



MACHEnergy

Mount Pleasant Operation

A JOINT VENTURE WITH
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Attachment 7

Relevant Environmental Planning
Instruments and Legislation

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A7 RELEVANT ENVIRONMENTAL PLANNING INSTRUMENTS AND LEGISLATION

This attachment supports Section 5 of the main text of the Environmental Impact Statement (EIS) by providing further discussion of statutory pre-conditions to approval, mandatory considerations relevant to the Mount Pleasant Optimisation Project (the Project), other key regulatory approvals and also summarises the compliance of the Project with relevant statutory requirements.

References to Sections 1 to 8 in this Attachment are references to Sections in the main text of the EIS. References to Appendices A to S in this Attachment are references to Appendices of the EIS. Internal references within this Attachment are prefixed with "A7".

A7.1 ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AND ENVIRONMENTAL PLANNING AND ASSESSMENT REGULATION, 2000

Objects of the New South Wales (NSW) Environmental Planning and Assessment Act, 1979 (EP&A Act)

The objects of the EP&A Act are outlined in section 1.3, with the following objects of particular relevance to the Project:

- 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.
- Facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment.
- Promote the orderly and economic use and development of land.
- Protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats.
- Promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage).

- Promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State.
- Provide increased opportunity for community participation in environmental planning and assessment.

The analysis conducted in this EIS has found that the proposed Project is generally consistent with the objects of the EP&A Act. Further discussion of the Project's alignment with these objectives is presented in Section 8.

Mandatory Considerations

Under section 4.15 of the EP&A Act a consent authority is to take into consideration specified matters as are of relevance to the Project, including:

- the provisions of any applicable environmental planning instrument (or proposed instrument that is or has been the subject of public consultation and has been notified to the consent authority);
- any applicable planning agreement or draft planning agreement that the developer has offered to enter into;
- the EP&A Regulation (to the extent that they prescribe matters for the purposes of section 4.15(1)(a)(iv) of the EP&A Act) (see Table 5-2);
- the likely impacts of the development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality;
- the suitability of the site for the development;
- any submissions made in accordance with the EP&A Act and the EP&A Regulation; and
- the public interest.

Part 4 of the EP&A Act and environmental planning instruments also contain a number of requirements pertaining to consultation and concurrence in the determination of a development application.

Under section 4.13(2A) of the EP&A Act, the consultation or concurrence requirements before determining a development application for State Significant Development are limited to only those where the requirement of an environmental planning instrument specifies that the consultation or concurrence requirement applies to State Significant Development.

Relevant preconditions, concurrence and consultation requirements, and mandatory considerations contained in potentially relevant environmental planning instruments are described in the following sub-sections.

Summary tables are also provided in Section 5.

A7.2 STATE ENVIRONMENTAL PLANNING POLICIES

A7.2.1 State Environmental Planning Policy (State and Regional Development) 2011

Clause 3 of the *State Environmental Planning Policy [SEPP] (State and Regional Development) 2011* (State and Regional Development SEPP) sets out the aims of the SEPP, including the following of relevance to the Project:

- (a) *to identify development that is State significant development,*

...

The Project falls within Item 5 of Schedule 1 of the State and Regional Development SEPP as it is development for the purpose of mining that is coal mining. Under clause 8 of the State and Regional Development SEPP, the Project is, therefore, State Significant Development for the purposes of the EP&A Act (Section 5.2.1).

A7.2.2 State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007

The *State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007* (Mining SEPP) applies to the whole of NSW.

Part 1 – Clause 2

Clause 2 sets out the aims of the Mining SEPP, as follows:

- (a) *to provide for the proper management and development of mineral, petroleum and extractive material resources for the purpose of promoting the social and economic welfare of the State, and*
- (b) *to facilitate the orderly and economic use and development of land containing mineral, petroleum and extractive material resources, and*
- (b1) *to promote the development of significant mineral resources, and*

- (c) *to establish appropriate planning controls to encourage ecologically sustainable development through the environmental assessment, and sustainable management, of development of mineral, petroleum and extractive material resources, and*
- (d) *to establish a gateway assessment process for certain mining and petroleum (oil and gas) development:*
 - (i) *to recognise the importance of agricultural resources, and*
 - (ii) *to ensure protection of strategic agricultural land and water resources, and*
 - (iii) *to ensure a balanced use of land by potentially competing industries, and*
 - (iv) *to provide for the sustainable growth of mining, petroleum and agricultural industries.*

Parts 2 to 4AA of the Mining SEPP seek to achieve the aims outlined in clause 2, clauses relevant to the Project are addressed below.

Part 2 – Permissible Development

Clause 7

Clause 7(1) of the Mining SEPP states that development for any of the following purposes may be carried out only with development consent:

- (a) *underground mining carried out on any land,*
- (b) *mining carried out:*
 - (i) *on land where development for the purposes of agriculture or industry may be carried out (with or without development consent), or*
 - (ii) *on land that is, immediately before the commencement of this clause, the subject of a mining lease under the Mining Act 1992 or a mining licence under the Offshore Minerals Act 1999,*
- (c) *mining in any part of a waterway, an estuary in the coastal zone or coastal waters of the State that is not in an environmental conservation zone,*

...

Further discussion of the permissibility of mining in accordance with the Mining SEPP is provided in the sub-sections below.

Part 3 – Clauses 12AB to 17

Part 3 of the Mining SEPP provides matters for consideration for development applications.

Clause 12AB

Section 4.15(2) of the EP&A Act prescribes:

If an environmental planning instrument or a regulation contains non-discretionary development standards and development, not being complying development, the subject of a development application complies with those standards, the consent authority:

- (a) *is not entitled to take those standards into further consideration in determining the development application, and*
- (b) *must not refuse the application on the ground that the development does not comply with those standards, and*
- (c) *must not impose a condition of consent that has the same, or substantially the same, effect as those standards but is more onerous than those standards,*

and the discretion of the consent authority under this section and section 4.16 is limited accordingly.

Clause 12AB of the Mining SEPP identifies non-discretionary development standards for the purposes of subsection 4.15(2) of the EP&A Act in relation to the carrying out of development for the purposes of mining.

Table A7-1 provides each of the non-discretionary development standards listed in clause 12AB of the Mining SEPP and a summary of the conclusions of this EIS with respect to the Project.

Where a project complies with non-discretionary development standards in clause 12AB of the Mining SEPP, the NSW Minister for Planning (the Minister) or Independent Planning Commission (IPC) must act in accordance with subsection 4.15(2) of the EP&A Act. Where a project does not comply with the non-discretionary development standards in clause 12AB of the Mining SEPP, this does not prevent the consent authority from granting consent even though any such standard is not complied with.

Clause 12

Clause 12 of the Mining SEPP requires that, before determining an application for Development Consent for the purposes of mining, the consent authority (in this case the Minister or the IPC) must:

- (a) *consider:*
 - (i) *the existing uses and approved uses of land in the vicinity of the development, and*
 - (ii) *whether or not the development is likely to have a significant impact on the uses that, in the opinion of the consent authority having regard to land use trends, are likely to be the preferred uses of land in the vicinity of the development, and*
 - (iii) *any ways in which the development may be incompatible with any of those existing, approved or likely preferred uses, and*
- (b) *evaluate and compare the respective public benefits of the development and the land uses referred to in paragraph (a) (i) and (ii), and*
- (c) *evaluate any measures proposed by the applicant to avoid or minimise any incompatibility, as referred to in paragraph (a) (iii).*

Land use in the vicinity of the Mount Pleasant Operation is characterised by a combination of significant existing open cut coal mining operations, agricultural land uses and the commercial, industrial and residential areas of the town of Muswellbrook and village of Aberdeen.

Land use in the Project Development Application area primarily comprises a combination of approved mining activities, mining related infrastructure, public roads, remnant vegetation, cleared grazing land and areas of cropping land on the alluvial landforms adjacent to the Hunter River.

The majority of the approved Mount Pleasant Operation and the Project is located on MACH¹-owned land or Bengalla Mine-owned land (Figure 1-5) that has been disturbed by previous agricultural activities, and previous open cut mining activities.

¹ MACH Mount Pleasant Operations Pty Ltd is the manager of the Mount Pleasant Operation as agent for and on behalf of the unincorporated Mount Pleasant Joint Venture between MACH Energy Australia Pty Ltd (MACH Energy) (95 per cent [%] owner) and J.C.D. Australia Pty Ltd (5% owner).

Table A7-1
Clause 12AB Non-discretionary Development Standards for Mining

Subclause of Clause 12AB	Compliance of the Project
<p>(3) Cumulative noise level</p> <p><i>The development does not result in a cumulative amenity noise level greater than the recommended amenity noise levels, as determined in accordance with Table 2.2 of the Noise Policy for Industry, for residences that are private dwellings.</i></p>	<p>The cumulative amenity noise level from the concurrent operation of the Project and other modelled mines would generally comply with the recommended amenity noise levels outlined in Table 2.2 of the <i>Noise Policy for Industry</i> (Environment Protection Authority, 2017) at privately-owned receivers (Section 7.3.2 and Appendix A).</p> <p>Six proximal privately-owned receivers are predicted to exceed the applicable recommended amenity noise level due to the Project alone. These receivers would be afforded acquisition upon request rights, consistent with Development Consent DA 92/97 (Section 7.3.2 and Appendix A).</p> <p>Eight additional privately-owned receivers, located to the south-west of the Project (west of the Bengalla Mine and Mt Arthur Coal Mine), are predicted to exceed the applicable recommended amenity noise level as a result of other mining operations (i.e. the exceedances would occur irrespective of the Project). Therefore, it is considered the Project would not contribute to any additional exceedance of the applicable recommended amenity noise level at these receivers (Section 7.3.2 and Appendix A).</p>
<p>(4) Cumulative air quality level</p> <p><i>The development does not result in a cumulative annual average level greater than 25 µg/m³ of PM₁₀ or 8 µg/m³ of PM_{2.5} for private dwellings.</i></p>	<p>Four privately-owned receivers, located to the south-west of the Project (adjacent to the Bengalla Mine), are predicted to exceed the cumulative annual average PM₁₀ criterion of 25 micrograms per cubic metre (µg/m³). One of these receivers is also predicted to exceed the cumulative annual average PM_{2.5} criterion of 8 µg/m³ (Section 7.7.4 and Appendix B).</p> <p>The exceedances of the cumulative annual average PM₁₀ and PM_{2.5} criteria are predicted as a result of other mining operations (i.e. the exceedances would occur irrespective of the Project). Therefore, it is considered the Project would not contribute to any additional exceedance of the cumulative annual average PM₁₀ and PM_{2.5} criteria when considered with existing background sources (Section 7.7.4 and Appendix B).</p>
<p>(5) Airblast overpressure</p> <p><i>Airblast overpressure caused by the development does not exceed:</i></p> <p>(a) 120 dB (Lin Peak) at any time, and</p> <p>(b) 115 dB (Lin Peak) for more than 5% of the total number of blasts over any period of 12 months,</p> <p><i>measured at any private dwelling or sensitive receiver.</i></p>	<p>With the Project mitigation and management measures, airblast overpressure caused by the Project would not exceed the relevant criteria as measured at any privately-owned dwelling or sensitive receiver (Section 7.6.3 and Appendix A).</p>
<p>(6) Ground vibration</p> <p><i>Ground vibration caused by the development does not exceed:</i></p> <p>(a) 10 mm/sec (peak particle velocity) at any time, and</p> <p>(b) 5 mm/sec (peak particle velocity) for more than 5% of the total number of blasts over any period of 12 months,</p> <p><i>measured at any private dwelling or sensitive receiver.</i></p>	<p>With the Project mitigation and management measures, ground vibration caused by the Project would not exceed the relevant criteria as measured at any privately-owned dwelling or sensitive receiver (Section 7.6.3 and Appendix A).</p>
<p>(7) Aquifer interference</p> <p><i>Any interference with an aquifer caused by the development does not exceed the respective water table, water pressure and water quality requirements specified for item 1 in columns 2, 3 and 4 of Table 1 of the Aquifer Interference Policy for each relevant water source listed in column 1 of that Table.</i></p>	<p>The Project incremental impacts would meet the Level 1 minimal impact consideration classification (as defined by the <i>NSW Aquifer Interference Policy</i> [NSW Government, 2012]) for alluvial groundwater sources for all requirements.</p> <p>The Project incremental impacts would meet the Level 1 minimal impact consideration classification (as defined by the <i>NSW Aquifer Interference Policy</i>) for the Permian hard rock groundwater source (classified as a 'less productive' groundwater source) for water quality requirements. The Project would meet the Level 2 minimal impact consideration classification in relation to water table and water pressure requirements for the Sydney Basin – North Coast Groundwater Source.</p> <p>Further discussion is provided in Appendix C and Section 7.8.</p>

Note: PM_{2.5} = particulate matter less than 2.5 micrometres (µm) in aerodynamic equivalent diameter.

PM₁₀ = particulate matter less than 10 µm in aerodynamic equivalent diameter.

dB = decibels.

mm/sec = millimetres per second.

Section 8 provides a detailed evaluation and consideration of:

- the existing and approved uses of land in the vicinity of the Project;
- whether the Project is likely to have a significant impact on the likely preferred uses of land in the vicinity of the development having regard to land use trends;
- any ways in which the project may be incompatible with those existing, approved or likely preferred uses;
- respective public benefits of the Project and the existing, approved and likely preferred uses; and
- measures proposed to avoid or minimise any incompatibility.

Through the proposed Project production rate staging and landform design (Sections 3.6.3 and 3.17), MACH is confident that the Project would not be incompatible with existing, approved or likely preferred uses of land in the vicinity of the Project.

MACH is also confident that the Project is not likely to have a significant adverse environmental impact on likely preferred uses of land in the vicinity of the approved Mount Pleasant Operation.

The Project would generate a significant net benefit to the locality and the State of NSW (Section 8 and Appendix O).

Accordingly, the Minister or IPC can be satisfied as to these matters.

Clause 12A

Clause 12A(2) requires that, before determining an application for consent for State Significant Development for the purposes of mining, the consent authority must consider any applicable provisions of a voluntary land acquisition and mitigation policy and, in particular:

- (a) *any applicable provisions of the policy for the mitigation or avoidance of noise or particulate matter impacts outside the land on which the development is to be carried out, and*
- (b) *any applicable provisions of the policy relating to the developer making an offer to acquire land affected by those impacts.*

The applicable provisions of the *Voluntary Land Acquisition and Mitigation Policy – For State Significant Mining, Petroleum and Extractive Industry Developments* (NSW Government, 2018a) are addressed in Sections 7.3 and 7.7 and Appendices A and B.

Clause 13

Clause 13(2) of the Mining SEPP requires that, before determining an application for consent for development in the vicinity of an existing mine, petroleum production facility or extractive industry (clause 13(1)), the consent authority must:

- (a) *consider:*
 - (i) *the existing uses and approved uses of land in the vicinity of the development, and*
 - (ii) *whether or not the development is likely to have a significant impact on current or future extraction or recovery of minerals, petroleum or extractive materials (including by limiting access to, or impeding assessment of, those resources), and*
 - (iii) *any ways in which the development may be incompatible with any of those existing or approved uses or that current or future extraction or recovery, and*
- (b) *evaluate and compare the respective public benefits of the development and the uses, extraction and recovery referred to in paragraph (a) (i) and (ii), and*
- (c) *evaluate any measures proposed by the applicant to avoid or minimise any incompatibility, as referred to in paragraph (a) (iii).*

The approved Mount Pleasant Operation is located within the existing mining tenements under the NSW *Mining Act, 1992* (Mining Leases [MLs] 1645, 1708, 1709, 1713, 1750 and 1808) and the significant existing infrastructure (Section 2.2) would continue to be used, and would be augmented for the Project handling, processing and transportation of coal (Section 3.5).

The use and augmentation of the Mount Pleasant Operation infrastructure for the Project results in less disturbance and lower capital cost than would otherwise be required for an alternative new project.

In the absence of approval for the Project, this existing infrastructure would be decommissioned at the end of the Mount Pleasant Operation life (i.e. currently limited to 2026 under Development Consent DA 92/97), and the potential benefits of its continued use would be lost.

The Project would also support the westward progression of the final void (Figures 3-4 to 3-10) and associated progressive construction of the waste rock emplacement landform that would separate the final void from the Hunter River and Muswellbrook. The proposed Project waste rock emplacement landform incorporates geomorphic drainage design principles for hydrological stability, and varying topographic relief to be more natural in exterior appearance (Sections 3.17 and Section 7.16).

In addition, the existing Dartbrook Mine adjoins the Project to the north, and the Bengalla Mine also immediately adjoins the Project to the south (Figure 1-2). The Development Consent DA 92/97 for the Mount Pleasant Operation has previously been modified via Mod 4 to authorise the construction and use of the Stage 2 rail infrastructure and the removal of the Stage 1 rail infrastructure that is located within the extent of the Bengalla Mine. The continuation and extension of the Mount Pleasant Operation as proposed for the Project would not have any significant impact on the current or future extraction and recovery of coal resources at these adjoining mining operations.

MACH has consulted extensively with the Bengalla Mine and Dartbrook Mine since it acquired the Mount Pleasant Operation from Coal & Allied Operations Pty Ltd in 2016, and has a Master Co-Operation Agreement in place with the Bengalla Mine (Section 1.2.1).

MACH will continue to consult and work closely with the owners of the Bengalla and Dartbrook Mines regarding potential interactions between these operations and the Project to maximise cooperation, efficiencies and positive environmental outcomes.

There are no Petroleum Exploration Licences currently overlapping the Project Development Application area. As such, it is not expected that the Project would have a significant impact on future extraction of petroleum. Similarly, it is not expected that the Project would have a significant impact on future extractive industry.

Accordingly, the Minister or IPC can be satisfied as to these matters.

Clause 14

Clause 14(1) of the Mining SEPP requires that, before granting consent for development for the purposes of mining, the consent authority must consider whether or not the consent should be issued subject to conditions aimed at ensuring that the development is undertaken in an environmentally responsible manner, including conditions to ensure the following:

- (a) *that impacts on significant water resources, including surface and groundwater resources, are avoided, or are minimised to the greatest extent practicable,*
- (b) *that impacts on threatened species and biodiversity, are avoided, or are minimised to the greatest extent practicable,*
- (c) *that greenhouse gas emissions are minimised to the greatest extent practicable.*

In addition, clause 14(2) requires that, without limiting subclause (1), in determining a Development Application for development for the purposes of mining:

... the consent authority must consider an assessment of the greenhouse gas emissions (including downstream emissions) of the development, and must do so having regard to any applicable State or national policies, programs or guidelines concerning greenhouse gas emissions.

The potential impacts of the Project on groundwater and surface water resources are discussed in Sections 7.8 and 7.9 and Appendices C and D, including measures to minimise potential impacts.

The potential impacts of the Project on threatened species and biodiversity are described in Sections 7.10 and 7.11 and Appendices E and F, including measures to minimise potential impacts.

It is noted that the Project would significantly increase the recovery of coal (Section 3.2), but would not significantly increase the total approved disturbance area of the Mount Pleasant Operation, for which there is already a very significant approved Commonwealth biodiversity offset package (Section 7.10). MACH's strategy to address minor potential residual impacts on biodiversity values arising from the Project in accordance with the NSW *Biodiversity Conservation Act, 2016* and Commonwealth biodiversity offset requirements is provided in Section 7.10.6.

The Project's greenhouse gas emissions assessment abatement measures and relevant State or national policies, programs and guidelines are described in Sections 7.21 and Appendix S. This EIS demonstrates that Scope 1 and Scope 2 greenhouse gas emissions of the Project have been minimised to the greatest extent practicable (Section 7.21 and Appendix S).

Accordingly, the Minister or IPC can be satisfied as to these matters.

Clause 15

Clause 15 of the Mining SEPP requires:

- (1) *Before granting consent for development for the purposes of mining, petroleum production or extractive industry, the consent authority must consider the efficiency or otherwise of the development in terms of resource recovery.*
- (2) *Before granting consent for the development, the consent authority must consider whether or not the consent should be issued subject to conditions aimed at optimising the efficiency of resource recovery and the reuse or recycling of material.*
- (3) *The consent authority may refuse to grant consent to the development if it is not satisfied that the development will be carried out in such a way as to optimise the efficiency of recovery of minerals, petroleum or extractive materials and to minimise the creation of waste in association with the extraction, recovery or processing of minerals, petroleum or extractive materials.*

MACH would seek to maximise efficient resource recovery within Project geological, environmental and tenement constraints. MACH considers that the Project represents an efficient development of the Mount Pleasant Operation coal resources within the Project open cut extent as it would recover approximately 247 million tonnes (Mt) of additional run-of-mine (ROM) coal within the existing MLs.

Further geological exploration, mine design and ongoing geotechnical evaluation may result in changes to the Project's recoverable coal resource. MACH also recognises that mining technology will continue to develop and commodity price fluctuations will also occur over the life of the Project, both of which may influence economically recoverable Project coal reserves.

There is also the potential to recover additional open cut coal reserves in ML 1645 to the west of the Project open cut in the future, which would be subject to separate assessments and approvals. The Project would not be expected to have a significant impact on future potential extraction or recovery of coal in deeper seams or to the west of the proposed Project open cut area.

MACH has presented Project description information, mine layout plans and other information to the Department of Mining, Exploration and Geoscience (MEG) (within the Department of Regional NSW) during the development of this EIS (Section 6.3.1).

It is understood that the MEG as part of its normal procedures for State Significant mining project would prepare a Resource and Economic Assessment that will outline the Department of Regional NSW's advice with respect to the Project coal resources, resource recovery and economic factors. It is understood that the MEG's Resource and Economic Assessment will be provided to the Department of Planning, Industry and Environment (DPIE).

Accordingly, the consent authority can be satisfied as to these matters.

Clause 16

Clause 16(1) of the Mining SEPP requires that before granting consent for development for the purposes of mining that involves the transport of materials, the consent authority must consider whether or not the consent should be issued subject to conditions that do any one or more of the following:

- (a) *require that some or all of the transport of materials in connection with the development is not to be by public road,*
- (b) *limit or preclude truck movements, in connection with the development, that occur on roads in residential areas or on roads near to schools,*
- (c) *require the preparation and implementation, in relation to the development, of a code of conduct relating to the transport of materials on public roads.*

As detailed in Section 3.8, the Project's product coal would continue to be transported via the approved Mount Pleasant Operation Stage 2 rail infrastructure, Muswellbrook–Ulan Rail Line and Main Northern Railway to domestic markets or to the Port of Newcastle for export. No changes to existing rail transport routes are proposed for the Project.

The primary public road network transport routes to and from the Mount Pleasant Operation include potential routes that are adjacent to rural areas, industrial/commercial areas, residential areas and schools. The Project would continue to primarily use the existing Mount Pleasant Operation site access from Wybong Road, and the Bengalla Link Road (Section 3.13.2). These public roads are used to access the Mount Pleasant Operation, and also support mining traffic accessing the existing Bengalla Mine and Mangoola Coal Mine.

The Project Road Transport Assessment concluded that the existing road network can satisfactorily accommodate the forecast traffic demands resulting from the Project (e.g. employee movements and deliveries), such that no specific measures or upgrades are required to mitigate the impacts on the capacity, safety and efficiency of the road network (Appendix J).

Subclause 16(2) of the Mining SEPP provides that, if the consent authority considers that the development involves the transport of materials on a public road, the consent authority must, within seven days after receiving the Development Application, provide a copy of the application to each roads authority for the road, and the Roads and Traffic Authority (now Transport for NSW) (if it is not a roads authority for the road). In addition, clause 16(3) of the Mining SEPP requires that the consent authority:

- (a) *must not determine the application until it has taken into consideration any submissions that it receives in response from any roads authority or the Roads and Traffic Authority within 21 days after they were provided with a copy of the application, and*

...

While clauses 16(2) and 16(3) of the Mining SEPP do not specify that they apply to State Significant Development (see section 4.13(2A) of the EP&A Act), MACH has consulted with Transport for NSW and Muswellbrook Shire Council during the development of this EIS (Section 6), and these authorities are aware of the continued and expanded use of relevant roads for the Project.

Clause 17

Clause 17 of the Mining SEPP outlines various rehabilitation requirements. Subclause 17(1) requires that, before granting consent for development for the purposes of mining, the consent authority must consider whether or not the consent should be issued subject to conditions aimed at ensuring the rehabilitation of land that will be affected by the development.

Subclause 17(2) provides that, in particular, the consent authority must consider whether conditions of the consent should:

- (a) *require the preparation of a plan that identifies the proposed end use and landform of the land once rehabilitated, or*
- (b) *require waste generated by the development or the rehabilitation to be dealt with appropriately, or*
- (c) *require any soil contaminated as a result of the development to be remediated in accordance with relevant guidelines (including guidelines under clause 3 of Schedule 6 to the Act and the Contaminated Land Management Act 1997), or*
- (d) *require steps to be taken to ensure that the state of the land, while being rehabilitated and at the completion of the rehabilitation, does not jeopardize public safety.*

A Rehabilitation and Mine Closure Addendum has been prepared for the Project (Attachment 8). The content of this document would inform the development of subsequent Mining Operations Plans and Rehabilitation Management Plan (MOP), should the Project be approved (Section A7.4.1).

The Project would also support the westward progression of the final void (Figures 3-4 to 3-10) and associated construction of the integrated waste rock emplacement landform that would separate the final void from the Hunter River and Muswellbrook. The proposed Project waste rock emplacement landform incorporates geomorphic drainage design principles for hydrological stability, and varying topographic relief to be more natural in exterior appearance (Sections 3.17 and Section 7.16).

Following the completion of mining, the Project area would primarily be rehabilitated to woodland for landform stability and visual impact mitigation (Section 3.17, Section 7.16, Appendix M and Attachment 8). However, it is anticipated that some agricultural activities would also occur on Project rehabilitated land (e.g. rehabilitated mine infrastructure areas), subject to the agreed final land use developed in consultation with relevant stakeholders prior to mine closure.

MACH would also encourage alternative community or government proposals or initiatives for the use of Project land or infrastructure that could co-exist with the Project. Any proposals or initiatives would need to be permissible land uses and would require relevant assessment and approvals (Section 4.3).

In regard to subclause 17(2)(b), a proportion of coal handling and preparation plant (CHPP) reject material generated would be co-disposed in the open cut pit. The proposed management of CHPP reject material is discussed further in Section 3.10 and the management of other wastes is discussed in Section 3.14.

As outlined in Appendix L, investigations would be undertaken at Project closure to identify and remediate any contaminated soil that may exist (e.g. in infrastructure areas), in accordance with relevant guidelines, including guidelines under clause 3 of Schedule 6 to the NSW *Contaminated Land Management Act, 1997*, which addresses subclause 17(2)(c). Any contaminated land would be remediated by removal of contaminated materials for disposal at an appropriately licensed facility, encapsulation, or appropriate remediation treatment on-site.

In regard to subclause 17(2)(d), a key objective of the Rehabilitation and Mine Closure Addendum is to provide a landscape that is safe, stable and non-polluting. The geomorphic design of the landform is a key element of this approach for the Project (Attachment 8).

Accordingly, the Minister or IPC can be satisfied as to these matters.

A7.2.3 State Environmental Planning Policy No. 33 – Hazardous and Offensive Development

The *State Environmental Planning Policy No.33 – Hazardous and Offensive Development* (SEPP 33) applies to the whole of NSW.

Clause 2 sets out the aims of SEPP 33, of which the following are relevant to the Project:

- (a) *to amend the definitions of hazardous and offensive industries where used in environmental planning instruments, and*
- ...
- (d) *to ensure that in determining whether a development is a hazardous or offensive industry, any measures proposed to be employed to reduce the impact of the development are taken into account, and*
- (e) *to ensure that in considering any application to carry out potentially hazardous or offensive development, the consent authority has sufficient information to assess whether the development is hazardous or offensive and to impose conditions to reduce or minimise any adverse impact, and*
- ...

Clause 12 of SEPP 33 requires a person, who proposes to make a Development Application to carry out development for the purposes of a potentially hazardous industry, to prepare (or cause to be prepared) a Preliminary Hazard Analysis (PHA) in accordance with the current circulars or guidelines published by the NSW Department of Planning (DoP) (now the DPIE) and submit the analysis with the Development Application.

Clause 13 of SEPP 33 requires that, in determining an application to carry out development for the purposes of a potentially hazardous or offensive industry, the consent authority (the Minister or IPC) must consider (in addition to any other matters specified in the EP&A Act or in an environmental planning instrument applying to the development):

- (a) *current circulars or guidelines published by the Department of Planning relating to hazardous or offensive development, and*
- (b) *whether any public authority should be consulted concerning any environmental and land use safety requirements with which the development should comply, and*
- (c) *in the case of development for the purpose of a potentially hazardous industry – a preliminary hazard analysis prepared by or on behalf of the applicant, and*
- (d) *any feasible alternatives to the carrying out of the development and the reasons for choosing the development the subject of the application (including any feasible alternatives for the location of the development and the reasons for choosing the location the subject of the application), and*
- (e) *any likely future use of the land surrounding the development.*

In accordance with the Secretary's Environmental Assessment Requirements (SEARs) and as part of the preparation of this EIS, a PHA has been prepared in accordance with SEPP 33 (Appendix Q).

The PHA has been conducted in accordance with the general principles of risk evaluation and assessment outlined in the NSW Government *Assessment Guideline: Multi-level Risk Assessment* (Department of Planning and Infrastructure [DP&I], 2011) and has been documented in general accordance with *Hazardous Industry Planning Advisory Paper (HIPAP) No. 6: Hazard Analysis* (DoP, 2011).

In regard to subclause 13(b), extensive consultation has been undertaken with various public authorities during the preparation of this EIS, as described in Section 6.

Project alternatives (including the Project location) are discussed in Section 8, which addresses subclause 13(d) of SEPP 33.

Potential future uses of the land are considered in Section 8.1.

Accordingly, the Minister or IPC can be satisfied as to these matters.

A7.2.4 State Environmental Planning Policy (Koala Habitat Protection) 2020

The *State Environmental Planning Policy (Koala Habitat Protection) 2020* (Koala Habitat Protection SEPP) commenced on 30 November 2020.

Part 2 of the Koala Habitat Protection SEPP requires councils in certain Local Government Areas (LGAs) (including Muswellbrook), before granting consent to a development application, to be satisfied as to whether or not the land is 'potential Koala habitat' or 'core Koala habitat'.

Clause 10 of the Koala Habitat Protection SEPP requires:

- (1) *Before granting consent to a development application for consent to carry out development on land to which this Part applies that it is satisfied is a core koala habitat, there must be a plan of management prepared in accordance with Part 3 that applies to the land.*
- (2) *The council's determination of the development application must not be inconsistent with the plan of management.*

Since the Project is a State Significant Development to which Division 4.7 of Part 4 of the EP&A Act applies, the Minister or IPC is the consent authority (Section 5.2.1) rather than the Council.

Notwithstanding that Part 2 of the Koala Habitat Protection SEPP does not apply in circumstances where the consent authority is the Minister or IPC, an assessment of Koala habitat has been undertaken (Appendix E). This assessment has found that the Project Development Application area comprises potential Koala habitat, but does not comprise core Koala habitat.

Accordingly, the Minister or the IPC can be satisfied as to these matters.

A7.2.5 State Environmental Planning Policy No.55 – Remediation of Land

The *State Environmental Planning Policy No.55 – Remediation of Land* (SEPP 55) applies to the whole of NSW and sets out matters relating to contaminated land that a consent authority must consider in determining an application for Development Consent.

"Contaminated Land" in SEPP 55 has the same meaning as it has in the EP&A Act:

***contaminated land** means land in, on or under which any substance is present at a concentration above the concentration at which the substance is normally present in, on or under (respectively) land in the same locality, being a presence that presents a risk of harm to human health or any other aspect of the environment.*

Subclause 7(1) of SEPP 55 provides that a consent authority must not consent to the carrying out of any development on land unless:

- (a) *it has considered whether the land is contaminated, and*
- (b) *if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and*
- (c) *if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.*

Clause 7 of SEPP 55 further provides:

- (2) *Before determining an application for consent to carry out development that would involve a change of use on any of the land specified in subclause (4), the consent authority must consider a report specifying the findings of a preliminary investigation of the land concerned carried out in accordance with the contaminated land planning guidelines.*
- (3) *The applicant for development consent must carry out the investigation required by subclause (2) and must provide a report on it to the consent authority. The consent authority may require the applicant to carry out, and provide a report on, a detailed investigation (as referred to in the contaminated land planning guidelines) if it considers that the findings of the preliminary investigation warrant such an investigation.*
- (4) *The land concerned is:*
 - (a) *land that is within an investigation area,*

- (b) *land on which development for a purpose referred to in Table 1 to the contaminated land planning guidelines is being, or is known to have been, carried out,*

...

Subclause 7(2) provides that, before a consent authority determines an application for Development Consent, a “preliminary investigation” is required where:

- the application for consent to carry out development that would involve a “change of use”; and
- that “change of use” is relevant to certain land specified in subclause 7(4).

The certain land specified in subclause 7(4) on which the “change of use” must relate is either:

- land that is an “investigation area” – defined in SEPP 55 as land declared to be an investigation area by a declaration in force under Division 2 of Part 3 of the NSW *Contaminated Land Management Act, 1997*; or
- land on which the development for a purpose referred to in Table 1 to the contaminated land planning guidelines (being *Managing Land Contamination: Planning Guidelines SEPP 55 – Remediation of Land* [NSW Department of Urban Affairs and Planning and Environment Protection Authority, 1998]) is being, or is known to have been, carried out.

The Project’s open cut mining operations would continue to be contained within the existing MLs held for the approved Mount Pleasant Operation. The portions of the Project located in the existing Development Consent DA 92/97 would not involve a “change of use”. Project activities within the existing Bengalla Mine Development Consent (SSD-5170) would also not involve a “change of use”.

JBS&G Australia Pty Ltd (JBS&G) (2020) (Appendix L) prepared a Land Contamination Assessment in accordance with SEPP 55. This assessment included a “Stage 1 Preliminary Investigation”, including a desktop review of previous land uses and aerial photographs, followed by a site inspection.

JBS&G (Appendix L) concluded that the site is suitable for the Project land use with the implementation of appropriate mitigation measures. In addition, land contamination management measures, including post-mining operations and remediation measures are described in Sections 7.14 and 8 and Attachment 8.

Accordingly, the consent authority can be satisfied as to these matters.

A7.2.6 State Environmental Planning Policy (Infrastructure) 2007

The *State Environmental Planning Policy (Infrastructure) 2007* (Infrastructure SEPP) applies to the whole of NSW and includes provisions for consultation with relevant public authorities about certain development during the assessment process prior to development commencing.

Electricity Transmission and Distribution Networks

Subdivision 2 of Division 5 of Part 3 of the Infrastructure SEPP relates to developments that are likely to affect an electricity transmission or distribution network.

Clause 45 of the Infrastructure SEPP relevantly provides:

- (1) *This clause applies to a development application (or an application for modification of a consent) for development comprising or involving any of the following:*
 - (a) *the penetration of ground within 2m of an underground electricity power line or an electricity distribution pole or within 10m of any part of an electricity tower,*
 - (b) *development carried out:*
 - (i) *within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists), or*
 - (ii) *immediately adjacent to an electricity substation, or*
 - (iii) *within 5m of an exposed overhead electricity power line,*
- ...
- (2) *Before determining a development application (or an application for modification of a consent) for development to which this clause applies the consent authority must:*
 - (a) *give written notice to the electricity supply authority for the area in which the development is to be carried out, inviting comments about potential safety risks, and*
 - (b) *take into consideration any response to the notice that is received within 21 days after the notice is given.*

An overhead 66 kilovolt (kV) power line is located within the Project Development Application area, primarily to the east and north of the mine. Ausgrid has already relocated this line from its original location that traversed the Mount Pleasant Operation open cut. The Mount Pleasant Operation also has a range of electricity supply and distribution infrastructure on-site, and this would be augmented in support of the Project (Section 3.13.3).

MACH already manages potential blasting impacts on Ausgrid and Mount Pleasant Operation electrical infrastructure in accordance with the Blast Management Plan, and this would continue for the Project. Consultation with Ausgrid regarding the Mount Pleasant Operation is ongoing, and this would continue for the Project (Section 6.3.4).

While clause 45 of the Infrastructure SEPP does not specify that it applies to State Significant Development (see section 4.13(2A) of the EP&A Act), the consent authority can be satisfied as to these matters.

Rail Corridor

Subdivision 2 of Division 15 of Part 3 of the Infrastructure SEPP relates to development in or adjacent to rail corridors.

Clause 86 of the Infrastructure SEPP relevantly provides:

- (1) *This clause applies to development (other than development to which clause 88 applies) that involves the penetration of ground to a depth of at least 2m below ground level (existing) on land:*
 - (a) *within or above a rail corridor, or*
 - (b) *within 25m (measured horizontally) of a rail corridor, or*
 - (c) *within 25m (measured horizontally) of the ground directly above an underground rail corridor.*
- (2) *Before determining a development application for development to which this clause applies, the consent authority must:*
 - (a) *within 7 days after the application is made, give written notice of the application to the chief executive officer of the rail authority for the rail corridor, and*
 - (b) *take into consideration:*
 - (i) *any response to the notice that is received within 21 days after the notice is given, and*
 - (ii) *any guidelines issued by the Director-General for the purposes of this clause and published in the Gazette.*

- (3) *Subject to subclause (4), the consent authority must not grant consent to development to which this clause applies without the concurrence of the chief executive officer of the rail authority for the rail corridor to which the development application relates, unless that rail authority is ARTC.*

...

The *Development Near Rail Corridors and Busy Roads – Interim Guideline* was published in the NSW Government Gazette on 19 December 2008 for the purposes of clauses 85 and 86 of the Infrastructure SEPP (among others).

The Muswellbrook–Ulan Rail Line is located within the Project Development Application area. The Project may involve maintenance activities within and adjacent to the rail easement of the Muswellbrook–Ulan Rail Line. The Project would also involve the development of the South Pit in the vicinity of the Mount Pleasant Operation Stage 2 rail infrastructure, which may involve the construction of supporting infrastructure that requires penetration of the ground within 25 metres of the rail corridor (e.g. water management infrastructure).

MACH would develop the South Pit and any associated supporting infrastructure in accordance with suitable geotechnical factors of safety in order to maintain the safety and structural integrity of the Stage 2 rail infrastructure and Wybong Road (Attachment 13). MACH has consulted with Transport for NSW and Australian Rail Track Corporation (ARTC) (the relevant rail authority) in relation to the Project (Section 6). Accordingly, the consent authority can be satisfied as to these matters.

A7.3 MUSWELLBROOK LOCAL ENVIRONMENTAL PLAN, 2009

The Project would be located wholly within the Muswellbrook LGA which is covered by the *Muswellbrook Local Environmental Plan, 2009* (Muswellbrook LEP).

A7.3.1 Objectives

Clause 1.2 of the Muswellbrook LEP sets out the aims of the plan, with the following of particular relevance to the Project:

...

- (a) *to encourage the proper management of the natural and human-made resources of Muswellbrook by protecting, enhancing or conserving:*
 - (i) *productive agricultural land, and*

- (ii) *timber, minerals, soils, water and other natural resources, and*
- (iii) *areas of significance for nature conservation, and*
- ...
- (v) *places and buildings of archaeological or heritage significance,*
- ...
- (c) *to promote ecologically sustainable urban and rural development,*
- ...
- (f) *to protect and conserve:*
 - (i) *soil stability by controlling development in accordance with land capability, and*
 - (ii) *remnant native vegetation, and*
 - (iii) *water resources, water quality and wetland areas, natural flow patterns and their catchment and buffer areas,*
- (g) *to provide a secure future for agriculture by expanding Muswellbrook's economic base and minimising the loss or fragmentation of productive agricultural land,*
- (h) *to allow flexibility in the planning framework so as to encourage orderly, economic and equitable development while safeguarding the community's interests and residential amenity, and to achieve the objectives of each zone mentioned in Part 2 of this Plan.*

The Project has regard to the aims of the Muswellbrook Plan LEP, as:

- The Project would not directly impact any NSW Government mapped biophysical strategic agricultural land that is not already disturbed by the approved Mount Pleasant Operation (Section 7.14).
- The Project is an optimisation of the existing approved open cut Mount Pleasant Operation and would recover approximately 247 Mt of additional ROM coal without significantly increasing the total land disturbance of the approved Mount Pleasant Operation.
- The majority of land to be disturbed by the Project is of moderate land and soil capability and is suitable for grazing, rather than cultivation (Section 7.14 and Appendix I).
- The Project would involve the development of a mineral resource (coal) in a manner that would avoid or mitigate potential impacts on the environment (including soils, groundwater, surface water, remnant native vegetation and other biodiversity values) and places and buildings of archaeological or heritage significance (Sections 7 and 8).

- The design, planning and assessment of the Project has been carried out applying the principles of Ecologically Sustainable Development (ESD) (Section 8.3.5).
- The Project incorporates production staging and other measures to allow for the continued compatibility with ongoing agricultural land uses (Section 8.1.4).

Accordingly, the Minister or IPC can be satisfied as to these matters.

A7.3.2 Permissibility

Under the Muswellbrook LEP, the Development Consent DA 92/97 area of the approved Mount Pleasant Operation currently includes land zoned as RU1 – Primary Production, E3 – Environmental Management, SP2 – Infrastructure (Rail Infrastructure) and W1 – Natural Waterways.

These same zones are the relevant land use zones under the Muswellbrook LEP represented within the modified Project Development Application area (Figures A7-1 and A7-2).

Consistent with the approved Mount Pleasant Operation, the Project development within the SP2 zoning would comprise rail infrastructure, which is development that is permitted with consent under zone SP2 in the Muswellbrook LEP.

The Muswellbrook LEP defines mining as follows:

...mining means mining carried out under the Mining Act 1992 or the recovery of minerals under the Offshore Minerals Act 1999, and includes:

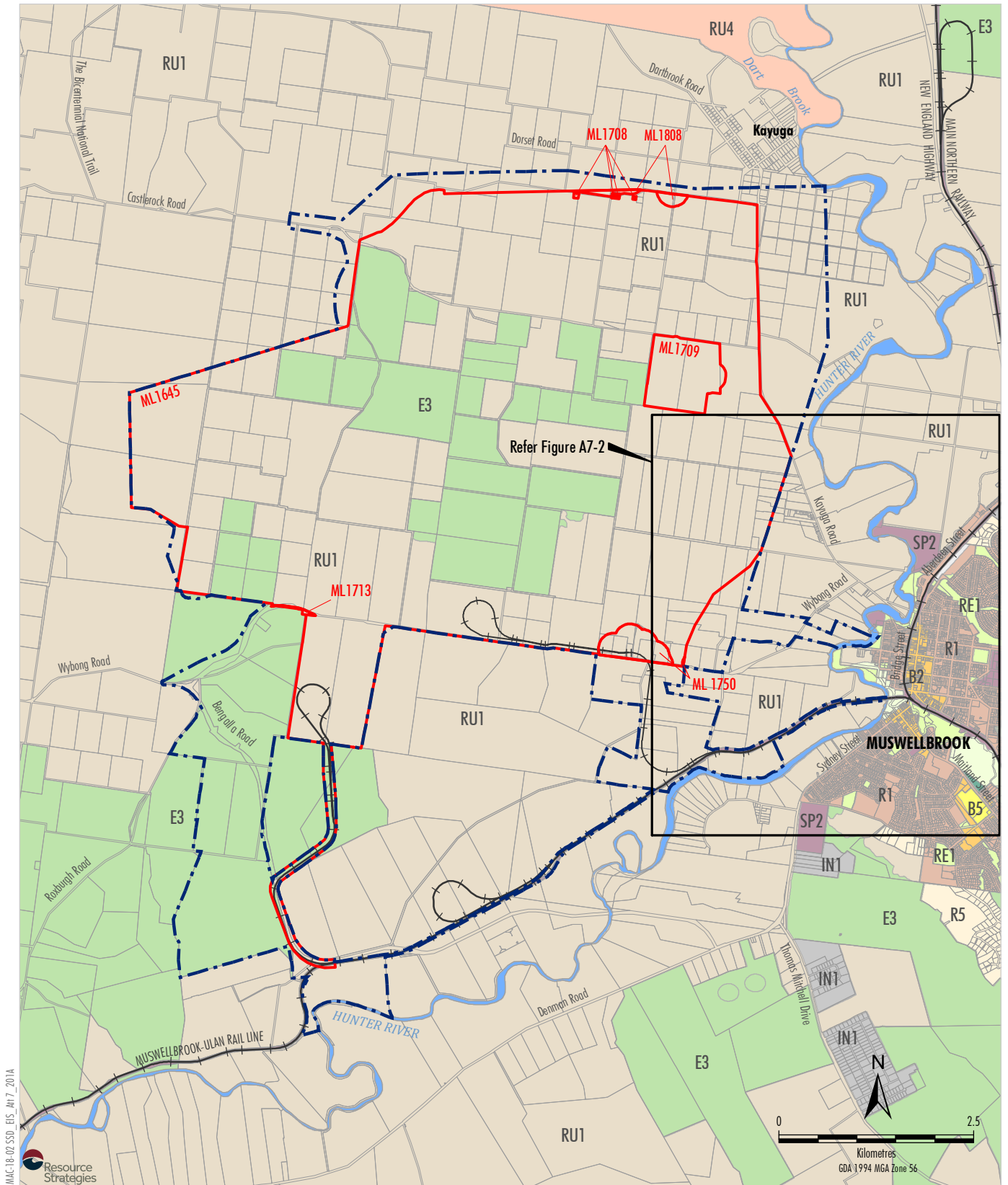
- *the construction, operation and decommissioning of associated works, and*
- *the rehabilitation of land affected by mining.*

Within zones E3, W1 and SP2, mining is taken to be prohibited under the Muswellbrook LEP.



However, Clause 4 of the Mining SEPP provides that the policy applies to the State of NSW, and Clause 5(3) of the Mining SEPP gives it primacy where there is any inconsistency between the provisions in the SEPP and the provisions in any other environmental planning instrument (subject to limited exceptions).

Clause 5(3) relevantly provides:

- (3) *...if this Policy is inconsistent with any other environmental planning instrument, whether made before or after this Policy, this Policy prevails to the extent of the inconsistency.*



MAC-18-02 SSD_BIS_Am7_201A
Resource Strategies



LEGEND

Development Application Area

Mining Lease Boundary (Mount Pleasant Operation)

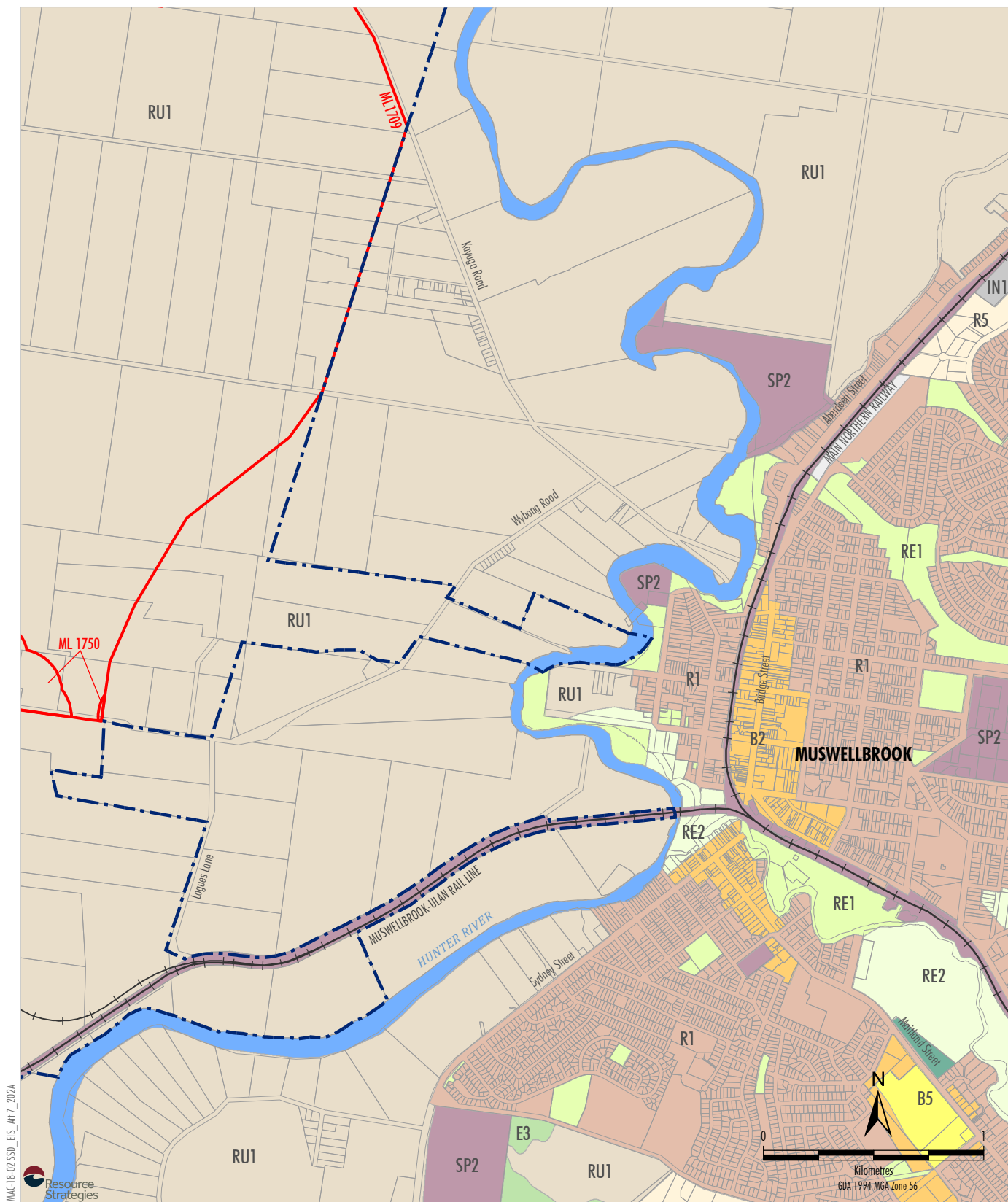
Land Zoning

B2	Local Centre	SP2	Infrastructure
B5	Business Development	RU4	Rural Small Holdings
R1	General Residential	W1	Natural Waterways
R5	Large Lot Residential	RU3	Forestry
IN1	General Industrial	E3	Environmental Management
IN2	Light Industrial	RE1	Public Recreation
RU1	Primary Production	RE2	Private Recreation

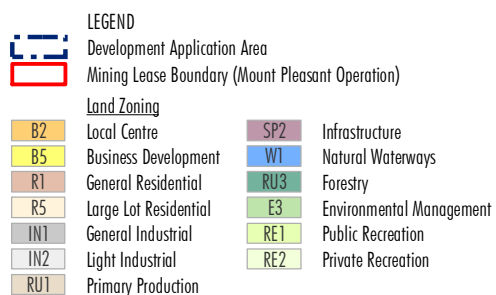
Source: NSW Spatial Services (2020)

MACHEnergy
MOUNT PLEASANT OPTIMISATION PROJECT
Muswellbrook LEP Land Zoning

Figure A7-1



Source: NSW Spatial Services (2020)



MACHEnergy
MOUNT PLEASANT OPTIMISATION PROJECT
Muswellbrook LEP Land Zoning
Inset

Figure A7-2

The practical effect of Clause 5(3) for the Project is that if there is any inconsistency between the provisions of the Mining SEPP and those contained in the Muswellbrook LEP, the provisions of the Mining SEPP will prevail.

Clauses 6 and 7 of the Mining SEPP provide what types of mining development are permissible without development consent and what types are permissible only with development consent.

The word 'mining' in the Mining SEPP is given an extended definition in Clause 3(2) as follows (emphasis added):

...mining means the winning or removal of materials by methods such as excavating, dredging, or tunnelling for the purpose of obtaining minerals, and includes:

- (a) *the construction, operation and decommissioning of associated works; and*
- (b) *the stockpiling, processing, treatment and transportation of materials extracted, and*
- (c) *the rehabilitation of land affected by mining.*

Clause 7(1)(b)(i) of the Mining SEPP provides that development for the purposes of 'mining' may be carried out with development consent on land where development for the purposes of agriculture may be carried out (with or without consent).

'Extensive agriculture' is permissible under the Muswellbrook LEP without consent in the E3 – Environmental Management zone, therefore the Mining SEPP provides that mining can be carried out with consent in this zone.

In addition, clause 7(1)(c) of the Mining SEPP provides that mining (including associated works) in in any part of a waterway may be carried out with development consent providing it is not in an environmental conservation zone (as defined by the Mining SEPP²).

The objectives of the W1 – Natural Waterways zone are:

- to protect the ecological and scenic values of natural waterways;
- to prevent development that would have an adverse effect on the natural values of waterways in this zone;

- to provide for sustainable fishing industries and recreational fishing;
- to ensure that opportunities for public access and use of aquatic resources for commercial and recreational fishing and aquaculture activities are maintained and enhanced; and
- to ensure that development maintains and enhances the integrity of the water quality, ecosystem, health and biodiversity in or adjacent to key fish habitats.

Based on this definition, the W1 – Natural Waterways zone under the Muswellbrook LEP is an environmental conservation zone as it has protection or conservation of the environment as a 'principal objective'.

Given that the Project is State Significant Development that is not wholly prohibited, the consent authority is authorised by section 4.38(3) of the EP&A Act to grant Development Consent to the whole of the Project, including any part that is prohibited.

A7.3.3 Zone Objectives

With respect to these land use zones, Clause 2.3(2) of the Muswellbrook LEP relevantly provides:

The consent authority must have regard to the objectives for development in a zone when determining a development application in respect of land within the zone.

A consideration of the objectives of the four zones within the Project Development Application area is provided below.

Objectives of Zone RU1 (Primary Production)

The objectives of the RU1 (Primary Production) Zone are as follows:

- *To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.*
- *To encourage diversity in primary industry enterprises and systems appropriate for the area.*
- *To minimise the fragmentation and alienation of resource lands.*

² The Mining SEPP definition provides: **environmental conservation zone** means a zone identified in another environmental planning instrument as having protection or conservation of the environment, or of an aspect of the environment, as its only objective or as a principal objective.

- *To minimise conflict between land uses within this zone and land uses within adjoining zones.*
- *To protect the agricultural potential or rural land not identified for alternative land use, and to minimise the cost to the community of providing, extending and maintaining public amenities and services.*
- *To maintain the rural landscape character of the land in the long term.*
- *To ensure that development for the purpose of extractive industries, underground mines (other than surface works associated with underground mines) or open cut mines (other than open cut mines from the surface of the flood plain), will not:*
 - (a) *destroy or impair the agricultural potential of the land or, in the case of underground mining, unreasonably restrict or otherwise affect any other development on the surface, or*
 - (b) *detrimentally affect in any way the quantity, flow and quality of water in either subterranean or surface water systems, or*
 - (c) *visually intrude into its surroundings, except by way of suitable screening.*
- *To protect or conserve (or both):*
 - (a) *soil stability by controlling development in accordance with land capability, and*
 - (b) *trees and other vegetation, and*
 - (c) *water resources, water quality and wetland areas, and their catchments and buffer areas, and*
 - (d) *valuable deposits of minerals and extractive materials by restricting development that would compromise the efficient extraction of those deposits.*
- The Project incorporates measures to avoid and mitigate potential impacts on rural landscape character, including the development and design of the integrated waste rock emplacement, progressive rehabilitation and revegetation of outer slopes to woodland vegetation (Section 3.17 and Attachment 8).
- The Project would provide for the recovery of approximately 247 Mt of additional ROM coal without significantly increasing the total land disturbance of the approved Mount Pleasant Operation.
- The Project would not directly impact any NSW Government mapped biophysical strategic agricultural land that is not already disturbed by the approved Mount Pleasant Operation (Section 7.14).
- The majority of land to be disturbed by the Project is of moderate land and soil capability and is suitable for grazing, rather than cultivation (Section 7.14 and Appendix I).
- The Project would incorporate measures to avoid and mitigate potential impacts on groundwater and surface water systems, including water quality (Sections 7.8 and 7.9 and Appendices C and D).
- Biodiversity impacts have been assessed in accordance with the Biodiversity Assessment Method (NSW Office of Environment and Heritage [OEH], 2017), which sets a standard that would result in no net loss of biodiversity values in NSW.
- The Project would not have a significant detrimental impact on current or future extraction or recovery of coal.

The Project is not inconsistent with the objectives of Zone RU1 (Primary Production), as:

- The Project would involve the development of a natural resource (coal).
- The Project site is considered suitable, and incorporates measures to allow for compatibility with existing, approved and likely preferred land uses (Section 8).
- The Project would not result in the fragmentation or alienation of resource lands and would optimise the recovery of coal within the existing MLs held for the approved Mount Pleasant Operation.

Accordingly, the Minister or IPC can be satisfied as to these matters.

Objectives of Zone SP2 (Infrastructure)

The objectives of the SP2 (Infrastructure) Zone are as follows:

- *To provide for infrastructure and related uses.*
- *To prevent development that is not compatible with or that may detract from the provision of infrastructure.*
- *To recognise existing railway land and to enable future development for railway and associated purposes.*
- *To prohibit advertising hoardings on railway land.*

...

The Project is compatible with the continued operation of the Mount Pleasant Operation Stage 2 rail infrastructure and the Muswellbrook–Ulan Rail Line within the SP2 (Infrastructure) zone.

MACH would continue to consult with the ARTC and rail service providers to manage potential rail interactions (Section 6).

Objectives of Zone W1 (Natural Waterways)

The objectives of the W1 (Natural Waterways) Zone are as follows:

- *To protect the ecological and scenic values of natural waterways.*
- *To prevent development that would have an adverse effect on the natural values of waterways in this zone.*
- *To provide for sustainable fishing industries and recreational fishing.*
- *To ensure that opportunities for public access and use of aquatic resources for commercial and recreational fishing and aquaculture activities are maintained and enhanced.*
- *To ensure that development maintains and enhances the integrity of the water quality, ecosystem, health and biodiversity in or adjacent to key fish habitats.*

The Project would not be inconsistent with the objectives of the W1 zone. The continued use of the existing/approved Hunter River pump station would include operating pumps to ramp water velocity up and down gradually to minimise potential impacts on aquatic ecology.

Objectives of Zone E3 (Environmental Management)

The objectives of the E3 (Environmental Management) Zone are as follows:

- *To protect, manage and restore areas with special ecological, scientific, cultural or aesthetic values.*
- *To provide for a limited range of development that does not have an adverse effect on those values.*
- *To maintain, or improve in the long term, the ecological values of existing remnant vegetation of significance including wooded hilltops, river valley systems, major scenic corridors and other local features of scenic attraction.*
- *To limit development that is visually intrusive and ensure compatibility with the existing landscape character.*
- *To allow agricultural activities that will not have an adverse impact on the environmental and scenic quality of the existing landscape.*

- *To promote ecologically sustainable development.*
- *To ensure that development in this zone on land that adjoins land in the land zoned E1 National Parks and Nature Reserves is compatible with the objectives for that zone.*

The Project would not be inconsistent with the objectives of the E3 zone, as it would result in an overall reduction of the approved mine footprint and a greater area of woodland retained (Section 7.10 and Appendix E).

Further, the Project meets ESD objectives (Section 8) and incorporates a range of measures to minimise visual impacts, incorporate progressive rehabilitation of mine landforms, and facilitate long term geomorphological stability of mine landforms (Sections 3.17 and 7.16, Appendix M and Attachment 8).

In addition, while not required for Development Consent DA 92/97, MACH holds and manages a 13,522 hectare biodiversity offset area that was established as part of the Mount Pleasant Operation approval under the *Environment Protection and Biodiversity Conservation Act*, 1999 in 2012. The ongoing management of this existing major biodiversity offset by MACH would continue over the life of the Project.

A7.3.4 Special Provisions

Parts 5 and 7 of the Muswellbrook LEP provide a number of provisions of potential relevance to the Project, including the relevant clauses described below.

Heritage Conservation

Clause 5.10 relates to the assessment and management of impacts to historic heritage or Aboriginal heritage and includes the following subclauses relevant to the Project:

Note. *Heritage items (if any) are listed and described in Schedule 5. Heritage conservation areas (if any) are shown on the Heritage Map as well as being described in Schedule 5.*

(1) Objectives

The objectives of this clause are as follows:

- (a) *to conserve the environmental heritage of Muswellbrook,*
- (b) *to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views,*
- (c) *to conserve archaeological sites,*
- (d) *to conserve Aboriginal objects and Aboriginal place of heritage significance.*

(2) Requirement for consent

Development consent is required for any of the following:

- (a) demolishing or moving any of the following or altering the exterior of any of the following (including, in the case of a building, making changes to its detail, fabric, finish or appearance):
 - (i) a heritage item,
 - (ii) an Aboriginal object,
 - (iii) a building, work, relic or tree within a heritage conservation area,
- (b) altering a heritage item that is a building by making structural changes to its interior or by making changes to anything inside the item that is specified in Schedule 5 in relation to the item,
- (c) disturbing or excavating an archaeological site while knowing, or having reasonable cause to suspect, that the disturbance or excavation will or is likely to result in a relic being discovered, exposed, moved, damaged or destroyed,
- (d) disturbing or excavating an Aboriginal place of heritage significance,
- (e) erecting a building on land:
 - (i) on which a heritage item is located or that is within a heritage conservation area, or
 - (ii) on which an Aboriginal object is located or that is within an Aboriginal place of heritage significance,
- (f) subdividing land:
 - (i) on which a heritage item is located or that is within a heritage conservation area, or
 - (ii) on which an Aboriginal object is located or that is within an Aboriginal place of heritage significance.

...

(4) Effect of Proposed development on heritage significance

The consent authority must, before granting consent under this clause in respect of a heritage item or heritage conservation area, consider the effect of the proposed development on the heritage significance of the item or area concerned. This subclause applies regardless of whether a heritage management document is prepared under subclause (5) or a heritage conservation management plan is submitted under subclause (6).

(5) Heritage assessment

The consent authority may, before granting consent to any development:

- (a) on land on which a heritage item is located, or
- (b) on land that is within a heritage conservation area, or
- (c) on land that is within the vicinity of land referred to in paragraph (a) or (b),

require a heritage management document to be prepared that assesses the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item or heritage conservation area concerned.

(6) Heritage conservation management plans

The consent authority may require, after considering the heritage significance of a heritage item and the extent of change proposed to it, the submission of a heritage conservation management plan before granting consent under this clause.

(7) Archaeological sites

The consent authority must, before granting consent under this clause to the carrying out of development on an archaeological site (other than land listed on the State Heritage Register or to which an interim heritage order under the Heritage Act 1977 applies):

- (a) notify the Heritage Council of its intention to grant consent, and
- (b) take into consideration any response received from the Heritage Council within 28 days after the notice is sent.

(8) Aboriginal places of heritage significance

The consent authority must, before granting consent under this clause to the carrying out of development in an Aboriginal place of heritage significance:

- (a) consider the effect of the proposed development on the heritage significance of the place and any Aboriginal object known or reasonably likely to be located at the place by means of an adequate investigation and assessment (which may involve consideration of a heritage impact statement), and
- (b) notify the local Aboriginal communities, in writing or in such other manner as may be appropriate, about the application and take into consideration any response received within 28 days after the notice is sent.

...

Clause 5.10 set out above is potentially relevant to the Project with respect to considering direct disturbance or indirect effects (e.g. potential dust or visual impacts) that could impact on Aboriginal or historic heritage sites located within, or adjacent to, the Project Development Application area.

However, it should be noted that the provisions in clause 5.10 relate to the circumstance where the consent authority is exercising the function of determining whether or not to grant a consent under clause 5.10 of the Muswellbrook LEP. The Minister or the IPC will not be exercising this function when determining the Development Application for the Project.

Aboriginal cultural and historic heritage assessments have been conducted for the Project and are provided in Appendices G and H, respectively. Suitable mitigation measures for potential direct and indirect impacts on heritage would be adopted for the Project (Section 7).

Terrestrial Biodiversity

Clause 7.1 outlines considerations relating to the conservation and improvement of terrestrial biodiversity:

7.1 Terrestrial biodiversity

- (1) *The objective of this clause is to protect, maintain and improve the diversity of landscapes, including:*
 - (a) *protecting the biological diversity of native fauna and flora, and*
 - (b) *protecting ecological processes necessary for their continued existence, and*
 - (c) *encouraging the recovery of threatened species, communities and populations and their habitats.*
- (2) *This clause applies to land identified as “Biodiversity” on the Terrestrial Biodiversity Map.*
- (3) *Development consent must not be granted for development on land to which this clause applies unless the consent authority is satisfied that the development satisfies the objective of this clause and:*
 - (a) *the development is designed and will be located and managed to avoid any potential adverse environmental impact, or*

- (b) *if a potential adverse environmental impact cannot be avoided, the development:*
 - (i) *is designed and located so as to have minimum adverse impact, and*
 - (ii) *incorporates effective measures to remedy or mitigate any adverse impact caused.*

Land identified as “Biodiversity” on the Muswellbrook LEP Terrestrial Biodiversity Map is located within the Development Application area.

The potential impacts of the Project on threatened species and biodiversity are described in Sections 7.10 and 7.11, and Appendices E and F, including measures to avoid and minimise potential impacts.

The Project would result in an overall reduction of the approved mine footprint and a greater area of woodland retained (Section 7.10 and Appendix E).

Earthworks

Clause 7.6 outlines considerations relating to earthworks undertaken:

- (1) *The objectives of this clause are as follows:*
 - (a) *to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land,*
 - (b) *to allow earthworks of a minor nature without requiring separate development consent.*
- ...
- (3) *Before granting development consent for earthworks, the consent authority must consider the following matters:*
 - (a) *the likely disruption of, or any detrimental effect on, existing drainage patterns and soil stability in the locality,*
 - (b) *the effect of the proposed development on the likely future use or redevelopment of the land,*
 - (c) *the quality of the fill or the soil to be excavated, or both,*
 - (d) *the effect of the proposed development on the existing and likely amenity of adjoining properties,*
 - (e) *the source of any fill material or the destination of any excavated material,*
 - (f) *the likelihood of disturbing relics,*

- (g) *the proximity to and potential for adverse impacts on any watercourse, drinking water catchment or environmentally sensitive area.*

Note. *The National Parks and Wildlife Act 1974, particularly section 86, deals with disturbing or excavating land and Aboriginal objects.*

The Project would involve earthworks as a component of construction and open cut development activities (Section 3.5).

In regard to subclauses 7.6(3)(a) and 7.6(3)(g), the Surface Water Assessment (Appendix D) includes assessment of the potential impacts on drainage patterns and waterways. Section 7.9 and Appendix D also describe the erosion and sediment control measures that would be implemented for the Project.

In regard to subclause 7.6(3)(b), rehabilitation and decommissioning of Project disturbance areas, including post-mining land uses, are described in Section 3.17, Section 7.14 and Attachment 8. Potential future uses of the land are also considered in Section 8.

In regard to subclauses 6.3(3)(c) and 6.3(3)(e), virgin excavated natural material excavated during open cut development would be used as construction fill (e.g. for hardstand areas, dam embankments and road construction) or placed in the integrated waste rock emplacement according to its material type and suitability for rehabilitation as described in Section 3.17 and Section 7.14.

The topsoil stripped during Project activities would be stockpiled for use on disturbed areas (Section 7.14 and Appendix I).

Potential impacts on amenity, including noise, dust and visual impacts, are described in Section 7 and Appendices A, B and M, in regard to subclause 7.6(3)(d).

In regard to subclause 7.6(3)(f), an Aboriginal Cultural Heritage Assessment and Historic Heritage Assessment have been prepared for the Project and are provided in Appendices G and H.

A7.4 OTHER APPROVALS

A7.4.1 Mining Act, 1992

The objects of the *Mining Act, 1992* are to encourage and facilitate the discovery and development of mineral resources in NSW, having regard to the need to encourage ESD.

Mining Tenements

MACH Mount Pleasant Operations Pty Ltd is the manager of the Mount Pleasant Operation as agent for and on behalf of the unincorporated Mount Pleasant Joint Venture between MACH and J.C.D. Australia Pty Ltd (Section 1).

MACH Energy Australia Pty Ltd and J.C.D Australia Pty Ltd are joint holders of relevant MLs for Group 9 minerals (i.e. coal) over all relevant land where mining for coal is proposed to be carried out for the Project. MACH will make the Development Application for the Project. In accordance with section 380AA of the *Mining Act* J.C.D Australia Pty Ltd has also provided its consent to the Project Application (Attachment 11).

In accordance with the requirements of the Master Co-operation Agreement between the Mount Pleasant Operation and the Bengalla Mine, various ML transfers or sub-lease arrangements are required from time to time to facilitate commercial interactions between the two mines, and this would continue for the Project.

Mine Operations Plan

Under the *Mining Act, 1992*, environmental protection and rehabilitation are regulated by conditions included in all MLs, including requirements for the submission of a MOP prior to the commencement of operations, and subsequent annual reviews of environmental performance.

All mining operations must be carried out in accordance with the MOP, which has been prepared to the satisfaction of the relevant regulatory agency. The MOP describes site activities and the progress toward environmental and rehabilitation outcomes required under ML conditions and Development Consent conditions under the EP&A Act and other approvals.

The NSW Government (2013) describes the purpose and function of the MOP as:

A MOP is intended to fulfil the function of both a rehabilitation plan and a mine closure plan. It should document the long-term mine closure principles and outcomes whilst outlining the proposed rehabilitation activities during the MOP term.

A MOP also forms the basis for the estimation of the security deposit imposed to ensure compliance with conditions of authorisation granted under the Mining Act.

A7.4.2 Protection of the Environment Operations Act, 1997

The *Protection of the Environment Operations Act, 1997* (PoEO Act) and the *Protection of the Environment Operations (General) Regulation, 2009* set out the general obligations for environmental protection for development in NSW, which is regulated by the Environment Protection Agency.

Under section 48 of the PoEO Act, it is an offence to carry out a “scheduled activity” without an EPL. Schedule 1 of the PoEO Act lists “scheduled activities” for the purposes of section 48.

Clause 10 of Schedule 1 of the PoEO Act defines “coal works” as any activity (other than coke production) that involves storing, loading or handling coal (whether at any coal loader, conveyor, washery or reject dump or elsewhere) at an existing coal mine or on a separate coal industry site.

Clause 10(2) provides that a “coal work” is declared to be a scheduled activity if:

- (a) it has a capacity to handle more than 500 tonnes per day of coal, or
- (b) it has a capacity to store more than 5,000 tonnes of coal (not including storage within a closed container or building).

Clause 28 of Schedule 1 of the PoEO Act defines “mining for coal”, as the mining, processing or handling of coal (including tailings and chitter) at underground mines or open cut mines.

Clause 28(2) provides that “mining for coal” is declared a scheduled activity if:

- (a) it has a capacity to produce more than 500 tonnes of coal per day, or
- (b) it has disturbed, is disturbing or will disturb a total surface area of more than 4 hectares of land by:
 - (i) clearing or excavating, or
 - (ii) constructing dams, ponds, drains, roads, railways or conveyors, or
 - (iii) storing or depositing overburden or coal (including tailings and chitter).

Section 45 of the PoEO Act outlines matters to be taken into consideration by the relevant regulatory authority with respect to licensing functions.

The Mount Pleasant Operation currently operates under EPL 20850 granted under the PoEO Act, which allows for coal works and mining for coal as scheduled activities. The EPL contains conditions that relate to emission and discharge limits, environmental monitoring and reporting.

If approved, the Project would require a variation of EPL 20850. The EPL 20850 is to be substantially consistent with a Development Consent granted for the Project (Section 5.2.3).

A7.4.3 Roads Act, 1993

If the Project is approved, MACH would apply for the necessary consents under section 138 of the *Roads Act, 1993* associated with the realignment of the approved Northern Link Road and the closure of the eastern portion of Castlerock Road (Section 3.5.2) or other works that are required within the public road network in support of the Project.

Consent under section 138 of the *Roads Act, 1993* cannot be refused if Development Consent for the Project is granted, and is to be substantially consistent with the Development Consent for the Project (Section 5.2.3).

A7.4.4 Coal Mine Subsidence Compensation Act, 2017

The *Coal Mine Subsidence Compensation Act, 2017* (CMSC Act) provides a scheme for the provision of compensation for damage caused by subsidence resulting from coal mine operations, and the assessment and management of risks associated with subsidence resulting from coal mine operations.

The Project is located partly within the Muswellbrook Mine Subsidence District declared under section 20 of the CMSC Act for the adjoining underground Dartbrook Mine.

Under section 21 of the CMSC Act, MACH is required to obtain the approval of Subsidence Advisory NSW before constructing improvements on this portion of the Project site. The CMSC Act defines improvement as any building or work erected or constructed on land, and infrastructure above or below the land surface. Approval may be granted by the Chief Executive under section 22 of the CMSC Act.

Section 4.42(1)(b) of the EP&A Act states that an approval under section 15 of the *Mine Subsidence Compensation Act, 1961* cannot be refused if it is necessary for carrying out State Significant Development that is authorised by a development consent under Division 4.7 of the EP&A Act. However, the *Mine Subsidence and Compensation Act, 1961* was repealed and replaced by the CMSC Act on 1 January 2018.

Section 22 of the CMSC is the equivalent to section 15 of the repealed *Mine Subsidence and Compensation Act, 1961*, as it gives the Chief Executive authority to grant approval for development within a mine subsidence district.

While section 4.46 of the EP&A Act has been updated in respect of development (other than State Significant Development) to refer to the CMSC Act, section 4.42 of the EP&A Act has not been updated

Approval under the CMSC Act will therefore be sought for the Northern Link Road realignment, or other applicable structures (e.g. water management dams) that would be constructed within the subsidence district.

A7.4.5 Dams Safety Act, 2015

The following Mount Pleasant Operation dams within the Project area are declared dams under section 5 of the *Dams Safety Act, 2015*:

- Mount Pleasant Environmental Dam 3 (ED3).
- Mount Pleasant Mine Water Dam (MWD).
- Mount Pleasant Tailings Dam (TD).

These dams would continue to be used for the Project. It is also anticipated that some new water storage dams on-site would be declared dams under Section 5 of the *Dams Safety Act, 2015* (e.g. MWD2 and MWD3).

Bengalla CW1 and Bengalla DW1 are Bengalla Mine dams located within the Project Development Application Area. They are also declared dams under section 5 of the *Dams Safety Act, 2015*.

Under section 48 of the *Dams Safety Act, 2015*, the area of land surrounding, or in the vicinity of, a declared dam can be declared a notification area. Before granting development consent for any mining operations in a notification area, a consent authority must refer the application for development consent to Dams Safety NSW and take into consideration any matters that are raised by Dams Safety NSW in relation to the application.

Project provisional general arrangements (Section 3) show that open cut mining is proposed in the vicinity of the Mount Pleasant ED3 and Bengalla CW1 dams and this would include activities within the notification areas of these dams (Figure 7-38). Mining would also be undertaken within the notification area of the MWD (Figure 7-38), with this dam being dewatered and decommissioned later in the Project life (Section 3.11.1).

In addition, the approved Mount Pleasant Operation Controlled Release Dam (Figure 2-4), authorised under Bengalla Mine SSD-5170, is located within the notification area of Bengalla Mine's DW1 (Figure 7-38).

Continued rehabilitation activities and the development of new infrastructure would also occur within the notification areas of the CW1, ED3 and MWD declared dams over the life of the Project.

The Consent Authority will therefore need to refer the development application to Dams Safety NSW on a range of declared dams and take into consideration any matters raised by Dams Safety NSW.

A7.4.6 Water Management Act, 2000

The objects of the *Water Management Act, 2000* (WM Act) are to provide for the sustainable and integrated management of the water sources of the State for the benefit of both present and future generations.

Approvals

Part 3 of the WM Act defines the following approvals:

- water use approval (section 89) – authorises its holder to use water for a particular purpose at a particular location;
- water management works approval (section 90) – authorises its holder to construct and use a specified water management work (being a water supply work, drainage work, or flood work) at a specified location; and
- activity approvals (section 91), including:
 - controlled activity approval - authorises its holder to carry out a specified controlled activity at a specified location in, on or under waterfront land; and
 - aquifer interference approval – authorises its holder to carry out one or more specified aquifer interference activities at a specified location, or in a specified area, in the course of carrying out specified activities.

Under section 4.41(1)(g) of the EP&A Act, if the Project is approved as State Significant Development, water use approvals under section 89, water management works approvals under section 90, or activity approvals (excluding aquifer interference approvals) under section 91 of the WM Act would not be required for the Project.

Notwithstanding that no water management works approvals (e.g. water supply works approvals) would be required for the Project, metering equipment would be installed and maintained in accordance with the *NSW Non-Urban Water Metering Policy* (NSW Government, 2018b) on all works used for the extraction of water under an access licence.

The requirement to obtain an aquifer interference approval (under section 91 of the WM Act) is triggered only when a proclamation is made (under section 88A) specifying that aquifer interference approvals apply to a particular part of the State (or to the whole State) or to a particular water source.

To date, no such proclamation has been made specifying that aquifer interference approvals are required in any part of NSW. As such, aquifer interference approvals are not currently required to be obtained for the Project.

Notwithstanding the above, an assessment of the Project against the licensing requirements and minimal impact considerations of the *NSW Aquifer Interference Policy* is provided in Section 7.8 and Appendix C.

Water Licensing

Under the WM Act, it is an offence to “take” water without a water licence unless a statutory exemption applies.

The *NSW Aquifer Interference Policy* requires that all water taken by aquifer interference activities be accounted for within the extraction limits set by the relevant water sharing plan. A water access licence (WAL) is required where water is taken either incidentally or for consumptive use, or where any act by a person carrying out an aquifer interference activity causes (NSW Government, 2012):

- the removal of water from a water source; or
- the movement of water from one part of an aquifer to another part of an aquifer; or
- the movement of water from one water source to another water source, such as
 - from an aquifer to an adjacent aquifer; or
 - from an aquifer to a river/lake; or
 - from a river/lake to an aquifer.

The *NSW Aquifer Interference Policy* also requires consideration of the continued take of water from groundwater or connected surface waters following cessation of an aquifer interference activity. For example, the inflow that continues to occur into an open cut void post-mining must be considered.

The *NSW Aquifer Interference Policy* states that licences are required to be held to adequately account for the ongoing take of water until the system returns to equilibrium, or alternatively, sufficient licences to account for the ongoing take of water are to be surrendered to the NSW Minister for Water.

Flood Work Approvals

The approved Stage 2 rail infrastructure and the existing/approved Hunter River pump stations and associated electrical and pipeline infrastructure are located within the floodplain of the Hunter River (Section 7.9).

Any Project-related upgrade or maintenance works on these approved facilities within the Hunter River floodplain would not require a flood work approval under section 90 of the WM Act as this requirement does not apply to State Significant Development as per section 4.41 of the EP&A Act (Section 5.2.4).

A7.4.7 National Greenhouse and Energy Reporting Act, 2007

The *National Greenhouse and Energy Reporting Act, 2007* (NGER Act) introduced a single national reporting framework for the reporting and dissemination of corporations' greenhouse gas emissions and energy use. The NGER Act makes registration and reporting mandatory for corporations whose energy production, energy use or greenhouse gas emissions meet specified thresholds.

The Project is anticipated to trigger the current NGER Act reporting threshold during the Project life, based on the Scope 1 and 2 greenhouse gas emission estimates provided in Appendix S. If required, MACH would report relevant energy use and greenhouse gas emissions associated with its activities. Further discussion of greenhouse gas emission policy and guidance materials is provided in Appendix S.

A7.4.8 Native Title Act, 1993 (Cth)

The *Native Title Act, 1993* (Cth) provides for the recognition and protection of Native Title rights in Australia.

The *Native Title Act, 1993* provides a mechanism to determine whether Native Title exists and what the rights and interests are that comprise that Native Title. The process is designed to ensure that Indigenous people who claim to have an interest in a parcel of land have the opportunity to express this interest formally, and to negotiate with the Government and the applicant about the proposed grant or renewal of a mining tenement, or consent to access Native Title land.

The *Mining Act, 1992* must be administered in accordance with the *Native Title Act, 1993*. The primary effect of the *Native Title Act, 1993* on exploration and mining approvals is to provide Native Title parties with 'Rights to Negotiate' about the grant and some renewals by Governments of exploration and mining titles.

The *Native Title Act, 1993*, where applicable, would be complied with in relation to the renewal of any necessary mining tenements for the Project.

A7.4.9 Environment Protection and Conservation Act, 1999

The Project will be assessed in accordance with the NSW accredited assessment process, and will require approval under both the EP&A Act and the EPBC Act (Section 5).

Objects of the EPBC Act

Consideration of the Project proposal against the objects of the EPBC Act is provided in Section 8.3.2.

Environmental Record of the Proponent

As per Attachment 3 of the SEARs for the Project, the EIS must address the matters outlined in Schedule 4 of the EPBC Regulations, including information in relation to the environmental record of the person proposing to take the action as prescribed by clause 6 in Schedule 4 to the EPBC Regulations.

Clause 6 states:

6 Environmental record of person proposing to take the action

6.01 Details of any proceedings under a Commonwealth, State or Territory law for the protection of the environment or the conservation and sustainable use of natural resources against:

- (a) the person proposing to take the action; and
- (b) for an action for which a person has applied for a permit, the person making the application.

6.02 If the person proposing to take the action is a corporation--details of the corporation's environmental policy and planning framework.

The proponent for the Project is MACH Energy Australia Pty Ltd, on behalf of the unincorporated joint venture (Section 1).

MACH Energy has a strong record in mine safety, environmental management and business operation. MACH Energy conducts its mining operations in accordance with a range of regulatory consents, leases and licenses. MACH Energy has established and is committed to continue open and constructive dialogue with the local community and stakeholders.

With respect to clause 6.01, at the time of writing, there were no relevant proceedings for the protection of the environment or the conservation and sustainable use of natural resources against MACH Energy.

With respect to clause 6.02, MACH Energy has a documented Environmental policy that applies to the Mount Pleasant Operation, which states:

MACH Energy Australia Pty Ltd (MACH Energy) is committed to achieving an excellent standard of environmental performance from all its business activities.

MACH Energy commits to:

- *Promoting a culture in which everyone takes responsibility for protecting the environment;*
- *Measuring our performance against objectives and targets to drive continual improvement of our environmental performance;*
- *Maintaining clear and consistent communication and consultation with our stakeholders with the intent of enhancing environmental outcomes;*

- *Identifying, assessing, communicating and managing our environment risks;*
- *Complying with all relevant legislative and regulatory requirements;*
- *Ensure incidents, including near misses, are reported and investigated in a timely manner to prevent a recurrence;*
- *Being a learning organisation; and*
- *Providing the systems, resources and training to meet our commitments.*

Finding ways to continually make advances in environmental sustainability is embedded in the way we conduct our business.

A description of the existing environmental management system implemented by MACH at the Mount Pleasant Operation is in Section 2.2.12.

A7.4.10 Other Legislation

The following NSW Acts may also be applicable to the Project:

- *Aboriginal Land Rights Act, 1983;*
- *Biodiversity Conservation Act, 2016;*
- *Biosecurity Act, 2015;*
- *Contaminated Land Management Act, 1997;*
- *Crown Land Management Act, 2016;*
- *Dangerous Goods (Road and Rail Transport) Act, 2008;*
- *Electricity Supply Act, 1995;*
- *Explosives Act, 2003;*
- *Fisheries Management Act, 1994;*
- *Heritage Act, 1977;*
- *National Parks and Wildlife Act, 1974;*
- *Native Title (NSW) Act, 1994;*
- *Petroleum (Onshore) Act, 1991;*
- *Pipelines Act, 1967;*
- *Work Health and Safety Act, 2011; and*
- *Work Health and Safety (Mines and Petroleum Sites) Act, 2013.*

Relevant licences or approvals required under these Acts would be obtained for the Project as required.

A7.5 PROJECT COMPLIANCE WITH STATUTORY REQUIREMENTS

In accordance with the draft *NSW Guideline for State Significant Projects – Preparing an Environmental Impact Statement* (June 2019, unpublished) a statutory compliance table to identify relevant statutory requirements and where they have been addressed in the EIS is provided in Table A7-2. See also Tables 5-1, 5-2, 5-3 and 5-4 which set out the preconditions to granting approval and the mandatory matters for consideration.

Table A7-2
Project Statutory Compliance Summary

Relevant Statute and Key Requirement	Relevant EIS Reference	Project Compliance Status
NSW Acts		
<i>Environmental Planning and Assessment Act, 1979</i>	Sections 4, 7 and A7.1.	✓
<i>Roads Act, 1993</i>	Sections 5.2.3, 5.2.8, 7.15 and A7.4.3, and Appendix J.	✓
<i>Mining Act, 1992</i>	Sections 3, 5.2.3, 5.2.8, and A7.4.1, and Attachment 11.	✓
<i>Biodiversity Conservation Act, 2016</i>	Sections 7.10, 7.11 and A7.4.10.	✓
<i>Protection of the Environment Operations Act, 1997</i>	Sections 2, 3, 5.2.3, 5.2.8, 7.3 to 7.7, and A7.4.2.	✓
<i>Water Management Act, 2000</i>	Sections 5.2.8, 7.8, 7.9, and A7.4.6.	✓
<i>Dams Safety Act, 2015</i>	Sections 5.2.5, 7.8, 7.9, 7.19 and A7.4.5.	✓
<i>Coal Mines Subsidence Compensation Act, 2017</i>	Section A7.4.4.	✓
<i>National Parks and Wildlife Act, 1974</i>	Sections 7.12 and A7.4.10.	✓
<i>Heritage Act, 1977</i>	Sections 7.13 and A7.4.10.	✓
Other NSW Legislation	Section A7.4.10.	✓
NSW Planning Policies		
<i>State Environmental Planning Policy (State and Regional Development) 2011</i>	Sections 5 and A7.2.1.	✓
<i>State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007</i>	Sections 5 and A7.2.2.	✓
<i>State Environmental Planning Policy No. 33 – Hazardous and Offensive Development</i>	Sections 5 and A7.2.3.	✓
<i>State Environmental Planning Policy (Koala Habitat Protection) 2020</i>	Sections 5, 7.10 and A7.2.4.	✓
<i>State Environmental Planning Policy No.55 – Remediation of Land</i>	Sections 5 and A7.2.5, and Appendix L.	✓
<i>State Environmental Planning Policy (Infrastructure) 2007</i>	Sections 5 and A7.2.6.	✓
<i>Muswellbrook Local Environmental Plan 2009</i>	Sections 5 and A7.3.	✓
Commonwealth Acts		
<i>Environment Protection and Biodiversity Conservation Act, 1999</i>	Sections 5.2.7, and 7.8 to 7.11.	✓
<i>National Greenhouse and Energy Reporting Act, 2007</i>	Sections 7.21 and A7.4.7	✓
<i>Native Title Act, 1993</i>	Section A7.4.8.	✓

A7.7 REFERENCES

Department of Planning (2011) *Hazardous Industry Planning Advisory Paper (HIPAP) No. 6: Hazard Analysis*.

Department of Planning and Infrastructure (2011) *Assessment Guideline: Multilevel Risk Assessment*.

JBS&G Australia Pty Ltd (2020) *Land Contamination Assessment undertaken for Mount Pleasant Optimisation Project*.

Department of Urban Affairs and Planning and Environment Protection Authority (1998) *Managing Land Contamination: Planning Guidelines SEPP 55 – Remediation of Land*.

Environment Protection Authority (2017) *Noise Policy for Industry*.

New South Wales Government (2012) *Aquifer Interference Policy*.

New South Wales Government (2013) *ESG3: Mining Operations Plan (MOP) Guidelines*

New South Wales Government (2018a) *Voluntary Land Acquisition and Mitigation Policy – for State Significant Mining, Petroleum and Extractive Industry Developments*.

New South Wales Government (2018b) *Non-Urban Water Metering Policy*.

Office of Environment and Heritage (2017) *Biodiversity Assessment Method*.