

LOCK THE GATE ALLIANCE

AUSTRALIANS WORKING TOGETHER TO PROTECT OUR LAND, WATER, AND FUTURE

Reply to: Georgina Woods
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Marcus Ray
Deputy Secretary, Department of Planning, Industry and Environment
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CC: Tracy Mackey
CEO, Environment Protection Agency
tracy.mackey@epa.nsw.gov.au

RE: Disposal of tyres at Whitehaven coal mines

Dear Marcus

We are writing seeking action from you regarding the unlawful burial of tyres at coal mine sites in the Namoi region and to express frustration that the Department of Planning, Industry and Environment has again granted consent modifications to Whitehaven Coal to approve unlawful activities already taking place on that company's mining sites.

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, as far as we are aware, allow for the disposal of tyres within overburden emplacement. We note that 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, in breach of its development consent and the *Protection of the Environment Operations Act 1997*. We further believe that the Mining Operations Plan for the Maules Creek coal mine is not consistent with its development consent, in that it provides for disposal of tyres that was not considered in the mine's environmental assessment or conditions of consent.

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 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. 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 a breach of the consent occurred prior to the modification being granted.

Action needed

We are frustrated that this series of events appears to be a further instance of consent modification being granted to Whitehaven for activities it has already undertaken but which were not allowed by that consent. We seek further information from you about the sequence of these events, why no public exhibition was made of the modifications, why the modification was granted without conditions attached and whether any enforcement action has been or will be taken under the *Environmental Planning and Assessment Act 1979*, if these mines have been or are now still burying tyres on site without consent. 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 seek the following action from you:

- Undertake investigation to determine when, where and in what volumes heavy vehicle tyres have been buried at Maules Creek, Tarrawonga, Werris Creek and/or Boggabri coal mines;
- Commence enforcement action against Maules Creek coal mine for unlawful disposal of waste tyres and Tarrawonga and Werris Creek for any unlawful disposal of tyres that occurred prior to the modification of their development consents last week.

Thank you for your attention to this matter.

Sincerely

Georgina Woods