

Maules Creek Community Council Inc
64 Teston La
Maules Creek
NSW. 2382.
12th of June 2017

Carolyn McNally
Secretary
Department of Planning and Environment
carolyn.mcnally@planning.nsw.gov.au

Dear Ms McNally;

We write to you in relation to information the Maules Creek Community Council (MCCC) has received regarding the Maules Creek coal mine owner, Whitehaven Coal's intention to clear the Travelling Stock Route (TSR) next to Leard State Forest outside the mandated vegetation clearing window on the grounds of 'exceptional circumstances'.

The clearing window between 15 February and 30 April is in place to prevent vulnerable fauna from being harmed or killed due to hibernation, nesting or raising young.

In 2014 the MCCC sought and received a legal undertaking in the Land and Environment Court from Whitehaven Coal not to clear outside this period. The undertaking was strongly supported by your Department when it said in its media statement of 23.10.2014:

The Department has welcomed the mining company's changes to the (environmental) plan, which incorporate advice from the Office of Environment and Heritage to strengthen environmental protections and address community concerns.

"The new plan is a sensible, balanced outcome that allows construction work on the mine, which will employ up to 470 people full-time, to continue while ensuring vulnerable wildlife is protected,"

"The spokesperson said that the written consent of the Secretary of the Department will be required if the company wants to carry out limited clearing in exceptional circumstances."

"The Department has made it clear that approval will not be granted if the request contradicts the spirit of the plan and the commitment it represents to the community," the spokesperson said.

Last month the Maules Creek Community Consultative Committee was informed of the company's plans to clear the strip of woodland on the TSR, which is identified in the images below:



According to the Revised Maules Creek Biodiversity Offset Strategy, the TSR is part of the East-West Biodiversity Corridor that forms a fundamental plank to mitigate the huge biodiversity loss from the clearing of 2178 Ha¹ of the Leard State Forest for an open cut coal mine. The Revised Biodiversity Offset Strategy identifies that the East-West TSR is a critical element of the corridor. The yellow arrow on the map in Attachment 1 shows the TSR is a vital stepping stone in the Biodiversity Corridor.

It is the view of the MCCC that the company's desire to clear part of the Biodiversity Corridor outside the clearing window does contradict the spirit of the plan and its commitment to the community.

We do not believe that clearing an element of the Biodiversity Corridor can be considered in anyway "limited". Nor do we consider the circumstances to be "exceptional".

Whitehaven Coal completed summer clearing at the end of February 2017, leaving them with a full 8 weeks in which to clear during the approved time-frame. A mere 3 weeks after the completion of the approved window, they announced that they propose to clear in Winter.

This project has a 21 year life and mining companies like Whitehaven Coal are seeking to amend project determinations and develop new management plans and strategies all the time. It's how they do business. Subject to planning conditions, the mine operations plan and the timing of its operations are solely within Whitehaven's power and no one else. If Whitehaven missed the clearing window until next year this failure shouldn't be borne by the environment or the community.

We are concerned that the company is seeking to make de facto changes to its Biodiversity Offset Strategy without undertaking any formal changes to the Plan itself, nor the other cascading plans which are interdependent on it, e.g. the Maules Creek Biodiversity Management Plan, nor the Leard Regional Biodiversity Strategy.

We would note that the recent Independent Environmental Audit on the 22.8.2016² of the Maules Creek coal mine Planning Conditions, showed that the company was not compliant with 61 different conditions. Experience shows that conditions that cost the company money such as regional air quality monitoring are put on the back burner while changes to conditions that will save the company money such as changes to the clearing window changes or traffic management are fast tracked.

It is our view that any consideration of additional concessions to Whitehaven should be delayed until the company becomes compliant with the existing planning conditions. By considering Whitehaven's ongoing modification requests and not enforcing existing conditions Planning is not meeting this community's expectations.

For all of the above reasons we request that you do not approve clearing of the TSR outside the mandated clearing window.

Yours Sincerely,

Ros Druce
MCCC

¹ EnviroFactor 2011, Appendix 1 Maules Creek Community Council Submission To Maules Creek Coal Mine <http://bit.ly/2qI686r>

² Maules Creek Independent Environmental Audit, 22 August 2016 | The SMEC Group

<https://www.whitehavencoal.com.au/environment/docs/2015-iea-and-response-to-recommendations.pdf>

Attachment 1 – Maules Creek Coal Western Offset Map

