



17 July 2019

Independent Planning Commission Statement of Reasons Ulan Coal Mine Mod 4

1. INTRODUCTION

1. On 15 May 2019, the Independent Planning Commission NSW (the **Commission**) received from the former Department of Planning and Environment (the **Department**), now known as the Department of Planning, Industry and Environment, a Modification Application MOD 4 (the **Modification**) for the Ulan Coal Mine Project (the **Project**) from Ulan Coal Mines Limited (the **Proponent**). The Modification seeks to modify the Ulan Coal Mine Continued Operations (08_0184, approved in 2012), which includes the Ulan No. 3 and the Ulan West operations (the **Project**). The Modification was accompanied by the Department's Assessment Report (**Department's AR**) dated 8 May 2019.
2. Clause 2(1) Schedule 2 to the *Environmental Planning & Assessment (Savings, Transitional and Other Provisions) Regulation 2017 (ST&OP Regulation)*, provides for projects which are the subject of an existing Part 3A approval to remain transitional Part 3A projects. A Part 3A approval may be modified under section 75W of the *Environmental Planning and Assessment Act 1979 (EP&A Act)* in certain circumstances if the request was made before the 'cut-off date' of 1 March 2018.
3. As the request to modify the approval was submitted before 1 March 2018, the provisions of clause 3 of Schedule 2 to the ST&OP Regulation apply.
4. The Commission is a delegate of the Minister for Planning in respect of applications relating to such transitional Part 3A projects, including applications like this Modification under former section 75W of the EP&A Act, in accordance with the Minister's delegation dated 14 September 2011.
5. The Commission will exercise the power to determine the Modification in this case because the Department received more than 25 submissions from the public objecting to the Modification and the Proponent has made reportable political donations.
6. Professor Mary O'Kane, Chair of the Commission, nominated Gordon Kirkby (Chair), Professor Chris Fell, and Associate Professor Brett Whelan to constitute the Commission determining the Modification.

1.1 Modification Application

Background

7. The Department's AR stated that current operations at the Ulan Coal Mine were approved by the then Minister for Planning in November 2010 under the now repealed Part 3A of the EP&A Act. The approval was upheld by the Land and Environment Court in November 2011 following a merit appeal. The court delivered its Final Orders in 2012 which updated and replaced the Minister's 2010 approval.

8. The Department's AR stated that the approval has been modified three times, principally to revise the layout of the underground mining operations which has allowed the Proponent to:
 - extract up to 24 Million tonnes per annum (Mtpa) of Run of Mine (**ROM**) coal by underground and open cut methods, until 2033;
 - upgrade and use supporting surface facilities, including coal processing, coal handling and transportation systems;
 - transport product coal to export markets from the site by rail; and
 - progressively rehabilitate the site.
9. Currently, the open cut mining operations have ceased, and the mine is now operating only as an underground mine using longwall mining in two large mining domains - Ulan West and Ulan No.3. The Project as currently approved is shown in Figure 1 and the proposed Modification in Figure 2.

Summary of the Modification

10. The Department's AR stated that the Modification seeks changes to the layout of the longwall (**LW**) panels for the Project, to recover an additional 6.4 Million tonnes (Mt) of ROM coal over the life of the Project. The changes involve:

Ulan No. 3

- increase length of LW panels 30-33 by between 195 and 1,140 metres (**m**) and increase width of LW 33 by 31 m, with depths of around 310-340 m; and
- increase length of LW panels W7 and W8 by 220 m and 155 m respectively, with depths around 165-170m.

Ulan West

- LW panels 7 and 8 would be extended by approximately 420 and 225 m respectively, with depths of around 160-165 m.

Surface Infrastructure

- changes to the LW panels require changes to the associated surface infrastructure, including construction of additional dewatering boreholes, which would require new surface infrastructure corridors, including access tracks;
- extensions of power lines and pipelines, electrical transformers and access roads;
- removal of 22.05 hectares (**ha**) of additional surface infrastructure which would offset the disturbance footprint of 23.47 ha through vegetation clearing, that would result from this Modification; and

Mining Footprint

- increase of the total mining footprint by approximately 161 ha, from the approved mine plan area of 7,670 ha, which the Department regards as being a 2% increase.

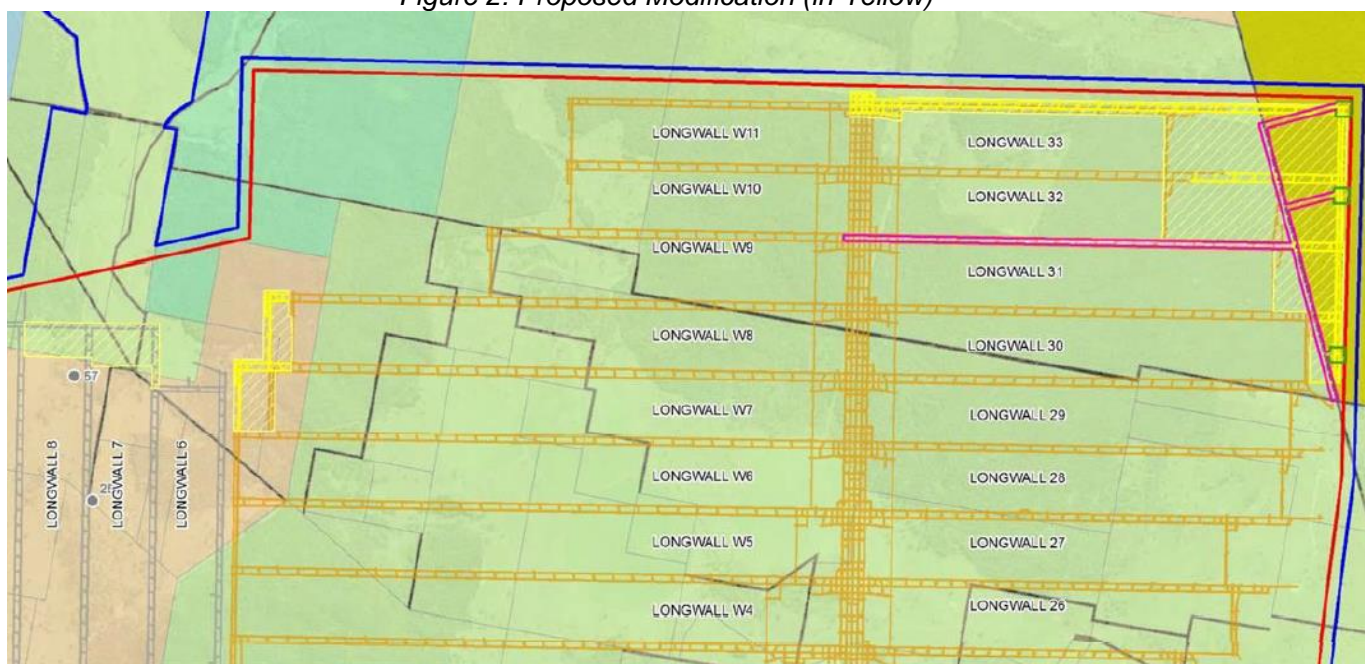
The Modification is described in detail in the Proponent's Environmental Assessment (**EA**).

Figure 1: Project Layout as Approved



Source: Department's AR

Figure 2: Proposed Modification (in Yellow)



Source: Department's AR

Need for the Modification

11. In its EA, the Proponent stated that:

“Justification of the proposed Modification is determined by the environmental and socio-economic benefits outweighing the costs.”

“The proposed Modification will allow the recovery of an additional 6.4 Mt ROM coal at the UUG [Ulan Underground] and UWO [Ulan West Operations]. This can be achieved without significantly impacting on the surrounding environment and communities.”

12. The Department's AR stated that:

“The primary justification for the modification application is that it would provide access to an additional 6.4 Mt ROM coal within the project approval boundary and approved mining leases without the need to change any of the approved operating functions of the mine, including the production rate, processing functions and transportation systems.”

2. THE DEPARTMENT'S ASSESSMENT OF THE MODIFICATION

2.1 Key steps in Department's assessment of the Modification

13. The Proponent submitted the Modification on 28 February 2018, which was accompanied by an EA.
14. The Department's AR stated that the Department "*publicly exhibited the EA from 10 April 2018 until 2 May 2018 and consulted with key agencies. Department officers inspected the site on 31 May 2018 with representatives from the Environment Protection Authority (EPA), Office of Environment and Heritage (OEH), National Parks and Wildlife Service (NPWS), Mid-Western Regional Council (Council) and Division of Resources and Geoscience (DRG).*"
15. The Department's AR stated that during the exhibition of the Modification the Department received:
 - six submissions from public authorities which included, NSW Environment Protection Authority (**EPA**), Office of Environment and Heritage (**OEH**), Department of Industry – Crown Lands, the Division of Resources and Geosciences (**DRG**) within the Department, Transport for NSW (**TfNSW**) and Mid-Western Regional Council (**MWRC**).
 - 14 objecting submissions from special interest groups; and
 - 67 submissions (65 objections and 2 comments) from the public.

From a total of 87 submissions, 79 objected to the Modification.

16. According to the Department's AR, the matters raised in submissions related to the following:
 - groundwater;
 - surface water;
 - biodiversity;
 - greenhouse gas; and
 - Aboriginal cultural heritage.

A summary of these issues has been provided in section 4.4 Table 2 of the Department's AR.

17. The Department's AR stated that: "*On 21 November 2018, the Proponent referred the proposed modification to the [Commonwealth] Department of Environment and Energy (DoEE). On 31 January 2019, the DoEE advised that the proposed modification is not a controlled action under the Environment Protection and Biodiversity Conservation Act 1999.*"
18. The Proponent provided a formal Response to Submission (**RtS**) in August 2018, seeking to address issues and concerns raised during the exhibition period.
19. The Department's AR identified the following issues as the key impacts associated with the Modification:
 - subsidence;
 - water resources;
 - biodiversity; and
 - Aboriginal heritage.
20. Overall, the Department's AR concluded:

"The Department considers that its recommended revised conditions provide a comprehensive, strict and precautionary approach to ensuring the project would continue to comply with performance measures and standards, and that the predicted residual impacts would be effectively avoided, minimised, mitigated and/or compensated."

3. THE COMMISSION'S MEETINGS AND SITE VISIT

21. As part of its determination, the Commission met with the Department and the Proponent. The Commission also conducted a public meeting and inspected the site accompanied by the Proponent and representatives from two community groups. Transcripts from these meetings have been available on the Commission's website since 13 June 2019. Notes from the site inspection have been available on the Commission's website since 26 June 2019.
22. The Commission provided an opportunity for Mid-Western Council to address the Commission, however on 24 May 2019, Mid-Western Council advised the Commission that it had no outstanding concerns with the Modification and, did not require a meeting with the Commission.

3.1. Meeting with the Department

23. On 12 June 2019, the Commission met with the Department to discuss the Department's AR and the Modification.

3.2. Meeting with the Proponent

24. On 12 June 2019, the Commission met with the Proponent to discuss the Department's AR and the Modification.

3.3. Public Meeting

25. To hear the community's views on the Modification, the Commission held a public meeting at the Parklands Resort Conference Centre, 121 Ulan Road, Putta Bucca (Mudgee) NSW on 19 June 2019. A list of the 13 speakers that presented to the Commission is provided on the Commission's website. A transcript of the public meeting was made available on the Commission's website on 21 June 2019. A copy of the material tendered at the public meeting was also made available on the Commission's website on 21 June 2019.
26. Speakers at the public meeting expressed their objection to the Modification. A summary of the comments is provided below:
 - inconsistencies on the biodiversity offset credits required to be clarified;
 - the economic assessment has overestimated the coal royalties resulting from the Modification;
 - potential salinity load impacts into the Goulburn River from mine water discharge and the need to reduce the salt concentrations in discharges to 500 microSiemens per centimetre ($\mu\text{S}/\text{cm}$);
 - mine water discharge should "mimic" natural river flow events;
 - the Proponent has not considered cumulative ground and surface water impacts from the nearby mines;
 - impacts on the Drip from the Ulan Mining operations have not been appropriately considered; and
 - greenhouse gas emissions (GHG), including Scope 3 emissions, have not been appropriately considered.

3.4. Site inspection

27. On 19 May 2019, the Commission inspected the site with the Proponent. The Commission invited local community group representatives to attend and observe the site inspection. The following groups were represented at the site inspection:
 - Wollar Progress Association; and
 - Mudgee District Environment Group.

28. The Commission also met with the owners of the Woodbury property to hear their comments and concerns about the Modification and the potential impacts to Mona Creek and Aboriginal rock shelters.
29. The site inspection incorporated stops at a number of locations to understand the Modification, including:
 - driving north of the Ulan Coal underground operations site to the proposed location of the vegetation clearing and the mining panel proposed extension areas;
 - driving through the Durrigere State Conservation Area (**SCA**) and on Bobadeen Road above LW panels 25 and 26, as well as LW west 3 and 4;
 - zones where subsidence has been recorded (above LW west 3);
 - stopping above LW 07 and 08, ; and
 - the Woodbury property, Mona Creek and Aboriginal rock shelters.

A map with the proposed route was handed out at the site inspection and has been made publicly available on the Commission's website since 9 July 2019.

3.5. Public Comments

30. The Commission provided an opportunity for the public to make written comments on the Modification until 27 June 2019. The Commission received four written comments. All written comments were made available on the Commission's website.

4. THE COMMISSION'S CONSIDERATION

5.1 Material considered by the Commission

31. In determining the Modification, the Commission has carefully considered the following material (the **Material**):
 - the Ulan Coal Mine development consents 08_0184 as currently approved;
 - the Modification Application dated 28 February 2018;
 - the EA and Appendices A-I, dated 20 March 2018;
 - the RtS, dated August 2018;
 - all public submissions made to the Department in respect of the modification during public exhibition of the EA;
 - all government agencies submissions made to the Department in respect of the proposed modification during the public exhibition of the EA;
 - the Department's AR, dated May 2019 and the proposed draft notice of modification for the Ulan Coal Mine 08_0184;
 - the public submissions during the Commission's process;
 - the visual observations made at the site and locality inspection on 19 June 2019;
 - oral comments from speakers at the public meeting on 19 June 2019; and
 - written comments received after the public meeting up to 27 June 2019.

5.2 Scope of the Modification within section 75W of the EP&A Act

Proponent's consideration

32. Table 2 of the EA, which has been extracted and is shown on the next page, provides a summary comparison of the Modification, with the Project as currently approved.

Table 1: Summary of the proposed Modification

Table 2: Summary of proposed Modification

Aspect	Currently Approved	Proposed Modification
Mine Life	16-year life until 30 August 2033	No change
Limits on Extraction	20 Mt of coal per annum (including maximum of 4.1 Mtpa ROM from Open Cut)	No change
Operating Hours	24 hours per day, 7 days per week	No change
Workforce Numbers	Approximately 931 people (Complex)	No change
Mine Plan	As shown in Figure 9 above	Extension of: <ul style="list-style-type: none"> LWs 30, 31, 32 and 33, and LWW7 and LWW8, at the UUG; and LW7 and LW8 in the UWO. Widening of LW 33 at UUG. Associated development roadways.
Mining Method	Retreat longwall method	No change
Surface Infrastructure	As per Continued Operations Project EA	New locations for surface dewatering facilities provided based upon the changes to the UUG mine plan.
Ulan Complex Coal Handling and Preparation Plant	As per Continued Operations Project EA	No change
Coal Transportation	All coal transported from the site by rail. No more than 10 laden trains leave the site each day.	No change
Conservation Areas	As per Continued Operations Project EA	No change

Source: Table 2 of the EA

Department's assessment

33. The Department's AR stated that: *"the proposed modification is within the scope of Section 75W and may be determined accordingly as:*
- it does not seek to change the approved mining methods, mining rate, processing and transportation systems;*
 - the changes to the existing surface infrastructure would be relatively minor;*
 - the changes to the underground mine plan are relatively minor and would only result in an extra 4 months of coal production; and*
 - the environmental impacts of the modification would not substantially increase the impacts of the approved mine plan."*

Commission's findings

34. The Commission has reviewed the proposed Modification, discussed in paragraph 10 against the Project as currently approved, and considers the summary in Table 2 of the EA (as reflected above at Table 1) to be accurate. On the basis of its review, the Commission agrees with the Department's assessment, set out in paragraph 33, that the Modification is within the scope of Section 75W of the EP&A Act.

5.3 Likely impact of the Modification

5.3.1 Biodiversity credits inconsistencies

35. The Commission has considered the Material insofar as it relates to biodiversity credits required for offsetting the predicted impacts from the proposed vegetation clearing.

Comments received

36. The Commission heard concerns from speakers at the public meeting, which were also raised in written comments, regarding inconsistencies in the number of credits required to offset the impacts resulting from the vegetation clearing if the Modification is to be approved, and that the Proponent has not included the species credits required for the loss of habitat of the Koala, Squirrel Glider and Regent Honeyeater.

Proponent's comments

37. The EA included an Ecological Impact Assessment (EIA), prepared by Eco Logical Australia Pty Ltd, which included the mitigation and compensatory measures for the proposed vegetation clearing. The Proponent's EA stated:

"...Additional subsidence beneath approximately 0.32 ha of PCT [plant community type] 281 and approximately 16.87 ha of PCT 704, EEC [endangered ecological communities] and CEEC [critically endangered ecological communities] community types, is not considered to be a direct impact under the FBA [Framework for Biodiversity Assessment] and is not anticipated to impact these vegetation communities...Therefore no compensatory measures are proposed for subsided areas. Although the proposed disturbance area is not within a TEC [Threatened Ecological Communities], additional tree planting is proposed to compensate for removal of an additional 3.63 ha of mature trees. A 25 ha area within the existing rehabilitation area, currently proposed to be rehabilitated as native woodland will be planted with key canopy species..."

38. The Proponent's RtS calculated the offsets for the proposed residual clearing of 1.42 ha, as per the recommendation made by OEH, and stated:

"...as impacts to EEC/CEEC within the proposed Modification area are indirect only (subsidence), offsets are not required for the proposed Modification. However, OEH has encouraged Ulan Coal to consider an offset for the net overall clearing (3.63 ha) associated with the proposed Modification. Prior to consideration of an offset for the net overall clearing and during the development of this response to submissions, Ulan Coal has reviewed the proposed area of disturbance required for the proposed surface infrastructure corridor, and has reduced the net overall clearing associated with the proposed Modification to 1.42 ha.

However, Ulan Coal have considered potential offsets for the area of net overall clearing as contained within the EA (3.63 ha). The offset required was calculated in accordance with the Framework for Biodiversity Assessment (OEH, 2014a). A BOS [Biodiversity Offset Strategy] has therefore been prepared ... The results of this assessment showed that 155 ecosystem credits are required to offset the residual impacts. This equates to approximately 17 ha of land. However, no offsets have been calculated for species credits, with further clarification for assessment methodology requested from OEH These calculations will be repeated post approval of the Modification using the reduced net overall area of clearing proposed (approximately 1.42 ha).

39. Appendix A of the RtS provided an assessment of the offset requirements and was accompanied by a BOS. The assessment stated:

“The NSW Office of Environment and Heritage (OEH) provided a submission to the EA which requested assessment of the residual disturbance of the modification, and although not required as part of an assessment under the TSC Act, that provisions of biodiversity offsets in accordance with the Framework for Biodiversity Assessment (FBA; OEH, 2014) would be a favourable outcome for the project. Discussions between UCML [Ulan Coal Mines Limited] and OEH on 31 May 2018 resulted in a commitment from UCML to calculate the offset requirement of the residual disturbance (now reduced to 1.42 ha) using the FBA. UCML also made a commitment to open discussions with the local National Parks and Wildlife Service (NPWS) in an effort to explore any opportunities to secure offsets locally.

“...The modification will require 63 ecosystem credits for the residual disturbance of the project, which equates to approximately 7 ha of land to be secured into a biodiversity offset under a suitable conservation mechanism.”

The detailed assessment and BOS can be found in the Proponent’s RtS.

40. On 27 June 2019, the Proponent provided the Commission with correspondence dated 4 February 2019, addressed to the Department, which provides clarification on the final amount of offset credits:

“The proposed retirement of 61 Biodiversity credits reflects the credits calculated in the Major Projects Credit Calculator ... and that referred to in the Proposed Offset Strategy ... Page 2 of the offset strategy previously incorrectly referred to an estimated credit requirement of 63 credits (refer incorrect letter dated 10 July 2018 attached) however, Page 10 of the offset strategy provides details in relation to the credit requirements which, equates to 61 credits. This correlates with the submission of the credits (61 credits required) as outlined in the credit report.”

Department’s Assessment

41. The Department’s AR acknowledged the Proponents offset strategy, and stated:

“...in response to concerns raised in submissions and OEH advice, UCML proposed a biodiversity offset strategy to offset the residual 1.42 ha proposed to be cleared. UCML calculated the offset requirement using the Framework for Biodiversity Assessment (FBA), in consultation with OEH. This assessment determined that 61 ecosystem credits would be required.”

42. As to whether the total number of ecosystem credits required is appropriate, the Department’s AR stated:

“The Department notes that the calculation of credits required is complicated as both PCT 401 and PCT 479 are not available for selection within the Biobanking Credit Calculator (BCC) as the calculator only allows PCTs to be selected from those that occur within the Hunter Rivers Catchment Management Area (CMA) because most of the project location is within this CMA. As such surrogates were required.

“OEH reviewed the data entered into the calculator and advised the Department that the data was acceptable and appropriate and that PCT 478 was a suitable surrogate, and therefore an offset of 61 ecosystem credits is an appropriate offset credit liability...”

43. In relation to ecosystem credits for the Koala, Regent Honeyeater and Squirrel Glider species in PCT 478, the Department's AR stated:

"Nevertheless, OEH in its advice on the RTS noted that no species credit species are generated for the Koala, Regent Honeyeater or Squirrel Glider in PCT 478 and that species credits should be calculated and retired for these species, based on the residual clearing of PCTs 401 and 479.

The Department notes that the incremental clearing in these PCTs is low and that the credits generated would be small. However, the Department accepts OEH's recommendation and has included a requirement to calculate species credits for the residual clearing in PCT's 401 and 479 and retire these species credits.

UCML proposes to retire the required ecosystem credits in accordance with the requirements of the BC Act, including retiring credits in a land-based offset, funding biodiversity conservation actions or making a payment into the Biodiversity Conservation Fund.

Both the Department and OEH support the commitment to offset the net overall clearing of 1.42 ha. The Department has recommended that UCML retire its ecosystem credit liability of 61 credits within 12 months of the date of approval of the modification request (if approved) and also calculate and retire relevant species credit species related to PCTs 401 and 479."

44. The Department's AR concluded:

"The Department considers that impacts to threatened species would not be significant given that:

- threatened flora or fauna species were not identified within the proposed modification area;*
- the overall net clearing of 1.42 ha is relatively small; and*
- there is existing habitat for threatened flora and fauna close by, including in National Park estate.*

The Department has carefully considered potential impacts to biodiversity and considers that these impacts are not significantly greater than those already approved. Further, the existing management and monitoring network is adequate to manage any potential impacts from the proposed modification. The Department considers that, with the additional requirement to offset the incremental 1.42 ha of direct clearing, the conditions remain appropriate and provide adequate protection."

Commission's findings

45. The Commission acknowledges the concerns raised at the public meeting and in written comments in relation to the inconsistencies presented regarding the number of offset credits required for the Modification.
46. The Commission also notes that:
- the Proponent has clarified that the final amount of offset credits required is 61, as discussed in paragraph 40;
 - OEH advised that an offset of 61 ecosystem credits is an appropriate offset credit liability, as discussed in paragraph 42; and
 - the Department has included a requirement to calculate species credits for the residual clearing in PCT's 401 and 479 and retire the land-based offset credits, within 12 months of the date of approval of the modification request (if approved); as discussed in paragraph 43.

47. For the reasons above, in paragraph 46, the Commission finds that the amount of offset credits calculated to be acceptable.

5.3.2 Greenhouse gas emissions

48. The Commission has considered the Material insofar as it relates to potential impacts from the predicted Scope 3 **GHG** emissions.

Comments received

49. The Commission heard concerns from speakers at the public meeting, which were also raised in written comments, regarding the GHG emissions that would be generated as a result of the Project if the Modification is approved. Specifically, concerns were raised that the Proponent and the Department had not appropriately considered GHG emissions, including Scope 3 emissions.

Proponent's considerations

50. The EA included a Greenhouse Gas and Energy Assessment, prepared by Ecological Australia Pty Ltd, which assessed the potential GHG emission impacts of the Modification. The Proponent's EA stated:

"The impact assessment has shown that the proposed Modification is unlikely to contribute significantly to environmental impacts associated with GHG emissions including climate change."

...

"The proposed Modification will increase the Scope 1 emissions generated at the UCC by 27,535 t CO₂-e over the life of the operation. When compared to the recorded emissions within the National GHG Inventory (DoEE, 2017b)⁶², the increase in Scope 1 emissions for the proposed Modification (27, 535 t CO₂-e) represents approximately 0.005% of the total Australian GHG emissions for 2016/2017, however the implications of this are low, since the emissions are not through increased intensity in any given year, rather an extension of time for which the emissions are produced."

...

"Glencore aims to manage the downstream impact of emissions [Scope 3] generated by its products including coal. The GCAA [Glencore Coal Assets Australia] product stewardship policy requires the consideration of risk associated with products and avoidance of environmental harm."

51. The Proponent's EA concluded:

"The GHG emissions associated with the proposed Modification will not have a significant impact upon global GHG emissions, and Australia's ability to meet global objectives and targets for emission generation."

The coal reserve at the UCC is relatively low in methane and diesel usage is low compared with other mining methods. The short extension of operational time contributes minimally to the overall emissions from the project and emissions intensity is unlikely to increase."

Scope 3 emissions contribute the greatest volume of emissions from the proposed Modification. These emissions are where UCML has the least control over their generation, however, GCAA is proactively working within industry to promote product stewardship and new technologies for GHG management."

Department's Assessment

52. The Department's AR stated:

"While the proposal would not result in any increases in the annual greenhouse gas emissions of the approved mine because the maximum annual extraction rate of the mine would stay the same at 24 Mt of ROM coal, it would result in a very small (around 2.4%) increase in the total greenhouse gas emissions of the approved mine.

...

The Scope 1 & 2 emissions of the mine ...represents a very small (0.016%) fraction of Australia' annual greenhouse gas emissions.

Under the existing conditions of consent, UCML is required to implement all reasonable and feasible measures to minimise these greenhouse gas emissions of the mine and has committed to continue to do this if the proposal is approved.

The Department supports this and notes that UCML's commitment is consistent with the policy to minimise the greenhouse gas emissions of development under the Mining SEPP, the conditions of the existing consent and the obligations that apply to other mining operations across NSW.

Scope 3 emissions...represent an extremely small fraction of annual global greenhouse gas emissions and would have no discernible impact on climate change.

...

UCML is also required to prepare and implement an Air Quality and Greenhouse Gas Management Plan in consultation with EPA.

The Department considers that the conditions remain appropriate and provide adequate protection."

Commission's findings

53. The Commission acknowledges the concerns raised at the public meeting and in written comments that that the Proponent had not appropriately considered GHG emissions, including Scope 3 emissions, as a result of the Modification.
54. The Commission notes from paragraph 50 that there will be an increase in emissions as a result of the Modification, and that the increase is unlikely to contribute significantly to environmental impacts associated with GHG emissions including climate change. The Commission further notes from paragraph 50 that the overall increase in GHG emissions (including Scope 3 emissions) generated by the Modification will have low implications, since the emissions are not through increased intensity in any given year, rather an extension of time for which the emissions are generated, within the approved life of the mine. The Commission notes that the Proponent does not seek an extension of time for the life of the Project.
55. The Commission also notes that:
- additional GHG emissions, including Scope 3 emissions, resulting from the Modification have been correctly identified and calculated by the Proponent and assessed by the Department, as discussed in paragraphs 50 - 52;
 - the Modification is unlikely to contribute significantly to environmental impacts associated with GHG emissions including climate change, as discussed in paragraphs 50 and 52.
56. For the reasons above in paragraphs 54 - 55, the Commission finds that the increase in GHG emissions is acceptable.

5.3.3 Proximity of the Modification to the Mona Creek rock shelter and the Mona Creek alluvium

57. The Commission has considered the Material insofar as it relates to potential impacts from the Modification on the Mona Creek rock shelters and the Mona Creek alluvium.

Comments received

58. The Commission heard concerns from the owner of the Woodbury property and also in written comments, in relation to:
- the potential impacts of subsidence due to proximity of the proposed LWs to the Woodbury property,
 - potential impacts on the cultural heritage significance of the Mona Creek rock shelters; and
 - the availability of shallow water from the Mona Creek alluvium.

Proponent's considerations

59. The EA included a Heritage Impact Assessment (**HIA**), prepared by Ecological Pty Ltd, which assessed the direct surface impacts associated with construction of surface infrastructure; and indirect impacts of underground mining and subsequent subsidence. The Proponent's EA stated:

"The proposed Modification will result in a minor (almost negligible) net overall increase in impacts to Aboriginal heritage in relation to the increased subsidence and construction of the conceptual surface infrastructure corridor ... The probability for rock fall and perceptible impacts to occur has increased for two rock shelter sites/PADs [Potential Archaeological Deposits], however these sites are of low heritage significance. The overall impact of the modification to Aboriginal heritage is assessed as low."

...

"No impacts to the Mona Creek rock shelter sites, the Brokenback Conservation Area or Grinding Groove Conservation Areas are predicted, consistent with PA 08_0184, schedule 3. No aboriginal sites were identified in the proposed surface infrastructure corridor. No impacts are predicted for the majority of the open artefact sites within the proposed Modification area, due to the low potential for perceptible surface impacts..."

...

The extension of longwall LW8 at UUG has increased the probability of impacts occurring to two additional rock shelter sites (MC [Mona Creek] 22 and MC236) in comparison to the results of the subsidence assessment undertaken for the UCCO [Ulan Coal Continued Operations] Project EA (Umwelt, 2009)10 (Table 14). Impacts to rock shelter sites are considered to occur in accordance with the impacts predicted for sandstone cliff formations ... These sites are not the rock shelter sites protected by the subsidence performance measures in Schedule 3, Condition 24 of PA 08_0184.

Each of these sites is considered to be of low heritage significance, with the proposed Modification considered to result in a very minor net overall increase in impacts to Aboriginal heritage ..."

...

"The UCCO Project EA concluded that mining subsidence will not significantly affect the context of any open artefact sites and that the potential impacts of subsidence on any of the open artefact sites within the underground mining area was assessed as very low or negligible ... Although numerous artefact scatters and isolated finds are located within the proposed Modification area, subsidence movements are not expected to have any material impact to these sites with impacts to remain negligible and will be consistent with the performance measures in the UCCO Project EA for PA 08_0184 (Umwelt, 2009).

These sites will be managed through the implementation of the mitigation measures contained within the Heritage Management Plan (HMP)."

60. The Proponent's RtS sought to address concerns raised in relation to potential impacts on the Mona Creek rock shelters. The RtS stated:

"The subsidence impact assessment ... relies on previous experience and monitoring of the effects of subsidence from longwall mining at the UCC. The impacts and extent of subsidence was therefore used as the basis of the subsidence modelling undertaken for the modification.

The Mona Creek rock shelter sites that are protected from mining impacts by Condition 24, Schedule 3 of PA 08_0184 include sites MC23 - MC30 (ID# 180 - 187). The results of the subsidence modelling showed that the probability of impacts to rock shelter site MC22 would change as a result of the modification ... This rock shelter site is not included as a rock shelter that is protected under PA 08_0184. Although the probability of impacts to these sites has changed, the impacts expected at this site and approved in the original UCCOP (and associated Modifications) due to this Modification will not increase ...

The proposed Modification will not result in any impacts to any Aboriginal sites of heritage significance, particularly the Mona Creek 23-30 rock shelter sites (ID# 180-187), or any of the Aboriginal heritage conservation areas, consistent with PA 08_0184 and the Heritage Management Plan (HMP)."

61. In relation to the concerns raised relating to management and subsidence on privately owned land, the RtS stated:

"The submission received and consultation by DP&E with the landowner highlighted issues relating to restrictions on the landholder due to Heritage Surveys undertaken on their land and potential restrictions on any future development.

*...
Future developments which are subject to approval under the EP&A Act undertaken by the landowner will be subject to the provisions of the NPW Act, including all known and potential artefacts in accordance with the legislative requirements.*

UCML commits to continuing development of the PPSMP [Private Property Subsidence Management Plan] and subsidence mitigation agreement in consultation with the individual landowner including the management of surface features such as Mona Creek rock shelters, pagodas and clifflines."

Department's Assessment

62. In relation to Aboriginal heritage sites located on privately own land, the Department's AR stated:

"No known Aboriginal heritage sites are located within the areas to be directly disturbed. However, there are potential subsidence impacts on heritage sites. Previously surveyed areas identified three known sites within the modification subsidence investigation area. Surveys undertaken for this modification identified a further 14 sites.

Two of the sites are rock shelters which have a higher potential to be impacted from subsidence, while the remaining sites are isolated finds or artefact scatters that are considered to have a low likelihood of being significantly disturbed by subsidence effects. The two rock shelter sites, classified by UCML's heritage consultant to have low overall significance, have a higher likelihood of being impacted due to rock fall and cracking from subsidence effects. These new sites would be managed under the requirements of a revised Extraction Plan, including archival recording of the sites.

The Department notes the concerns raised by the community regarding potential impacts to Mona Creek rock shelter sites as the longwall extensions would be closer to these sites. Importantly, under the existing approval, UCML is required to meet a performance measure of 'nil impact' for Aboriginal sites in the Brokenback Conservation Area, Grinding Groove

Conservation Areas, and on Mona Creek Rock Shelter sites. The longwall extension is not predicted to impact on these sites and this requirement is retained in the project approval.”

63. As to the concerns raised by the owners of the Woodbury property, the Department' AR stated:

“The Department notes concerns raised by the owners of Woodbury regarding a rockfall that occurred in the cliff line associated with the protected Mona Creek rock shelters (MC23-MC30) in March 2014..., which are located outside the predicted subsidence impact area.

UCML commissioned SCT [Strata Control Strategies] to undertake an assessment of this rockfall (see Appendix E). SCT concluded that the rockfall was caused by a natural event from tree root invasion into a natural joint, with the event itself most likely triggered by high intensity rainfall and that there was no potential for the rockfall to be associated with mining subsidence or operations. Further, the rockfall did not impact on any of the Mona Creek cultural heritage sites.

The Department accepts these findings and notes that this cliff line is located well away from previous and existing mining operations.

64. As to whether the rockfall had any impacts on the significance of the Mona Creek Heritage sites, the Department's AR stated:

“UCML also commissioned South East Archaeology to investigate whether the rockfall changed the significance of the Mona Creek Heritage sites ... The key findings were that eight of rock shelter sites were assessed as having low research potential and two as having moderate to high research potential. South East Archaeology also confirmed that the rock fall that occurred in 2014 did not impact on these sites.

The Department accepts the conclusions of these expert reports and considers that it is unlikely that the proposal would cause subsidence impacts along the section of the cliff line where the Mona Creek sites MC 23-30 are located and that therefore the performance measure of nil impact to these sites would continue to be met.

Nonetheless, the Department agrees with the owners of Woodbury that it is important that cliff line stability be monitored, including the cliff line along the protected Mona Creek area to demonstrate the performance measures are met, including consideration as to whether any falls in protected areas are due to natural causes, such as the assessment completed for 2014 rock fall.”

Current conditions require nil impacts on Mona Creek rock shelter sites.

65. In relation to the potential subsidence impacts on the Mona Creek alluvium, the Department's AR stated:

“The Department has considered the information provided by UMCL in the EA and RTS on shallower perched aquifers in the area. In summary, the groundwater model considered the presence of alluvial aquifers and other shallow perched aquifers and concluded that the “perched aquifers” are not in hydraulic connection with the regional water table that mine dewatering is predicted to affect, and it is therefore unlikely that any perched aquifers associated with Mona Creek would be directly impacted.

66. As to the monitoring measures proposed in relation to potential subsidence impacts on the Mona Creek alluvium, the Department's AR stated:

“To provide further evidence to support these findings, UCML is proposing to install at least three monitoring bores in the Mona Creek alluvium in the area north of UWO LWs 6-8. This monitoring would aim to further assess hydraulic connectivity and impacts on the Mona

Creek alluvium. The Department notes that there is an existing requirement for a Groundwater Monitoring Program and considers that the proposed monitoring bores could be incorporated into this program. UCML would be required to update the program within three months of any determination of this modification.

The Department notes that current water uses on 'Woodbury' are described in the agreed Subsidence Remediation and Alternative Water Supply Agreement for LW W5. There are seven farm dams used for stockwater located on the property, with two of these spring fed. There is one private bore located on the property (bore PB08) with current and potential future uses including domestic and agricultural. A significant drawdown impact is already predicted on bore PB08 from the approved project, and this is not expected to increase due to the modification.

...The project approval conditions also require UCML to provide compensatory water for impacts on bore water supply, noting that these predicted impacts would be a result of the approved operations, not the modification.”

67. The Department's AR concluded:

“The Department has carefully assessed potential impacts of subsidence on natural and built features and considers that these impacts are consistent with and/or not significantly greater than those already approved. The Department considers that the existing performance measures remain appropriate and provide adequate protection to all significant surface features in the modification area and that the existing Extraction Plan condition remains effective to manage and monitor subsidence impacts in the extension area.”

Commission's findings

68. The Commission acknowledges the concerns raised by the Woodbury property owner in relation to potential impacts of subsidence on the cultural heritage significance of the Mona Creek rock shelters, and on the availability of shallow water from the Mona Creek alluvium, that would result from the proximity of the Modification to the Woodbury property.

69. In relation to the Mona Creek Rock Shelters, the Commission notes that:

- the proposed Modification is not predicted to result in any impacts on Aboriginal sites of heritage significance and that these sites would be managed through the implementation of mitigation measures contained within the HMP, as discussed in paragraph 59;
- the Proponent has committed to continue developing the PPSMP and the subsidence mitigation agreement in consultation with the individual landowner; as discussed in paragraph 61; and
- current conditions require nil impacts on Mona Creek rock shelter sites, as discussed in paragraph 64.

70. As to the Mona Creek alluvium, the Commission notes that:

- alluvial aquifers and other shallow perched aquifers are not in hydraulic connection with the regional water table that mine dewatering is predicted to affect, and it is therefore unlikely that any perched aquifers associated with Mona Creek would be directly impacted; as discussed in paragraph 65;
- the Proponent proposes to install at least three monitoring bores in the Mona Creek alluvium to further assess hydraulic connectivity and impacts on the Mona Creek alluvium and that the proposed monitoring bores could be incorporated into the Groundwater Monitoring Program for the existing approval within three months of any determination of this Modification, as discussed in paragraph 66; and
- the project approval conditions require the Proponent to provide compensatory water for impacts on bore water supply, noting that these predicted impacts would be as a result of operations that are already approved, not as a result of the Modification, as

discussed in paragraph 66.

71. For the reasons above, in paragraphs 69-70, the Commission finds that the proximity of the Modification to the Mona Creek Rock Shelters and to the Mona Creek alluvium, is acceptable.

5.3.4 Other matters

72. The Commission notes that some concerns raised at the public meeting are outside the scope of the Modification. Notwithstanding, the Commission has considered these concerns in the sections below.

73. The Commission heard concerns from speakers at the public meeting and received written comments in relation to:

Water discharge from the mine should “mimic” natural river flow events, the potential impacts from salinity loads from the water discharges into the Goulburn River and the need to reduce the salt concentrations in the water discharges to 500 µS/cms.

74. The Commission notes that the discharge limits are governed by the Environmental Protection Licence (**EPL**), issued for the Project by the EPA, and that the discharge limits and surface water discharges are not being proposed to change as part of the Modification. Changes to the discharge limits and water surface discharges would require the Proponent to undergo a separate process run by the EPA, who may change the limits over time under provisions of the *Protection of the Environment Operations Act 1997 (POEO Act)*.

Cumulative ground and surface water impacts from all three mines.

75. The Commission notes that the Modification represents a minor increase to the Project as currently approved, and a cumulative impact assessment as referred to in the written comments, would be an exercise that would require the participation of all mines immediately surrounding the Project. The Commission also notes that an application to modify an approval must be assessed on its merits and that the Department has undertaken its assessment in accordance with the requirements of the EP&A Act and the *Environment Planning and Assessment Regulation 2000 (EP&A Regulation)*.

Current leakages of saline water into the Goulburn River from the Project’s east pit void.

76. The Commission acknowledges that the leakage is an existing situation that requires management from the Proponent, under the existing consent. Notwithstanding, the Commission also notes that the leakage is unlikely to be impacted by the Modification given that there are no changes proposed to surface water discharge levels.

Impacts on the Drip from the Ulan Mining operations.

77. The Commission notes that the Department is satisfied that no impact on the Drip has been recorded as a result of the Project operations and that the Modification is not predicted to impact on the Drip. The Commission also notes as per the Department’s advice, that the Drip is fed by a perched aquifer above the cliff which is disconnected from the regional groundwater system and would therefore not be affected.

Inconsistencies in the Proponent's Trigger Action Response Plan on the bores the Proponent is required to monitor.

78. The Commission notes that the Modification proposes minor changes to operations compared to what is currently approved and that these changes would result in a minor increase to predicted groundwater drawdown. The Commission also notes that the Proponent's Groundwater Monitoring Program for the UWO includes a requirement to monitor groundwater levels and water quality of privately owned bores within and outside the Project Area. Therefore, the Commission finds that the minor increase in the groundwater drawdown does not require an amendment to the monitoring regime, in addition to what has already been recommended for the Modification.

The economic assessment having overestimated coal royalties that would result from the Modification.

79. The Commission notes that the concern raised related to the consideration of the Sustainable Development Scenario (**SDS**) in the calculation of the Modification's royalties. The Commission notes that the Modification seeks a minimal additional amount of coal to be extracted and does not seek an extension to the life of the mine as a result of the additional coal, nor does it require a new application. The Commission therefore finds that the consideration to include the SDS in the royalty's calculations for Modification does not warrant reassessment of royalties payable for the Project, as the Modification represents a 2% increase, which has been defined by the Department as a minor change to the Project, compared to what is currently approved.

5.3.5 Objects of the EP&A Act and Public Interest

80. In determining the public interest merits of the Modification, the Commission has had regard to the objects of the EP&A Act.

Proponent's consideration

81. The Proponent's EA does not include an assessment of the objects of the EP&A Act. Notwithstanding, the EA stated that the Modification is consistent with object (b) of the EP&A Act, in relation to Ecologically Sustainable Development (**ESD**).

82. In relation to the precautionary principle, the Proponent's EA stated:

"Environmental and socio-economic impacts associated with the proposed Modification, as well as necessary mitigation measures have been assessed in accordance with recognised standards and regulatory requirements (using best industry practice). The significant available baseline data was supplemented by survey and engineering and scientific modelling. Measures are proposed to prevent degradation. A risk assessment was completed that has guided the scope and assessment of the proposal."

83. In relation to the Intergenerational equity, the Proponent's EA stated:

"Key to the achievement of intergenerational equity is the principle of "conservation of access". This principle aims to ensure that all members of society have access to the same basic needs as previous generations and that improvements to communities, populations and society are distributed fairly. Intergenerational equity aims to ensure that this same equality is apparent between future generations. This is to ensure that the needs and requirements of future generations are not compromised by present generations."

The proposed Modification has been designed to allow for efficient resource recovery while at the same time ensuring environmental impacts are minimal. Mitigation measures have been developed to ensure impacts on the environment are as low as reasonably possible.

The proposed Modification will provide sustainable services to the community through direct and indirect effects such as employee and operational expenditure.”

84. In relation to conservation of biological diversity, the Proponent's EA stated:

“The EP&A Regulation states the aim for ‘conservation of biological diversity and ecological integrity, namely, that conservation of biological diversity and ecological integrity should be a fundamental consideration,’

To achieve this aim, requires species abundance, ecosystem diversity and health and the connectivity between them are maintained.

As outlined in Section 5.2.4, subsidence will not have a significant impact to vegetation communities, threatened flora and fauna (including fauna habitat) as a result of the proposed Modification.

The surface infrastructure corridor proposes 3.63 ha of additional disturbance, will not impact threatened species or communities and will be compensated by planting of species with a high biodiversity value.

These minimal impact strategies will be assured and verified by pre clearing surveys and biodiversity monitoring and reporting which includes monitoring of rehabilitated areas.”

85. In relation to the valuation and pricing of resources, the Proponent's EA stated:

“The costs of mitigating noise and dust will be borne by the proponent. Water treatment will be within the capability of existing approved systems and limits. The cost of rehabilitation and remediation of subsidence impacts to private land are not considered significantly greater and will be borne by the proponent.”

Department's assessment

86. The Department's AR stated: *“The Department has assessed the proposed modification against the objects of the EP&A Act ... The objects of most relevance to the decision on whether or not to approve the proposed modification [under section 1.3 of the EP&A Act] are...(a)...(b)...(c)...(e)...(f)...(j)...”*

87. The Department's AR also stated that:

- *“The proposed modification would allow for the recovery of a 6.4 Mt ROM coal resource ... using the existing mining fleet and workforce.”*
- *“The additional extraction would provide a further \$40 million royalty to NSW, improve the productivity of the mine and contribute to the security and continued employment of the existing workforce and ongoing expenditure in the State and local economies.”*
- *“The Department considers that this can be achieved with minimal incremental environmental impacts to water resources, biodiversity and heritage compared to the approved project.”*
- *“Subsidence impacts and effects on natural and built features would be similar to that of the approved project with a small (2%) increase in the mining footprint.”*
- *“...there would be no impacts on the protected Mona Creek rock shelter site located on the Woodbury property, increased likelihood of impact on 2 rock shelters located outside of the protected Mona Creek site, classified as having low significance.”*
- *“Impacts on water resources would not change to any great extent to that of the approved mining operation, with similar predicted groundwater inflow to the underground workings, drawdown impacts on private bores, baseflow changes and surface water discharges to the Goulburn River.”*
- *“Residual impacts to biodiversity would be limited to a net increase of clearing of 1.42 ha of non-threatened native vegetation, which would be appropriately offset.”*

The Department considers that the proposal would permit the continued proper management and development of a regionally significant coal resource (Object 1.3(a)). The Department also considers that the proposal represents an orderly and economic use of land (Object 1.3(c)).

The Department has considered the principles of ecologically sustainable development (ESD, Object 1.3(b)) in its assessment of the proposed modification, including UCML's analysis in section 6.3.1 of its EA, and given that there are only minor incremental impacts compared to the approved project, considers that the proposed modification is able to be carried out in a manner that is consistent with the principles of ESD and consistent with the determination of the approved project. The Department's assessment has sought to integrate all significant environmental, social and economic considerations.

Consideration of the protection of the environment and heritage (Objects 1.3(e) and(f)) is provided in **Section 5** of this report. The proposed modification does not involve any material changes to environment and heritage matters.

The Department exhibited the modification application and accompanying EA and made them publicly available (Object 1.3(j)).”

...
“Based on its assessment, the Department of Planning and Environment considers that the proposed modification has merit, and is in the public interest and should be approved, subject to the stringent conditions of approval outlined in the recommended Notice of Modification in Appendix F and the consolidated project approval in Appendix G.”

88. However, the Department is silent in how the Modification is consistent with ESD but supports the Proponent's arguments, discussed in paragraphs 81 - 85.

Commission's consideration

89. Under section 5.5 of the EP&A Act, the determining authority must take into account the objects in section 1.3 of the EP&A Act, applicable to the project. These are:
- a) to 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,
 - b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,
 - c) to promote the orderly and economic use and development of land,
 - e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,
 - f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),
 - i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State, and
 - j) to provide increased opportunity for community participation in environmental planning and assessment.
90. As set out in paragraph 89, the Commission finds that the Modification is generally consistent with the relevant objects under section 1.3 of the EP&A Act, because:
- the Modification meets object (a) because it would provide a further \$40 million in royalties to NSW, improve productivity of the mine and contribute to the security and continued employment of the existing workforce. The Modification would provide ongoing expenditure in the State and local economies, with minimal incremental environmental impacts to water resources, biodiversity and heritage; compared to the Project as currently approved; as set out in paragraph 87;
 - the Modification meets object (b) as discussed in paragraph 92;

- the Modification meets object (c) because it would allow for the recovery of a 6.4 Mt ROM coal resource using the existing mining fleet and workforce; as set out in paragraph 87;
- the Modification meets objects (e) and (f) because the Modification does not involve material changes to environment and heritage matters as:
 - subsidence impacts and effects on natural and built features would be similar to that of the approved project; as set out in paragraph 87;
 - there would be no impacts on the protected Mona Creek rock shelter site located on the Woodbury property, and the increased likelihood of impact on 2 rock shelters located outside of the protected Mona Creek site, classified as having low significance; as set out in paragraph 87;
 - impacts on water resources are not predicted to change to any great extent, compared to the approved mining operation, with similar predicted groundwater inflow to the underground workings, drawdown impacts on private bores, baseflow changes and surface water discharges to the Goulburn River; as set out in paragraph 87; and
 - residual impacts to biodiversity would be limited to a net increase in clearing of 1.42 ha of non-threatened native vegetation, which would be appropriately offset; as set out in paragraph 87;
- the Modification meets object (i) because:
 - the Department has assessed the Modification in consultation with the relevant Council, and given consideration to the issues raised by the Community and other Government agencies, during the exhibition period, as discussed in paragraphs 14 to 19;
- the Modification meets object (j) because:
 - the Department publicly exhibited the Modification, as discussed in paragraph 14.

91. A relevant object of the EP&A Act to the Modification, as outlined in paragraph 89, is the facilitation of ESD. The Commission notes that section 6(2) of the *Protection of the Environment Administration Act 1991* states that ESD requires the effective integration of social, economic and environmental considerations in its decision-making, and that ESD can be achieved through the implementation of:

- (a) the precautionary principle;
- (b) inter-generational equity;
- (c) conservation of biological diversity and ecological integrity; and
- (d) improved valuation, pricing and incentive mechanisms.

92. The Commission finds that if the Modification is approved, the Project is generally consistent with ESD principles because the Modification is unlikely to have significant environmental impacts, as it would provide for a Project with:

- a layout that would allow for the recovery of a 6.4 Mt ROM coal resource with minimal incremental environmental impacts to water resources, biodiversity and heritage, using the existing mining fleet and workforce, and a 2% increase of the Project's footprint; as discussed in paragraphs 10 and 86;
- a requirement to retire ecosystem credits in accordance with the BC Act, including 61 ecosystems liability credits within 12 months of the date of approval of the modification request (if approved) that would offset the net overall clearing of 1.42 ha; retiring credits in a land-based offset, funding biodiversity conservation actions or making a payment into the Biodiversity Conservation Fund; as discussed in paragraph 43;
- a small fractional increase in annual global GHG emissions that would have no discernible impact on climate change; as discussed in paragraph 52; and
- low or negligible subsidence impacts on Aboriginal heritage; as discussed in paragraph 59.

93. On balance and because of the matters discussed in paragraphs 90 to 92, the Commission finds that the Modification is in the public interest.

5. HOW THE COMMISSION TOOK COMMUNITY VIEWS INTO ACCOUNT IN MAKING ITS DECISION

94. The views of the community were expressed through:
- public submissions and comments received (as part of exhibition, during and after the public meeting; and as part of the Commission's determination process) as discussed in paragraphs 21, 25 - 30, 36, 45, 49, 53, 58, 68, 72 - 79, and 0.
95. The Commission carefully considered all views as part of making its decision. The way in which these concerns were considered by the Commission is set out in **section 5** above.

6. DETERMINATION

96. The Commission has carefully considered the Material before it, as set out in paragraph 31 of **section 5** above.
97. The Commission has also considered the matters for consideration specified by the EP&A Act, including former section 75W of the EP&A Act and the matters it requires the Commission to consider, as discussed in paragraph 31.
98. From the Material in paragraphs 89 to 0, the Commission finds that the Modification is acceptable because:
- it would allow for the recovery of 6.4 Mt ROM coal resource with minimal incremental environmental impacts to water resources, biodiversity and heritage, using the existing mining fleet and workforce, with a 2% increase in the Project's footprint;
 - it would contribute to the security and continued employment of the existing workforce and ongoing expenditure in the State and local economies;
 - it would provide increased royalty payments of a further \$40 million to the State of NSW over the life of the project;
 - it would have no discernible impact on climate change; and
 - the Project, as proposed to be amended, meets the objects of the EP&A Act.
99. For the reasons in paragraph 98 above, the Commission has determined that the Modification should be approved subject to conditions. These conditions are designed to:
- prevent, minimise and/or offset adverse social and environmental impacts;
 - set standards and performance measures for acceptable environmental performance;
 - require regular monitoring and reporting; and
 - provide for the ongoing environmental management of the development.
100. The reasons for this Decision are given in this Statement of Reasons for Decision dated 17 July 2019.



Gordon Kirkby (Chair)
Commission Member



Prof. Chris Fell
Commission Member



A/Prof. Brett Whelan
Commission Member