

Mangoola Coal Project (MP 06_0014 MOD 7) Road Traffic Noise Modification

Environmental Assessment Report

Section 75W of the *Environmental Planning and Assessment Act 1979*

1. BACKGROUND

Mangoola Coal Operations Pty Ltd (Mangoola) owns and operates the Mangoola Coal Mine, located near Wybong in the Upper Hunter Valley, 20 kilometres west of Muswellbrook (see **Figure 1**).

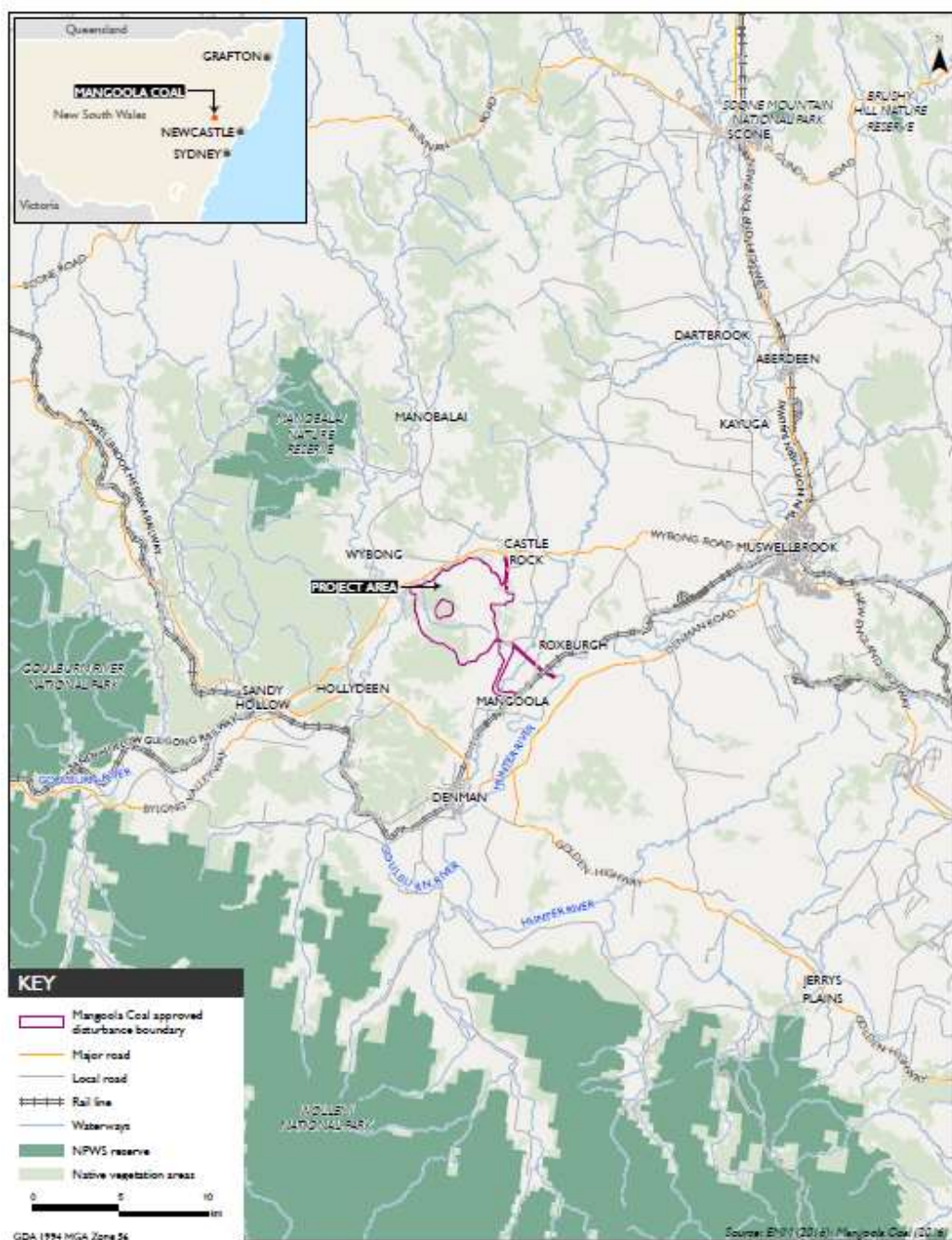


Figure 1: Locality Map

The project was approved by the then Minister for Planning on 7 June 2007, at which time it was known as the 'Anvil Hill Coal Project'. The mine commenced operations in September 2010. Mangoola has modified the project approval on six occasions. The most recent modification (MOD 6, approved by the Planning Assessment Commission on 28 April 2014) involved an increase in production and allowed the mine to extract up to 13.5 million tonnes of run-of-mine coal per year.

2. PROPOSED MODIFICATION

Mangoola is seeking to remove a traffic noise management condition (condition 3 of Schedule 3) from the mine's project approval, on the basis that this condition represents an unnecessary duplication of existing compliance requirements.

Under the current project approval, product coal is transported from the Mangoola mine site via rail and the majority of other mine-related traffic accesses the site using public roads. The primary mine access route extends from a site access road off Wybong Road, along the Bengalla Link Road to Denman Road. The approved traffic impacts along this route include up to 107 heavy vehicle movements per day and up to 274 light vehicle movements during peak periods.

Detailed traffic noise impact assessments were undertaken as part of the original Environmental Assessment (EA) accompanying MP 06_0014, and most recently, as part of the EA accompanying MOD 6. These assessments were prepared by technical consultants Wilkinson Murray (August 2006) and EMM (May 2013), respectively.

The noise and vibration assessment prepared by EMM for MOD 6 identified five residences where traffic-related noise was predicted to exceed threshold criteria under the NSW Road Noise Policy (RNP) (see **Table 1**). Two of these residences are owned by Mangoola (168 and 96B) and the remaining three residences (246, 249 and 251) are under private ownership (see **Figure 2**).

Table 1: Daytime Road Traffic Noise Levels for Wybong Road

Receptor	Distance (m)	L _{eq} 1-hour Assessment criterion, dB(A)	Noise levels, L _{eq} 1-hour, dB(A)		
			Current operations traffic ¹	Additional Mod6 traffic	Current + Mod6 additional
168 ²	80	55	57.0	56.4	59.7
246	75	55	58.0	56.8	60.5
249	80	55	58.0	56.4	60.3
250	250	55	50.5	50.3	53.4
251	120	55	54.0	54.3	57.2
96B ²	90	55	56.0	55.8	58.9

Note: 1. Current noise levels obtained from traffic noise impact assessment for Modification 4 (Wilkinson Murray, 2011).

2. These receptors are owned by Muswellbrook Coal.

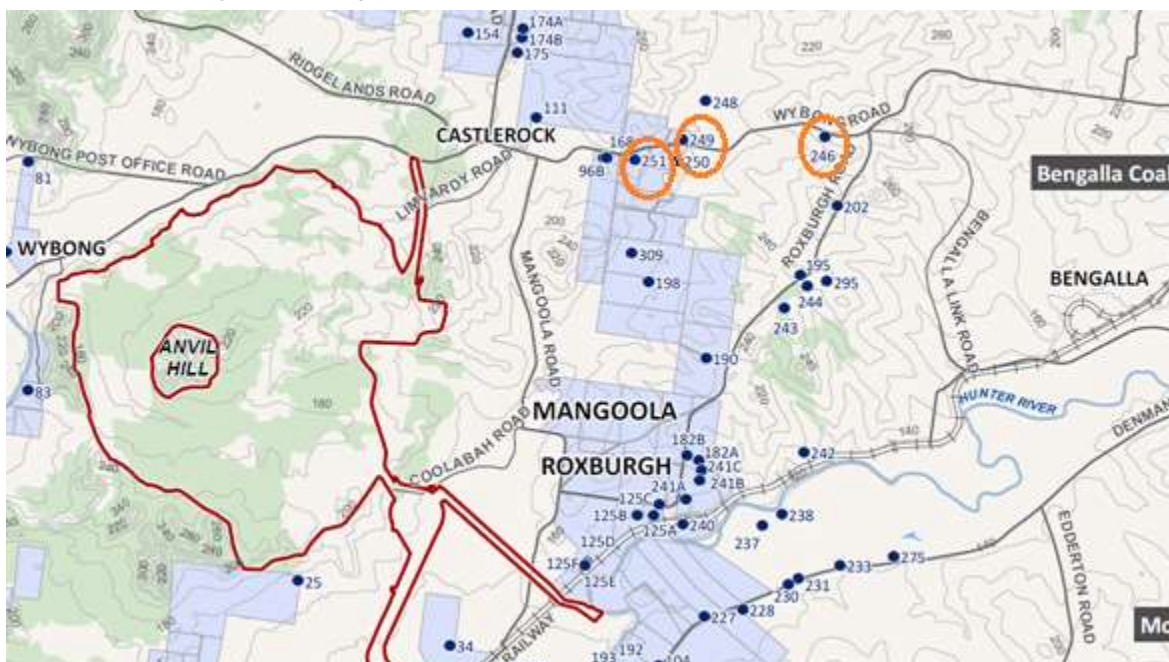


Figure 2: Location of Affected Residences

Based on these predictions, the Department recommended a condition (condition 4 of Schedule 3) affording mitigation rights to the three residences predicted to experience exceedances of the traffic noise impact assessment criteria established in the RNP. Another recommended condition (condition 3 of Schedule 3) also required Mangoola to implement all reasonable and feasible measures to ensure that traffic noise generated by the project, combined with the traffic noise generated by other mines, did not exceed the traffic noise criteria set out in **Table 2**. These recommendations were adopted by the Commission and incorporated in the mine's approval.

Table 2: Traffic Noise Criteria dB(A)

Road	Day/Evening	Night
	L _{Aeq} (1 hour)	L _{Aeq} (1 hour)
Denman Road	60	55
Wybong Road, Bengalla Link Road	55	50

Note: Traffic noise generated by the project is to be measured in accordance with the relevant procedures in the NSW Road Noise Policy.

Mangoola has since identified that attended road traffic noise monitoring in December 2015 and January 2016 recorded exceedances of the RNP road traffic criteria set out in condition 3 of Schedule 3 (see **Table 2**) at Residence 249. While the recorded noise levels of 53dB and 52dB L_{Aeq}(1-hour) (respectively) are well within the approved impacts outlined in **Table 1** above and the residences in question have mitigation rights, Mangoola has treated these exceedances as triggering the requirement for a non-compliance 'incident' report to the Department.

Given the above, Mangoola contends that condition 3 of Schedule 3 has created an unnecessary compliance reporting loop. Mangoola believes that it should not be required to report exceedances which have been adequately addressed through the consent's requirement to provide suitable mitigation to affected residences under condition 4 of Schedule 3.

3. STATUTORY CONTEXT

3.1 Section 75W

The Mangoola Coal Project was approved under the now repealed Part 3A of the *Environmental Planning & Assessment Act 1979* (EP&A Act). However, the project remains a 'transitional Part 3A project' under Schedule 6A of the EP&A Act and the modification must be determined under the former section 75W of the Act.

The Department notes that the proposed modification is of a minor administrative nature. Consequently, the Department is satisfied that the proposed modification is within the scope of section 75W, and may be determined accordingly.

3.2 Approval Authority

The Minister for Planning is the approval authority for the application. However, the Planning Assessment Commission must determine the application under the Minister's delegation of 14 September 2011, as Mangoola's parent company Glencore Australia Holdings Pty Ltd has declared reportable political donations.

3.3 Environmental Planning Instruments

A number of environmental planning instruments apply to the modification, including:

- SEPP (*Mining, Petroleum and Extractive Industries*) 2007;
- SEPP (*Infrastructure*) 2007;
- SEPP (*State and Regional Development*) 2011;
- SEPP No 33 – *Hazardous and Offensive Development*;
- SEPP No 44 – *Koala Habitat Protection*;
- SEPP No 55 – *Remediation of Land*; and
- *Muswellbrook Local Environmental Plan 2009*.

The Department has assessed the proposed modification against the relevant provisions of these instruments. Based on this assessment, the Department is satisfied that the proposed modification can be carried out in a manner that is consistent with the aims, objectives and provisions of these instruments.

4. CONSULTATION

Due to the administrative nature of the proposed modification, the Department considered that public exhibition was not required. However, the application and supporting EA (see **Appendix A**) were placed on the Department's website and comments were sought from the Environmental Protection Authority and Muswellbrook Shire Council. Neither of these authorities raised any concerns with the proposed modification (see **Appendix B**).

5. ASSESSMENT

The Department has assessed the merits of the proposed modification in accordance with the relevant objects and requirements of the EP&A Act. In assessing these merits, the Department has considered the:

- EA for the original project application;
- conditions of consent for the original project application, as amended by subsequent modifications;
- the modification application (MOD 7) and EA; and
- relevant environmental planning instruments, policies and guidelines.

The Department considers the key consideration for the modification relates to noise impacts.

5.1 Noise

Prior to addressing the proposed changes being sought under the modification application, it is important to clarify the extent of Mangoola's existing obligations under condition 3 of Schedule 3.

In the Department's view, Mangoola has taken a conservative position in treating exceedances of the RNP's criteria as a reportable "incident" under condition 4 of Schedule 5 of the approval. This condition does not require Mangoola to strictly comply with the RNP's criteria, thereby leading to any exceedance being an "incident". Rather, it requires the company to take "all reasonable and feasible measures to ensure that the traffic noise generated by the project combined with the traffic noise generated by other mines does not exceed" the RNP's criteria. Reasonable and feasible measures would include appropriate monitoring of a sufficient intensity to distinguish between road noise impacts caused by the project, other mines and non-mine-related traffic (which is outside the scope of the condition and can therefore be subtracted from the monitoring results). The condition also requires that active steps are then taken by Mangoola to reduce its noise emissions, should any exceedance or threatened exceedance be indicated. It might also choose to consult with other mines in an endeavour to obtain reductions in their noise emissions. It may have to consider taking steps such as staggering its shift changes with those of other mines to avoid traffic peaks associated with shift changes in order to avoid exceedances, if such steps fall within the definition of "reasonable and feasible".

The question is not whether condition 3 may lead to a requirement to report exceedances as "an incident", but rather whether its requirements are reasonable and appropriate in themselves. That is, whether monitoring should be required in circumstances where exceedances have been previously recognised as likely and such potential exceedances dealt with by affording noise mitigation rights to affected receivers.

Mangoola's noise monitoring data indicates that the road traffic noise associated with the Mangoola mine remains well within the scope of previous estimates at the worst-affected residences (ie 246, 249 and 251). Mangoola has previously contacted the owners of each of the three affected residences to advise them of their mitigation rights under the project approval. To date, these landowners have opted not to exercise these rights.

All other private residences along the primary mine access route are predicted to comply with the RNP criteria and, to date, there have been no reported exceedances at these receiver locations. It is also noted that no community complaints were received in relation to the recorded exceedances.

On this basis, the Department agrees that there is scope to refine and improve the existing conditions that relate to road traffic noise. Nonetheless, the Department is mindful of the continued need for Mangoola to make reasonable efforts to minimise traffic noise associated with its operations. However, this is already reflected in condition 7 of Schedule 3 (also applied via MOD 6), which requires Mangoola to "implement all reasonable and feasible measures to minimise the operational, road and rail noise of the project..." The Department notes that this condition replicates the

road and rail noise of the project..." The Department notes that this condition replicates the requirements of condition 3, but does not set a specific limit below which measures to minimise road noise are not required.

Overall, the Department is satisfied that Mangoola's approved road noise impacts can continue to be managed under conditions 4 and 7 of Schedule 3 to MP 06_0014, without affecting the level of protection afforded to surrounding private residences. Condition 3 imposes an unnecessary requirement for monitoring and the consideration and implementation of measures to reduce impacts below levels that have already been considered, approved and mitigated by way of providing rights to have noise mitigation measures implemented at the most affected residences. Consequently, the Department is satisfied that condition 3 can be removed.

It is also considered that removal of condition 3 would remedy the existing overlap between conditions 3 and 7 and Mangoola's uncertainty regarding its obligations toward incident reporting.

6. RECOMMENDED CONDITIONS

The Department has drafted a recommended notice of modification (see **Appendix C**) and a consolidated version of the consent as it is proposed to be modified (see **Appendix D**). The Department considers that the environmental impacts of the project can continue to be managed through the amended conditions of consent.

The Department has taken the opportunity to update the full suite of conditions to reflect its current drafting standards.

Mangoola has considered a copy of the recommended conditions and provided feedback. The Department has considered the company's comments in finalising the recommended notice of modification.

7. CONCLUSION

The Department has assessed the merits of the proposed modification in accordance with the requirements of the EP&A Act. This assessment has concluded that condition 3 of Schedule 3 may be removed without any adverse environmental impacts, including to any residential receiver. The proposed modification would eliminate a duplication of requirements within the project approval and provide increased clarity with respect to Mangoola's reporting obligations. The Department is therefore satisfied that the proposed modification is in the public interest and should be approved, subject to conditions.

8. RECOMMENDATION

It is recommended that the Planning Assessment Commission, as delegate of the Minister:

- **considers** the findings and recommendations of this report;
- **determines** that the modification is within the scope of section 75W of the EP&A Act;
- **approves** the modification application, under section 75W, subject to conditions; and
- **signs** the notice of modification at **Appendix C**.

Howard Reed

Howard Reed
Director
Resource Assessments

5.8.16

Oliver Holm 11/8/16

Oliver Holm
Executive Director
Resource Assessments and Compliance

APPENDIX A – ENVIRONMENTAL ASSESSMENT

Refer to the Department's website:

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=7726

APPENDIX B – SUBMISSIONS

Refer to the Department's website:

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=7726

APPENDIX C – NOTICE OF MODIFICATION

APPENDIX D – CONSOLIDATED PROJECT APPROVAL