



muswellbrook
shire council

Muswellbrook Shire Council

EXTRA-ORDINARY COUNCIL MEETING

BUSINESS PAPER

THURSDAY 16 NOVEMBER 2023



MUSWELLBROOK SHIRE COUNCIL

P.O Box 122
MUSWELLBROOK
14 November, 2023

Councillors,

You are hereby requested to attend the Extra-Ordinary Council Meeting to be held in the Loxton Room, Administration Centre, Campbell's Corner 60-82 Bridge St, Muswellbrook NSW 2333 on **Thursday 16 November 2023** commencing at 6:00 pm.

Derek Finnigan

GENERAL MANAGER



Council Meetings

Meeting Principles

Council and committee meetings should be:

- Transparent:* Decisions are made in a way that is open and accountable.
- Informed:* Decisions are made based on relevant, quality information.
- Inclusive:* Decisions respect the diverse needs and interests of the local community.
- Principled:* Decisions are informed by the principles prescribed under Chapter 3 of the Act.
- Trusted:* The community has confidence that councillors and staff act ethically and make decisions in the interests of the whole community.
- Respectful:* Councillors, staff and meeting attendees treat each other with respect.
- Effective:* Meetings are well organised, effectively run and skilfully chaired.
- Orderly:* Councillors, staff and meeting attendees behave in a way that contributes to the orderly conduct of the meeting.

Public Forums

The council may hold a public forum prior to each ordinary meeting of the council for the purpose of hearing oral submissions from members of the public on items of business to be considered at the meeting. Public forums may also be held prior to extraordinary council meetings and meetings of committees of the council.

To speak at a public forum, a person must first make an application to the council in the approved form. Applications to speak at the public forum must be received by no later than 9.00 am two (2) days prior to the day of the meeting before the date on which the public forum is to be held, and must identify the item of business on the agenda of the council meeting the person wishes to speak on, and whether they wish to speak 'for' or 'against' the item.

Approved speakers at the public forum are to register with the council any written, visual or audio material to be presented in support of their address to the council at the public forum, and to identify any equipment needs no more than 3 days before the public forum. The general manager or their delegate may refuse to allow such material to be presented.

Each speaker will be allowed 2 minutes to address the council. This time is to be strictly enforced by the chairperson.



Declarations of Interest

Statement of Ethical Obligations

Councillors are reminded of their oath or affirmation of office, made under section 233A of the NSW Local Government Act 1993, to undertake the duties of the office of Councillor in the best interests of the people of Muswellbrook Shire and Muswellbrook Shire Council and to faithfully and impartially carry out the functions, powers, authorities and discretions vested in them, under the Local Government Act 1993 or any other Act, to the best of their ability and judgment. Pursuant to the provisions of the Muswellbrook Shire Council Code of Meeting Practice and the Muswellbrook Shire Council Code of Conduct, Councillors are reminded of their obligations to disclose and appropriately manage conflicts of interest.

Section 451 of the Local Government Act requires that if a Councillor or Member of a Council or committee has a pecuniary interest in any matter before the Council or Committee, he/she must disclose the nature of the interest to the meeting as soon as practicable and must not be present at, or in sight of, the meeting, when the matter is being discussed, considered or voted on.

A pecuniary interest is an interest that a person has in a matter because of a reasonable likelihood or expectation of financial gain or loss (see sections 442 and 443 of the Local Government Act).

A non-pecuniary interest can arise as a result of a private or personal interest which does not involve a financial gain or loss to the councillor or staff member (eg friendship, membership of an association, or involvement or interest in an activity). A Councillor must disclose the nature of the interest to the meeting as soon as practicable.

Council's Model Code of Conduct now recognises two forms of non-pecuniary conflict of interests:

- Significant
- Less than significant

A Councillor must make an assessment of the circumstances and determine if the conflict is significant.

If a Councillor determines that a non-pecuniary conflict of interests is less than significant and does not require further action, they must provide an explanation of why it is considered that the conflict does not require further action in the circumstances.

If the Councillor has disclosed the existence of a significant non-pecuniary conflict of interests at a meeting they must not be present at, or in sight of, the meeting, when the matter is being discussed, considered or voted on.



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- 5. Disclosure of any Pecuniary or Non-Pecuniary Interests**
- 6. Public Participation**



7. Business

7.1. Planning and Environment

7.1.1. Mount Arthur Coal Mine MOD2 - Comments on Modification Report

Attachments:	1. Mount Arthur MO D 2 - Draft Council Submission [7.1.1.1 - 10 pages]
Responsible Officer:	Sharon Pope - Director - Planning & Environment
Author:	Theresa Folpp (Development Compliance Officer)
Community Plan Issue:	6 - <i>Community Leadership</i>
Community Plan Goal:	Collaborative and responsive leadership that meets the expectations and anticipates the needs of the community.
Community Plan Strategy:	<i>Not Applicable</i>

PURPOSE

To consider Council's submission for the Mount Arthur Coal (MAC) Modification 2 (MOD2).

OFFICER'S RECOMMENDATION

Council resolves that staff forward the submission provided in attachment A, regarding Mount Arthur Coal (MAC) Modification 2 (MOD2), to the Department of Planning and Environment.

Moved: _____ **Seconded:** _____

REPORT

A modification application (MOD2) for the Mount Arthur Coal Mine (MP 09_0062) is currently on exhibition and Council has until the 20 November 2023 to make a submission.

MOD2 includes the following changes to the current Mount Arthur Coal Mine approval:

- A four-year extension of mining activities to 30 June 2030;
- A reduction in the approved open cut mining rate from 32 million tonnes per annum (Mtpa) of run-of-mine (ROM) coal to a maximum of 25 Mtpa ROM coal (similar to current actual ROM coal production occurring);
- A reduction in maximum total coal transported from site from 27 Mtpa to 20 Mtpa, and a reduction in train movements from 30 to 20 movements per day;
- Minor extension (25 hectare) of the approved disturbance area in the north-west corner but an overall reduction (387 hectare) in approved disturbance, as some previously approved disturbance areas are no longer intended to be disturbed; and
- Revised final landform, including an overall reduction in the approved height of the northern overburden emplacement areas and the number of voids.



Council staff have prepared a draft submission for consideration by Council (see attachment A). The main points are summarised below:

1.0 Planning Agreement & Edderton Road Realignment Deed

Muswellbrook Shire Council currently has an existing Voluntary Planning Agreement (VPA) with Hunter Valley Energy Coal (HVEC) that was entered into in 2011. The current VPA applies primarily to the predicted operational impacts of the Mount Arthur Mine and does not currently include provisions for the foreseeable adverse socio-economic consequences of closure.

Council staff met with BHP on 02 November 2023 to commence discussions on renegotiation of the Planning Agreement, noting that Council wishes to finalise negotiations on the general terms of the Planning Agreement before determination of the modification.

Changes to the Planning Agreement are required to reflect:

- Dollar amounts have been adjusted to present day values, taking into account CPI increases since 2011, where relevant;
- Increases to the Mt Arthur Coal Community Fund
- Provision for Socio-Economic Impacts of Closure
- To reflect contemporary arrangements for Maintenance of local roads impacted by the mining operation, including Thomas Mitchell Drive.

In addition to the Planning Agreement, Council and HVEC entered into the “Edderton Road Realignment Deed” in 2018 to allow the current mine approval to progress by mining through Edderton Road. The Modification requires changes to be made to this Deed.

2.0 Changes to site rehabilitation approach

Modifications made to the site, and infrastructure constructed to support the mining operation, provide an opportunity for new business and community use of the site when mining ceases. However, as stated in Section 2.2.3 of the Modification Report “all infrastructure will be removed from the site unless a documented post-mining use that would make use of that infrastructure has been identified and agreed with relevant stakeholders”.

It is proposed that BHP consider assigning/novating a portion of the site rehabilitation bond (for areas encompassing infrastructure, such as buildings, roads, and utilities) to the NSW State Government, who can use the funds for:

- a. annual maintenance;
- b. as an economic incentive to attract businesses to the site; and
- c. site rehabilitation if no new users can be attracted to the site

These areas could then potentially be relinquished from the mining leases before infrastructure is removed.

3.0 Mine Closure

Proper management of the future socio-economic impacts of closure of the mine is required to limit adverse impacts on the community and Council operations.

In most cases, SSD consents primarily focus on the operational impacts of a mine and touch upon socio-economic impacts of closure as:

- a rehabilitation objective or as part of the Rehabilitation Management Plan; and
- a condition of consent requiring commencement of mine closure planning within 5 years of final coal extraction.



A condition of consent is requested requiring the preparation of a Socio-Economic Mine Closure Plan.

The closure Planning process should also include a requirement to approach the DPE to commence a Place Strategy process for the site, as identified in the Huner Regional Plan.

4.0 Rehabilitation

Council generally supports the changes proposed in the Modification.

Staff request the following features be shown on the Final Landform figure:

- a. The location of the re-established Whites Creek;
- b. The location of outer faces of the waste rock emplacement areas with the proposed geomorphic design applied; and
- c. The location of the 33ha area proposed for Class II agricultural capability land.

Multiple final voids have been approved to remain within the Muswellbrook Shire Local Government Area (LGA). However, currently, there is a lack of comprehensive documentation regarding the long-term management of these voids, and there is an absence of specific conditions for their sustained management under development consent. To rectify this, staff request the development of a new condition of development that explicitly addresses, at a minimum, the following points:

There are several other matters that Council staff propose to raise in the submission.

5.0 Air Quality

Mount Arthur has the largest approved Run of Mine extraction rate in the Shire and current approved compliance limits are not in accordance with the *Approved Methods for the Modelling and Assessment of Air Pollutants in New South Wales* (NSW EPA, 2022) (Approved Methods), potentially due to the age of the approval. Being within 5km of the Muswellbrook township, the conditions of consent should be like other mines, such as Mount Pleasant.

6.0 Offsets

The Proponent is proposing to amend condition 36 of MP 09_0062 so that 'Any area of the offset strategy in Table 9 may be substituted with an alternative offset area subject to demonstration of equivalent biodiversity outcomes and to the satisfaction of the Secretary'.

Staff support this change, especially in relation to the Thomas Mitchell Drive On-Site Conservation Area. This area has been identified from Council as a suitable site for expansion of the adjacent industrial area. Council currently is restricted from expanding the industrial area due to surrounding offsets.

7.0 Housing and employment of residents

The Modification does not identify any additional need to purchase dwellings in the area due to noise, dust or mine blast vibration impacts.

Documentation submitted with the Modification indicates that 34% (738 people) of current Mt Arthur Mine employees are residents living in Muswellbrook Shire.



OPTIONS

Council may resolve:

- A. That staff forward the submission provided in attachment A, regarding Mount Arthur Coal (MAC) Modification 2 (MOD2), to the Department of Planning and Environment.
- B. To amend the draft submission provided in Attachment A, as identified by Councillors, and forward the amended submission to the Department of Planning and Environment.
- C. To object to the proposed Mount Arthur Coal (MAC) Modification 2 (MOD2); or
- D. To not make a submission to the Mount Arthur Coal (MAC) Modification 2 (MOD2).

Enquiries
Please ask for Theresa Folpp
Direct 02 6549 3700
Our reference 23/843

09 November 2023

Tegan Cole
Senior Environmental Assessment Officer
Department of Planning and Environment

Dear Ms Cole

Mount Arthur Coal Mine (MP 09_0062) – Muswellbrook Shire Council comments on Modification 2 Modification Report

Reference is made to 'Mount Arthur Coal Mine Modification 2 Modification Report' (2023) and associated appendices (Modification Report), and request to provide comment via the Major Projects Portal.

Modification 2 (MOD2) includes the following changes to the approved Mount Arthur Coal Mine (MAC) a:

- Four-year extension of mining activities to 30 June 2030;
- Reduction in the approved open cut mining rate from 32 million tonnes per annum (Mtpa) of run-of-mine (ROM) coal to a maximum of 25 Mtpa ROM coal (similar to current actual ROM coal production);
- Reduction in maximum total (open cut and underground) rail transportation from 27 Mtpa of product coal to 20 Mtpa, and a reduction in train movements from 30 to 20 movements per day;
- Minor extension (25 hectare) of the approved disturbance area in the north-west corner of the operation, predominantly to allow for access and ancillary infrastructure;
- An overall reduction (387 hectare) in approved disturbance, with some previously approved disturbance areas no longer intended to be disturbed;
- Revised final landform and final void configuration, including an overall reduction in the approved height of the northern overburden emplacement areas (from an average of approximately 360 AHD to an average of approximately 340 m AHD) (to reflect the current actual height);
- Reduction in number of final voids from three to two, comprising the Northern Open Cut Void and McDonalds Void. Belmont Void would be filled;
- Change in location and shape of the Northern Open Cut Void;
- Continuation of a total workforce of approximately 2,200 full-time equivalent positions.

Planning Agreement

Muswellbrook Shire Council currently has an existing Voluntary Planning Agreement (VPA) with Hunter Valley Energy Coal (HVEC) that was entered into in 2011. The current VPA applies primarily to the predicted operational impacts of the Mount Arthur Mine and does not currently include provisions for the foreseeable adverse socio-economic consequences of closure.

The intent of MOD2 is to allow BHP time to prepare for closure, as stated in the Modification Report 'In 2022, BHP announced the Mt Arthur Coal Pathway to Closure, (Modification Report, Exec Summary).

The mine approval will not require further modification to enter the closure phase in the future. As a result, this is Council's only opportunity to amend the VPA to negotiate compensation for the foreseeable socio-economic consequences of the closure of the mine.

Council met with BHP on 02 November 2023 to commence discussions on renegotiation of the Planning Agreement noting that Council wishes to finalise the negotiations before determination of the modification. Proposed changes are shown in **red text**, with comments where relevant, below. Dollar amounts have been adjusted to present day values, taking into account CPI increases since 2011, where relevant.

Existing Voluntary Planning Agreement (2011)			Proposed Updated VPA
Funding Area	Current Contribution	Notes / Funding Time Frame	
Thomas Mitchell Drive Upgrade	\$3,000,000 Plus \$4,060,000 capital	The total contribution of \$7,060,000 will be payable in yearly instalments to match execution of the works. The \$4,060,000 capital will be repayable to the Proponent by Council from contributions from other projects/developments, in accordance with the terms of the planning agreement.	No change proposed
Thomas Mitchell Drive 'Periodic Capital Works'			<ul style="list-style-type: none"> Costs and timing of reseal and rehabilitation per a Work Plan to be developed to support the TMD Contributions Plan, to reflect actual cost and timing. Proportions per the Thomas Mitchell Drive Contributions Plan. Costs of updates to the TMD Contributions Plan and associated Work Plan to be funded using proportions outlined in TMD Contributions Plan.
Thomas Mitchell Drive Maintenance - Council Road Maintenance Costs	\$120,000 per annum (max)	Contributions to start at Year 2 of the completion of the Thomas Mitchell Drive upgrade works (contributions to be staged if the upgrade works are staged).	<p>Funding consistent with contemporary VPA's in the Shire. This contribution will be made for the recurrent road maintenance to used at Council's discretion for that purpose.</p> <p>Staff to confirm rate still applicable</p>
Mt Arthur Coal Community Fund	\$500,000 per annum	Contributions to start on commencement of construction.	\$7.5M total or \$1.875M per annum (over four years)

Existing Voluntary Planning Agreement (2011)			Proposed Updated VPA
Funding Area	Current Contribution	Notes / Funding Time Frame	
Provision for Socio-Economic Impacts of Closure	-		<p>\$25M payment in five equal instalments commencing 2025 plus additional social commitments, including:</p> <ul style="list-style-type: none"> • Maintain existing investment in community activity; • Identify specific community investment opportunities related to mental health services in the Upper Hunter Region; • Include local targets as part of decommissioning and rehabilitation procurement; • Provide opportunities for local indigenous procurement; • Continue support for local business chambers and seek community investment in local business development programs; • Continue working with all levels of government, local business and other stakeholders to identify commercial and social development needs and opportunities; • Collaborate with local councils, First Nations Peoples, and other key local stakeholders to identify opportunities for recreational, sporting and other community assets; and • Continue to pursue commercial site redevelopment opportunities that leverage the local skills base, contribute to regional economic diversification and create local jobs.

In addition to the VPA, Council and HVEC entered into the “Edderton Road Realignment Deed” in 2018 to allow the current approved mine to progress by mining through Edderton Road. The proposed Modification requires changes to be made to this Deed. Council and HVEC have commenced discussions on the changes required to the Deed but currently there is no clear timeframe for these negotiations to be completed.

Appropriate conditions of consent will be required, similar to the conditions applying to the Mangoola mine (SSD 8642).

Council notes that the former Edderton Road corridor (Lot 1 DP 1272416) is in the ownership of Muswellbrook Shire Council and that the Modification impacts this Lot. At this stage Council hasn’t provided owners consent to the lodgement of the Modification.

Mt Arthur Coal Community Fund

In the four years between 2026 and 2030, Council will receive approximately \$2 million as part of the existing Voluntary Planning Agreement (VPA). The NSW State Government is projected to receive economic benefits totalling \$1.033 billion during the same period.

The Muswellbrook community experiences negative consequences of the Project, from impacts on road infrastructure, compromised air and noise quality, and fluctuations in housing availability and affordability.

As stated in the SIA:

- 'Visual amenity/lighting, air quality, noise and blasting accounted for more than 90% of all complaints' for the Project to date.
- 'One respondent gave the example of one of their employees who had recently separated from a partner and was unable to find new housing on the open rental market, and had to rely on personal contacts to find somewhere to live (INT22). Other respondents talked about the increased incidences of couch surfing (i.e. seeking temporary, informal accommodation with friends or family) (INT2)';

For these reasons Council does not consider that the current contribution being made by the Mt Arthur Mine is adequate.

Provision for Socio-Economic Impacts of Closure

The current VPA applies primarily to the predicted operational impacts of the Mount Arthur Mine as outlined in the following documents:

- The Environmental Assessment titled Mt Arthur Coal Consolidation Project Environmental Assessment (6 volumes), prepared by Hansen Bailey and dated November 2009, including the Response to Submissions dated February 2010; and
- The Environmental Assessment titled Mt Arthur Coal Open Cut Modification – Environmental Assessment (2 volumes), prepared by Resource Strategies Pty Ltd and dated April 2013, including the Response to Submissions dated September 2013.

The VPA does not currently include provisions for the foreseeable adverse socio-economic consequences of closure.

In 2020 and in response to the impending closure of the Liddell Power Station, Council commissioned a report titled '*Identifying measures of success for a global best-practice thermal coal mine and thermal coal-fired power station closure*' (UniSA, 2020) to inform itself against the potential consequences of thermal coal-fired power station and thermal coal mine closure. Subsequently, AGL engaged a consultant to consider the socio-economic impacts to inform proportionate and evidence-based actions and financial contributions that could support the community through the Liddell closure. Following the development of a socio-economic impact assessment (SEIA), a Planning Agreement was developed between Council and AGL.

The AGL SEIA showed that there would be a \$32.3 million economic loss to the Muswellbrook community over 12 years and various social issues, including impacts to way of life, community/decision making systems, culture, accessibility, health and wellbeing, surroundings and livelihoods. This impact was offset through a \$3.35M contribution (or 10% of the total economic loss) paid over three years.

Coal mining is an integral part of the Muswellbrook community and has been for decades. This transition from a prior dependency on farmland to a current reliance on mining underscores the profound impact that projects of this magnitude can have on a community's economic foundations and livelihoods. The shift in economic focus necessitates a thoughtful approach to ensure the well-being and resilience of the community in the face of ongoing mining operations.

Council is concerned to ensure the community is appropriately and reasonably supported as mine closures occur. Council wishes to ensure there is a mechanism by which a proponent will make a monetary contribution to the Council to support the community to adapt to the impacts of closure, for example:

- Managing the closure process;
- Reskilling and redeploying the labour force;
- Redeveloping the local economy;
- Maintaining social cohesion; and
- Coordinating change.

The revised Planning Agreement is the appropriate mechanism to do this.

While the NSW State Government's Royalties for Rejuvenation Fund is aimed at providing support and funds for coal mining communities to diversify their economies, Council itself is not a direct beneficiary of these funds.

Changes to site rehabilitation approach

Modifications made to the site, and infrastructure constructed to support the mining operation, provides an opportunity for new business and community use of the site when mining ceases. However, as stated in Section 2.2.3 of the Modification Report "all infrastructure will be removed from the site unless a documented post-mining use that would make use of that infrastructure has been identified and agreed with relevant stakeholders".

From an environmental and planning perspective, the requirement to remove all on-site infrastructure i.e. buildings, roads, utilities, and to rehabilitate large levelled areas of the site, would result in:

- Loss of resources and assets;
- Waste generation if the demolished infrastructure is sent to landfill;
- Energy and resource consumption i.e. construction of new infrastructure requires additional energy, materials and resources; and
- Community and social impact i.e. removal of infrastructure may lead to uncertainty among the local community and stakeholders about the future use and development of the site.

Council requests that BHP consider assigning/novating a portion of the site rehabilitation bond (for the areas encompassing infrastructure, such as buildings, roads, and utilities) to the NSW State Government, who can use the funds and any interest earned for:

- a) annual maintenance;
- b) as an economic incentive to attract businesses to the site; and
- c) site rehabilitation if no new users can be attracted to the site.

These areas could then be relinquished from the mining leases before infrastructure is removed.

Mine Closure

Council is concerned about the management of socio-economic impacts of closure, and whether management will be controlled via a condition/s of development consent.

In most cases, SSD consents primarily focus on the operational impacts of a mine and touch upon socio-economic impacts of closure as:

- I. a rehabilitation objective or as part of the Rehabilitation Management Plan (in some cases such as Maxwell Underground for example, there is a requirement to prepare a Social Impact Management Plan); and
- II. a condition of consent requiring commencement of mine closure planning within 5 years of final coal extraction (e.g. Mangoola Mine approval SSD 8642).

Council is of the opinion that managing the socio-economic impact from the closure of the Mt Arthur Mine should not be confined to a rehabilitation plan. A condition of consent is requested requiring the preparation of a Socio-Economic Mine Closure Plan. At a minimum, this should:

- I. Be prepared by a suitably qualified person;
- II. Be prepared in consultation with relevant stakeholders (including Council);
- III. Outline measures to:
 - a. Actively manage site closure to minimise adverse impacts for workers, firms and the community;
 - b. Assist workers to secure new jobs and to maximise their future career options;
 - c. Maintain the long-term sustainability of the Upper Hunter economy;
 - d. Maintain and improve social cohesion and community spirit throughout the change process; and
 - e. Maintain collaborative and inclusive governance dedicated to promoting community cohesion through the transformation process.
- IV. Consider the report *'Identifying measures of success for a global best-practice thermal coal mine and thermal coal-fires power station closure'* (UniSA, 2020), specifically the objectives, targets, indicators and measures outlined in Appendix A; and
- V. Include a tabulated description of objectives, targets, indicators and measures similar to those presented Appendix A of UniSA (2020).

The closure planning process should also include a requirement for the Mt Arthur Mine proponents to approach the DPE to commence a Place Strategy process for the site, as identified in the Hunter Regional Plan.

Council supports the recommendations provided in the Social Impact Assessment for the Modification.

Rehabilitation

As stated in Section 3.10.3 of the Modification Report, key aspects of the modification include:

- A reduction in the number of voids from three to two, comprising McDonalds Void and Northern Open Cut Void;
- A change in location and shape of the Northern Open Cut Void;
- A reduction in height of the northern emplacement areas by approximately 20 m AHD;
- A decrease in net disturbance by approximately 387 ha (via the Impact Minimisation Area); and
- A reconfiguration of post-mining land use areas (location of woodland corridors).

Council supports these changes.

Staff request the following features be shown on the Final Landform figure:

- a. The location of the re-established Whites Creek;
- b. The location of outer faces of the waste rock emplacement areas with the proposed geomorphic design applied; and
- c. The location of the 33ha area proposed for Class II agricultural capability land.

Section 3.10.3 of the Modification Report states that:

'As mine planning, coal resource geology and geotechnical studies are regularly being reviewed and refined as part of the operation, the actual final landform at the Mt Arthur Coal Mine may be different to what is presented conceptually on Figure 3-4'.

Clarification on this comment is required as it is understood that the Final Landform presented in Modification Report will be used in the development consent, and that a Proponent must rehabilitate the site in accordance with those plans.

Section 3.10 of the Modification Report states that:

'An RMP and Rehabilitation Strategy (BHP, 2023a) is in place for the approved Mt Arthur Coal Mine, which satisfies condition 44 of Schedule 3 MP 09_0062'.

Council Staff provided comments on the (now approved) Rehabilitation Strategy in April 2023 and have yet to receive a response. Key comments are reproduced below and must be addressed as part of the Modification.

Note that Staff expect that remaining comments (particularly comments 18-20) will be addressed in the next update of the Rehabilitation Strategy (which should occur following determination of the modification).

- a. Confirmation is required on whether the bund adjacent to Denman Road will be removed, it is the preference of Staff that the visual bund be removed post mining.
- b. Staff request that an area within CL229 is planted with Native Woodland (see yellow polygon in figure below) to combine with the corridors proposed under the existing approved Maxwell Underground mine - see Figure 11 from SSD 9526 (Maxwell Underground Mine).



- c. Preference is to include a figure showing the neighbouring Malabar Coal final landform and vegetation to demonstrate vegetation connectivity and wildlife corridors.
- d. Any new final landforms should be designed to include the following principles:
 - i. When viewed from Muswellbrook and key State owned roads (including Designated Tourist Routes), any new emplacement landforms will have micro-relief and principles of GeoFLuv applied.
 - ii. Emplacement landforms across the site designed to look less “engineered” (i.e. incorporation of micro- relief to avoid simple blocky forms).
 - iii. Surface water drainage will incorporate micro-relief to increase drainage stability and avoid major engineered drop structures.
 - iv. Shaping in areas near road infrastructure that may enable more intensive employment land uses in the future when mining ceases.
- e. The final voids (and associated drainage network) should be shaped to reflect a less engineered profile that is more consistent with the surrounding natural environment and at less risk of erosion.

Multiple final voids have been granted approval to remain within the Muswellbrook Shire Local Government Area (LGA). However, currently, there is a lack of comprehensive documentation regarding the long-term management of these voids, and there is an absence of specific conditions for their sustained management under development consent. To rectify this, a new condition of development that explicitly addresses, at a minimum, the following points, is requested:

- TF to populate

Air Quality

Mount Arthur has the largest approved Run of Mine extraction rate in the Shire and current approved compliance limits are not in accordance with the *Approved Methods for the Modelling and Assessment of Air Pollutants in New South Wales* (NSW EPA, 2022) (Approved Methods), potentially due to the age of the approval, see Table 1.

Staff expect that DPE will update the PM₁₀ annual average and PM_{2.5} annual and 24-hour criteria, consistent with the Approved Methods.

Table 1 – Mining Industry Limits per Development Consent (PM₁₀ and PM_{2.5})

Site*	Distance to town (km)	ROM (Mtpa)	PM ₁₀		PM _{2.5}	
			Annual	24-hour	Annual	24-hour
Mount Arthur	8	36	30 ^{ac}	50 ^{ac}	No limit	No limit
Bengalla	6	15	25 ^{ac}	50 ^b	8 ^{ac}	25 ^b
Mount Pleasant (DA)	4	10.5	25 ^a	50 ^b	8 ^a	25 ^b
Mount Pleasant (SSD)	4	21	25 ^{ac}	50 ^b	8 ^{ac}	25 ^b
Mangoola Cont	17	13.5	25 ^{ac}	50 ^b	8 ^{ac}	25 ^b

*Dartbrook Underground, Maxwell Underground and Muswellbrook Coal not included.

^a Total impact (i.e. Incremental increase in concentrations due to the development plus background concentrations due to other sources).

^b Incremental impact (i.e. incremental increase in concentrations due to the development on its own).

^c Excludes extraordinary events such as bushfires, prescribed burning, dust storms, fire incidents or any other activity agreed by the Planning Secretary

Furthermore, being located just 5km from the township of Muswellbrook, Mt Arthur Mine should have an EPL condition similar to Mount Pleasant Mine.

Offsets

The Modification is proposing to amend condition 36 of MP 09_0062 so that:

'Any area of the offset strategy in Table 9 may be substituted with an alternative offset area subject to demonstration of equivalent biodiversity outcomes and to the satisfaction of the Secretary'.

Council supports this change, especially in relation to the Thomas Mitchell Drive On-Site Conservation Area. This area has been identified by Council as a suitable site for expansion of the adjacent industrial area. As can be seen from the Figure 3-4, Council is restricted from zoning further land to expand the industrial area due to surrounding offsets.

Condition 39 of MP 09_0062 states the following:

'The Proponent shall make suitable arrangements to provide appropriate long term security for the

...

(b) re-established woodland in the Rehabilitation Area at least 2 years prior to the completion of open cut mining activities associated with the Project.

The Proponent is proposing that the timeframe for the completion of security arrangements, be extended until '2 years prior to 'cessation of rehabilitation activities'.

Council assumes that all areas shown in the Final Landform (Figure 3-4) will be put under a Conservation Agreement. Staff support these areas being put under conservation agreement.

Council appreciates the opportunity to comment and would be pleased to provide additional information if requested. Should you need to discuss the above, please contact Theresa Folpp, Development Compliance Officer on 02 6549 3700 or email council@muswellbrook.nsw.gov.au.

Yours faithfully

Sharon Pope
Director Environment and Planning



7.2. Community Infrastructure

Nil

7.3. Property and Place

Nil

7.4. Corporate Services

Nil

7.5. Community and Economy

Nil

8. Closure

Date of Next Meeting: 28 November, 2023