

Reply to: Georgina Woods  
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Tracy Mackey  
CEO, Environment Protection Agency  
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**RE: Disposal of tyres at Whitehaven coal mines**

Dear Ms Mackey

We are writing seeking action from you regarding the unlawful burial of tyres at coal mine sites in the Namoi region which we believe is pollution of land without an Environment Protection Licence which is an offence under section 142A of the *Protection of the Environment Operations Act 1997*.

**Unlawful disposal of tyres at Maules Creek coal mine**

Maules Creek coal mine submitted a request to the EPA in September 2019 to allow for tyre disposal in its EPL. In its decision in November 2019, the EPA declined to grant this application and noted that onsite disposal of tyres may be an offence under section 142A of the *Protection of the Environment Operations Act 1997*. Neither the development consent for Maules Creek coal mine, nor its Environment Protection Licence allow for the disposal of tyres within overburden emplacement.

We are grateful to the EPA for upholding the NSW waste hierarchy and not granting the variation to the Maules Creek EPL when recycling and reuse options were available for the tyres used at Maules Creek mine. However, we note that tyre disposal appears to have already been occurring at Maules Creek and other coal mines in the district. The Maules Creek Mining Operations Plan dated November 2018 states that “End of life mine tyres are also collected, recorded and placed within the overburden emplacement at a suitable depth to ensure appropriate coverage under the final landform.”

We believe, based on the limited information about this issue that has been made public, that Maules Creek coal mine may have buried tyres in pits on site, which is an activity not permissible under its Environment Protection Licence and is therefore an offence under the *Protection of the Environment Operations Act 1997*.

**Tarrawonga and Werris Creek modifications**

In February this year, Whitehaven Coal applied for Modification 9 of the Tarrawonga coal mine consent, and Modification 4 of the Werris Creek coal mine consent. These modifications sought for

both mines approval to dispose of used heavy vehicle tyres onsite. For each of the consent modifications described above, the EPA recommended specific conditions be attached. In its response dated 16 April, Whitehaven described most but not all of these recommendations as “acceptable.”

The modification applications followed an application by Tarrawonga in May 2019 to vary its Environment Protection Licence allow for the disposal of tyres onsite. This variation application was refused by the EPA in January 2020, and the notice of that refusal indicated that “negotiations continue in relation to addition of waste tyre disposal.”

On 13 May, we received notification from the Department of Planning, Industry and Environment that Tarrawonga Modification 9 and Werris Creek Modification 4 had been determined and approved. Upon reviewing the amended consents, it appears that the change made to them is the addition of the modification application materials and proponent’s responses dated 16 April 2021 to the definitions of Environmental Assessment for each mine. No specific conditions reflecting the EPA’s advice were added. Given the EPA’s recommendation included condition numbering reflective of an EPL, we anticipate that the Tarrawonga EPL will soon be varied to reflect those recommendations made by the EPA that were “acceptable” to Whitehaven.

There is evidence from previous Annual Reviews for Tarrawonga mine that in-pit tyre disposal has already been taking place at that mine. Specifically, Tarrawonga’s Annual Review of 2014/15 reported that “Tyres were disposed of in-pit during the reporting period.” This indicates that an offence under the *Protection of the Environment Operations Act* has already occurred. We note, too, that nearby Boggabri Coal mine has a Waste Management Strategy that expressly provides that “Tyres over 1376mm diameter (bigger than a Cat16H Grader tyre) will be disposed of via deep in-pit burial within the mining area.”

We understand from Elizabeth Laird that the EPA was two weeks ago finalising an investigation into burial of end-of-life mining tyres at Maules Creek coal mine which has led to a broader investigation into this practice at coal mines across the Namoi region.

### **Action sought**

We seek the following action from you:

- Release the EPA’s investigation into burial of tyres at Maules Creek coal mine and other Namoi coal mines;
- Commence enforcement action against Maules Creek, Tarrawonga and Werris Creek coal mines for any unlawful disposal of waste tyres at those mine sites;
- Ensure that Whitehaven Coal is not granted variations to its Environment Protection Licences that do not conform to NSW waste hierarchy;

Thank you for your attention to this matter.

Sincerely

Georgina Woods