do not involve a change to the GOC operations development areas. | - | Table A1-2 | ✓ |

**Table A1-2 (Continued)**
**Summary Statutory Compliance for Environmental Planning Instruments**

| Relevant Legislation or Instrument | Mandatory Consideration | Relevant Section of the Original EIS | Relevant Section in the Modification Report | Modified Project Compliance Status |
|---|---|---|---|---|
| ***State Environmental Planning Policy (Resilience and Hazards) 2021*** | | | | |
| clause 3.12 | A consent authority must consider current circulars or guidelines published by the NSW Department of Planning, Housing and Infrastructure relating to hazardous or offensive development, whether to consult with relevant public authorities regarding any environmental or land use safety requirements, a preliminary hazard analysis prepared by the applicant, feasible alternatives to the development and likely future use of surrounding land.<br>To the extent that clause 3.12 is relevant to the Modification application, the consent authority can be satisfied that the development as modified will be carried out appropriately to manage potential hazards and offensive pollution.<br>The Modification would not involve the use of any additional hazardous materials. Hazardous materials would continue to be managed in accordance with the approved management plans. | - | Table A1-2 | ✓ |
| clause 4.6 | Chapter 4 (Remediation of Land) of the Resilience and Hazards SEPP is concerned with the remediation of contaminated land. Relevantly, clause 4.6(1) and (2) state:<br>*(1) A consent authority must not consent to the carrying out of any development on land unless—*<br>*(a) it has considered whether the land is contaminated, and*<br>*(b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and*<br>*(c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.*<br>*(2) Before determining an application for consent to carry out development that would involve a change of use on any of the land specified in subclause (4), the consent authority must consider a report specifying the findings of a preliminary investigation of the land concerned carried out in accordance with the contaminated land planning guidelines*<br>The Modifications do not involve a change to the GOC operations development areas. | - | Table A1-2 | ✓ |

**Table A1-2 (Continued)**
**Summary Statutory Compliance for Environmental Planning Instruments**

| Relevant Legislation or Instrument | Mandatory Consideration | Relevant Section of the Original EIS | Relevant Section in the Modification Report | Modified Project Compliance Status |
|---|---|---|---|---|
| ***Gunnedah Local Environmental Plan 2012*** | | | | |
| clause 2.3(2) | The consent authority must have regard to the objectives for development in a zone when determining a development application in respect of land within the zone. | Section 6.5.2 of the Tarrawonga Coal Project EA<br>Section 6.2.1 of the Vickery Coal Project EIS | No change | ✓ |
| clause 5.10(8) | The consent authority must, before granting consent under this clause to the carrying out of development in an Aboriginal place of heritage significance—<br>(a) consider the effect of the proposed development on the heritage significance of the place and any Aboriginal object known or reasonably likely to be located at the place by means of an adequate investigation and assessment (which may involve consideration of a heritage impact statement), and<br>(b) notify the local Aboriginal communities, in writing or in such other manner as may be appropriate, about the application and take into consideration any response received within 28 days after the notice is sent. | Section 6.5.2 of the Tarrawonga Coal Project EA<br>Attachment 3 of the Vickery Coal Project EIS<br>Section 3.2.2 of the Belmont Coal Project EA | No change | ✓ |