



Boggabri Coal Mine

*Modification Assessment
(09_0182 MOD 7)*



December 2018

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1. Introduction

The Boggabri coal mine is located approximately 15 kilometres (km) north east of Boggabri in the Narrabri local government area (see **Figure 1**). The mine operates under a project approval that was granted on 18 July 2012 by the then Planning Assessment Commission.

The project approval has been modified on 5 occasions and allows Boggabri Coal to extract up to 8.6 million tonnes per annum (Mtpa) of run-of-mine (ROM) coal until December 2033 and operate a train loading facility, coal handling and preparation plant (CHPP) and rail loop and spur line.

The approval also allows Boggabri Coal to transport up to 10 Mtpa of coal from the site by rail, comprising up to 8.6 Mtpa from the Boggabri coal mine and up to 3 Mtpa from the adjoining Tarrawonga coal mine, operated by Whitehaven Coal Mining Pty Ltd (Whitehaven Coal).

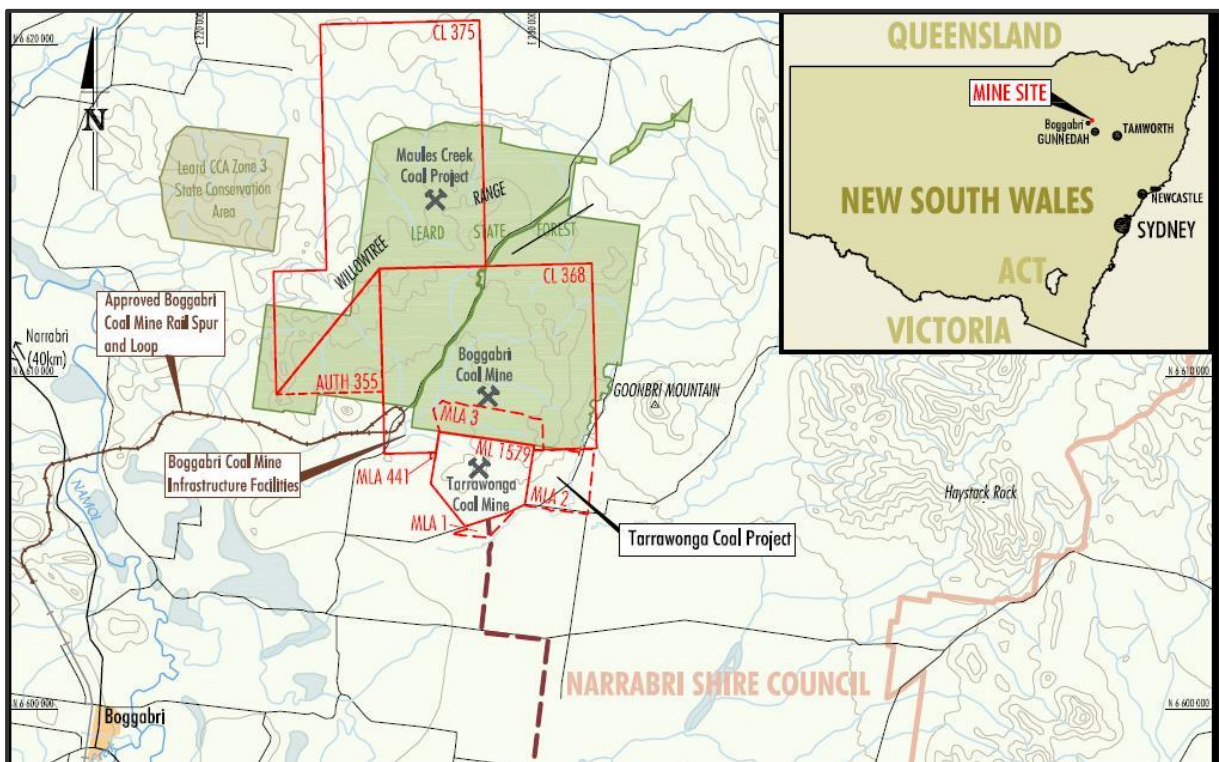


Figure 1: | Boggabri Coal Mine location



2. Proposed Modification

Boggabri Coal is seeking a further modification to the project approval under Section 75W of the *Environmental Planning and Assessment Act 1979* (EP&A Act). The proposed modification is described in the attached Environmental Assessment (EA) (see **Appendix A**) and summarised below.

Boggabri Coal is seeking to modify 5 aspects of its project approval to:

- **Secure biodiversity offsets through alternative mechanisms:** The project approval only allows Boggabri Coal to secure its offsets through a conservation agreement under Section 69B of the *National Parks and Wildlife Act 1974*. It is seeking to modify the approval to allow offsets to be secured using contemporary mechanisms under the *Biodiversity Conservation Act 2016*; and/or by transferring the offsets into the National Park Estate.
- **Use an approved stockpile area for its product coal:** The project approval includes a dedicated stockpile area for coal from the adjoining Tarrawonga Coal Mine. Boggabri Coal is seeking approval to stockpile its own product coal within the approved area to improve operational efficiencies.
- **Undertake exploration activities within the approved disturbance area:** Ongoing exploration drilling and investigations within approved mining areas is standard practice for mining operations. Although implicit in the project approval, these activities were not expressly identified in the project description. To put the matter beyond doubt, Boggabri Coal is seeking to expressly include these as approved activities within its project approval.
- **Transport small tonnages of coal by road for testing and marketing purposes:** The project approval requires all coal to be transported by rail. Boggabri Coal is seeking approval to transport small tonnages (less than 200 tonnes/year) of coal for the testing and/or marketing purposes, to ensure client specifications are met.
- **Realign a small section of the project boundary:** There is an overlap of the project boundaries in the project approvals for the Boggabri and Tarrawonga mines. Boggabri Coal is seeking to remove this overlap and to make it clear that Whitehaven Coal is responsible for implementing all the regulatory obligations within the overlapping area under its planning approval. This would also ensure the boundaries of the planning approvals are consistent with the mining leases for both projects.



3. Statutory Context

3.1 Section 75W

The Boggabri Coal Project was approved under Part 3A of the EP&A Act. Part 3A was repealed on 11 October 2011. However, the project remains a “transitional Part 3A project” under Schedule 2 of the *Environmental Planning and Assessment (Savings, Transitional and Other Provisions) Regulation 2017*.

The Department has considered the nature of the proposed modification and is satisfied that it is within the scope of section 75W of the EP&A Act, as it would:

- not increase the approved mining footprint or approved mining methods;
- not increase the approved maximum extraction rate;
- not alter the approved transportation methods for operational purposes;
- not increase the maximum transport rate; and
- not significantly increase the approved environmental impacts of the mine.

Given these considerations, the Department considers that the proposal is within the scope of Section 75W and may be determined accordingly.

3.2 Approval Authority

Under section 75W of the EP&A Act, the Minister for Planning is the approval authority for the modification application.

Under the Minister's delegation dated 14 September 2011, the Independent Planning Commission (the Commission) may determine the application. In view of the community interest in the modification, the Department has referred the application to the Commission to make the determination.



4. Engagement

The Department made the application and accompanying environmental assessment publicly available on the Department's website from 11 October 2018.

The Department also referred the application to the Office of Environment and Heritage (OEH), Environment Protection Authority (EPA), Resources Regulator, Division of Resources & Geoscience (DRG), and Narrabri Shire Council (Council) for comment.

Boggabri Coal also briefed its Community Consultative Committee (CCC) prior to the environmental assessment report being published on the website, so that the nature of the modification request could be explained to the CCC members.

4.1 Agency Advice

OEH supported the changes and recommended that the conditions should clearly specify the available options for securing the offsets. The Department has adopted this recommendation.

Council did not object to the modification but raised concerns about the volume of sample coal to be transported and recommended that annual limits should be imposed. Council also recommended that all coal samples should be transported via the mine owned private haul road to the Kamilaroi Highway.

The Department considers that the impacts associated with the transportation of coal by roads would be negligible and appropriately managed under the existing management programs and no specific conditions are required. This is discussed further in section 5.

EPA noted that a separate Environment Protection Licence (EPL) variation application would be needed to reflect the changes to the project boundary realignment. The EPA also suggested that any adverse impacts from transportation of coal samples by road could be mitigated by restricting the type and number of loads and the transport times. The Department considered this advice in section 5 of this report.

DRG noted that that the modification does not include any changes to the approved mining areas, processing rate, mine life and mining methods. Consequently, it did not offer any specific comments relevant to this modification.

The **Resources Regulator** did not comment on the proposal.

Agency advice is included in **Appendix B**.

4.2 Community Representations

While the Department did not formally exhibit the application, during its assessment the Department received 23 representations from local landholders and the general public, and 13 representations from special interest groups (see **Table 1**).

Table 1 | Special interest groups that made representations

Special Interest Groups	
• Maules Creek Community Council Inc.	• Bylong Valley Protection Alliance
• Maules Creek Country Women’s Association	• People for the Plains,
• Knitting Nannas	• Lock the Gate Alliance
• Armidale Action on CSG	• Wando Conservation and Cultural Centre
• Greens New England, Armidale and Tamworth Group	• Nature Conservation Council
• Great Artesian Basin Protection Group Inc	• Artesian Bore Water Users Association
• Mullaley Gas and Pipeline Accord	

The concerns raised in these representations relate to the lack of detail in the EA in relation to the amount of coal that would be transported, and the potential impacts on road safety from the haulage of coal samples.

Concerns were also raised about the lack of detail in the EA in relation to the location and intensity of the proposed drilling and exploration activities, and the potential impacts of those activities, particularly in relation to biodiversity.

Representations also raised concerns about the changes to the offset conditions. In this regard, the key issues raised are that:

- the proposed revised wording of the offset security condition (that the security should be “*provided by a form of binding agreement acceptable to the Secretary*”) would provide unfettered discretion to the Secretary to decide on the appropriate security mechanism;
- the modification would reduce the mine’s biodiversity offset obligations; and
- Boggabri Coal has not complied with its requirements to secure its biodiversity offsets by December 2014 and to finalise the Leard Forest Mining Precinct Regional Biodiversity Strategy, as required by timeframes under the existing conditions.

In relation to the last point, the Department notes that the Leard Forest Regional Strategy has been approved, following endorsement by the Office of Environment and Heritage and the requirement to secure offsets were extended to tie in with preparation of a revised Biodiversity Offset Strategy and Biodiversity Management Plan, required under the project approval.

The Department’s consideration of the issues is discussed in section 5.

Many of the community representations also requested that the modification should be placed on exhibition due to the impacts associated with the changes, and requested that the application should be referred to the Commission.

The Department considered that the proposed changes are largely administrative in nature or involve minimal environmental impact, and hence did not consider that a formal public exhibition period was warranted. However, given the public interest in the modification, the Department has referred the application to the Independent Planning Commission for determination.



5. Assessment

In assessing the merits of the modification application, the Department has considered the:

- existing conditions of approval;
- previous environmental assessments for the project;
- modification application and supporting information;
- advice from NSW Government agencies;
- public representations received;
- applicable government policies and guidelines; and
- requirements of the EP&A Act.

The Department's assessment of each component of the modification is discussed below.

5.1 Biodiversity Offset Security Mechanisms

Boggabri Coal is required to offset the biodiversity impacts of the development through the implementation of its approved biodiversity offset strategy. In September 2017, the Department approved a revised offset strategy following endorsement of OEH. The offset strategy includes approximately 8,077 ha of land required to meet offset obligations under the project approval. These offsets are managed under Boggabri Coal's approved Biodiversity Management Plan that sets out management and monitoring requirements and performance targets including for the management of weeds, feral animals, erosion, fire, access and restoration of native vegetation.

As outlined above, the project approval requires Boggabri Coal to secure these offsets by entering into a conservation agreement under Section 69B of the *National Parks and Wildlife Act 1974* (NPW Act). That is, only one security mechanism arrangement is currently available to Boggabri Coal to secure its biodiversity offsets.

Since the project was approved the *Biodiversity Conservation Act 2016* (BC Act) has been enacted, which provides a clear legislative and policy framework for securing offsets, through the Biodiversity Offsets Scheme. This includes contemporary mechanisms for securing offsets such as Stewardship Agreements and Conservation Agreements (under the BC Act rather than the NPW Act). In addition, some of the offset areas may be of interest to the National Parks and Wildlife Service (NPWS) for transfer into National Park estate. This option is not currently available to Boggabri Coal under the project approval.

OEH advised that the following mechanisms would be acceptable for securing the offsets for the Boggabri Coal Mine:

- a biodiversity stewardship agreement under the BC Act;
- a conservation agreement under the BC Act; or
- transfer of land to National Parks estate under the *National Parks and Wildlife Act 1974*.

Boggabri Coal is seeking to use these additional mechanisms for securing its offsets, and to extend the date by which the security arrangement must be finalised (to February 2020), to allow time to make suitable arrangements for progressing these alternative security arrangements. OEH agrees that this is a reasonable timeframe to secure the offsets through these additional security options, noting that all biodiversity offset land would continue to be managed for conservation purposes in accordance with the approved Biodiversity Management Plan in the meantime.

Some representations from the community expressed concerns that the modification would remove or reduce Boggabri's offsetting obligations. The Department notes that the requirement to secure the biodiversity offset areas is intended to ensure that the approved offset areas are protected in perpetuity. As outlined above, Boggabri Coal's offsets have been approved and are managed through the implementation of an approved Biodiversity Management Plan. That is, the offsetting obligations do not change as a result of including alternative security mechanisms.

Community representations also raised concerns that the alternative security mechanism used would potentially not provide the same level of statutory protection for the offset area as a conservation agreement. However, the Department and OEH consider that the additional security mechanism options would strengthen the statutory protection of the offsets and are consistent with current NSW legislation and policy.

Consequently, the Department considers that the modification would strengthen the protection of the approved offsets for the project, and has drafted amendments to the condition allowing Boggabri Coal to use one of the abovementioned mechanisms to secure the offsets for the project.

5.2 Coal Stockpile Area

The approved mine layout includes a dedicated stockpile area for handling coal received from the Tarrawonga coal mine (see Figure 2). The area is not currently being used by Tarrawonga which is transporting its coal by truck haulage to its CHPP located near Gunnedah.

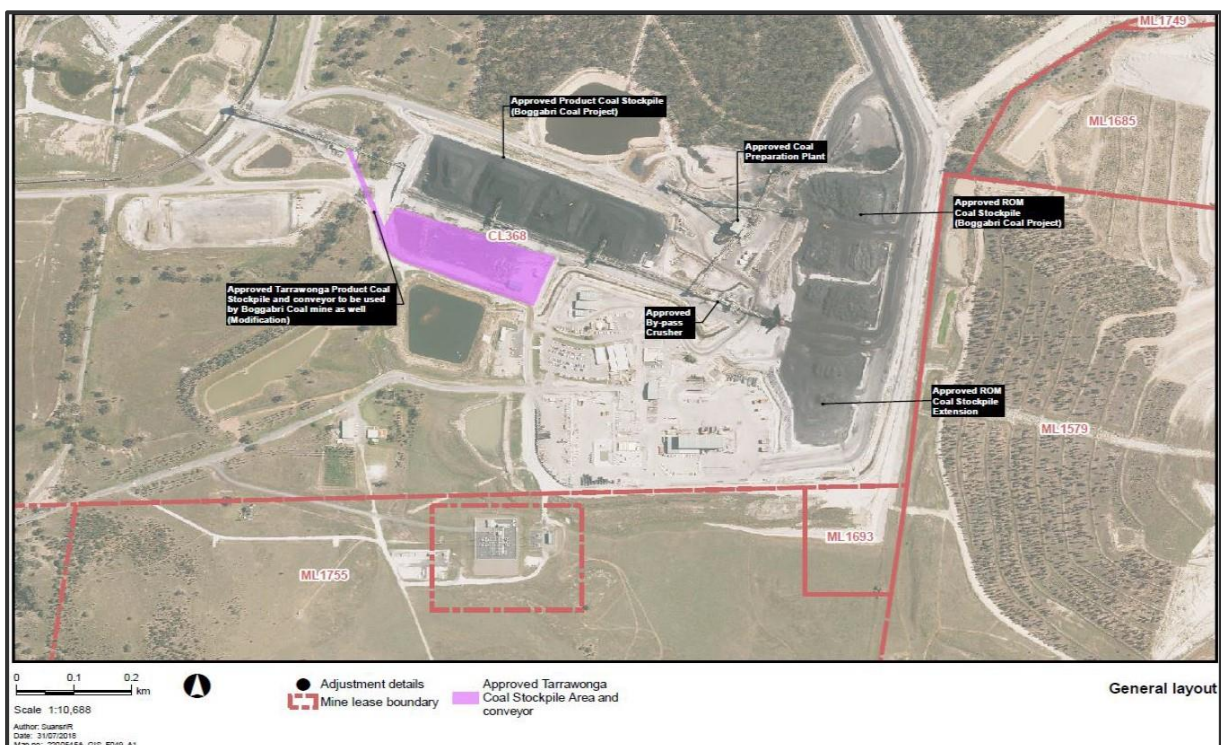


Figure 2: | Tarrawonga Stockpile Location

The impacts associated with the use of the area to stockpile product coal by Boggabri Coal have already been assessed and approved (Boggabri Coal Mod 2), and the infrastructure is partially constructed.

The Department considers that the use of this area to stockpile Boggabri product coal instead of coal from the Tarrawonga Coal Mine would provide additional operational flexibility and efficiency for Boggabri Coal and would not change the approved impacts of the project.

5.3 Drilling and Exploration Activities

Exploration activities such as drilling, sampling and geophysical exploration are required on an ongoing basis throughout the life of a coal mine to support mine planning. These are standard mining activities that are typically implicitly permitted under the project approval. However, as the project description does not expressly identify these activities, Boggabri Coal is seeking to include the activities in the description of works to remove any doubt about undertaking these activities.

The proposed drilling, sampling and geophysical exploration activities would be undertaken within the approved disturbance area, and Boggabri Coal proposes to manage any impacts associated with these activities under the existing environmental management plans.

The Department considers the proposed exploration activities represent standard practices for open cut coal mines and are necessary to inform ongoing mining activities within the approved disturbance area.

The Department also considers that the activities can be managed under the existing conditions of approval and that the modification would not change the environmental impacts of the project.

5.4 Transportation of Coal Samples by Road

Under the existing conditions, product coal must be transported from the mine by rail. Boggabri Coal is seeking to transport small quantities of coal (less than 200 tonnes per year and up to 60 tonnes maximum at any one time) by road for testing and marketing purposes. Similar to exploration activities, it is standard practice for coal mines to test small volumes of product coal to ensure it meets customer specifications.

However, community representations to the Department raised concerns about the additional road traffic that this would generate.

The coal samples would be transported via the mine's private access road and the Kamilaroi Highway (see **Figure 3**). In the context of total traffic on the roads, the transport of coal samples would increase the annual heavy vehicle traffic on the Kamilaroi Highway by approximately 0.008% and the total traffic by approximately 0.01%¹.

The proposed number of vehicles is very small compared to the approved traffic for project. The approved operational traffic volumes as per the Traffic Management Plan for the project comprise around 527 light vehicle trips per day [mostly for staff] and 24 heavy vehicle movements per day for deliveries.

Boggabri Coal would be required to comply with the existing noise and air quality criteria and to manage any impacts from the transportation of coal in accordance with its approved traffic, air quality and noise management plans. The Department has also recommended that the volume of coal to be transported by road for testing and marketing purposes be restricted to 200 tonnes / year, which is the equivalent of less than 10 heavy vehicles per year. Given the very small increases in traffic, the Department considers that the modification would result in negligible impacts on the capacity, efficiency or safety of the approved road network.

¹ Based on data provided by Boggabri Coal from highway traffic count conducted in 2017 by Constructive Solutions.

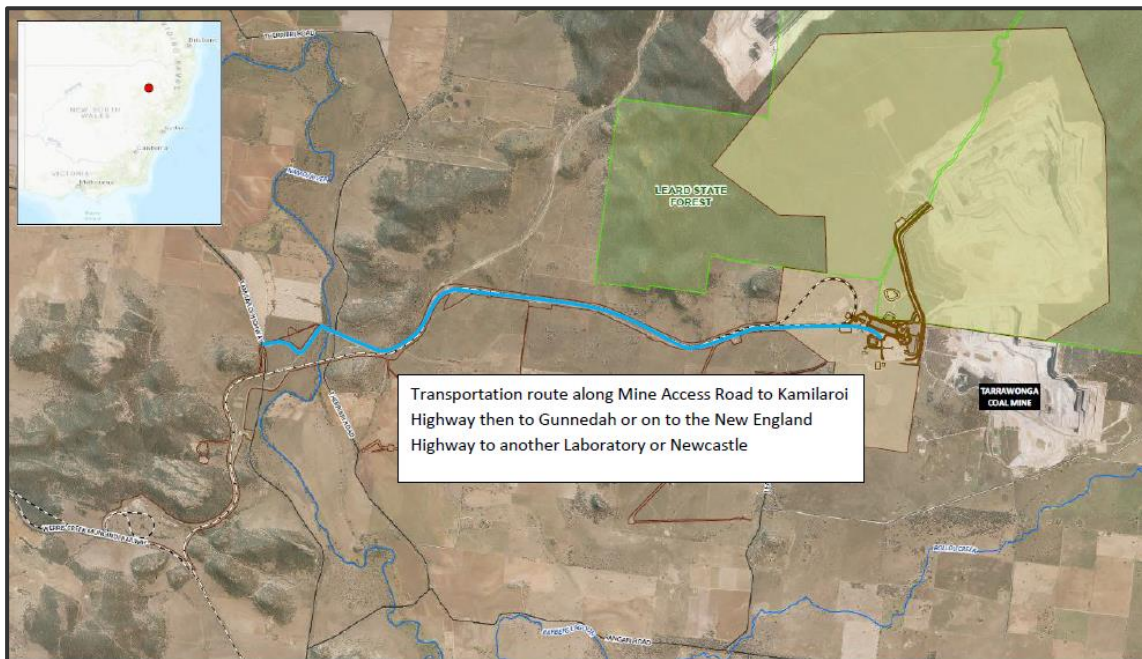


Figure 3: | Transportation route on mine access road for coal samples

5.5 Project Boundary Adjustment

In 2017, the Department approved a modification application submitted by Whitehaven to allow a small open cut extension within an area where the Boggabri and Tarrawonga mines were developing an integrated waste emplacement area between the two mines. As a result, there is an overlap in the area covered by the project approvals for the Boggabri and Tarrawonga coal mines.

Whitehaven must rehabilitate this land under its project approval. However, until recently Boggabri Coal retained the Mining Lease (ML) over this land and consequently the rehabilitation liability. The areas covering ML 1685 and ML 1749 shown in **Figure 4** below have now been transferred to the Tarrawonga coal mine and Whitehaven is responsible for rehabilitation within this area.

The modification request proposes to remove any overlap between the project approvals and ensure clear delineation of the responsibilities for rehabilitation between the two mines, consistent with the ML requirements.

The proposed realignment of the Boggabri coal mine project boundary is an administrative change to ensure clear delineation of responsibility between the two mines and would not result in any changes to the approved impacts.

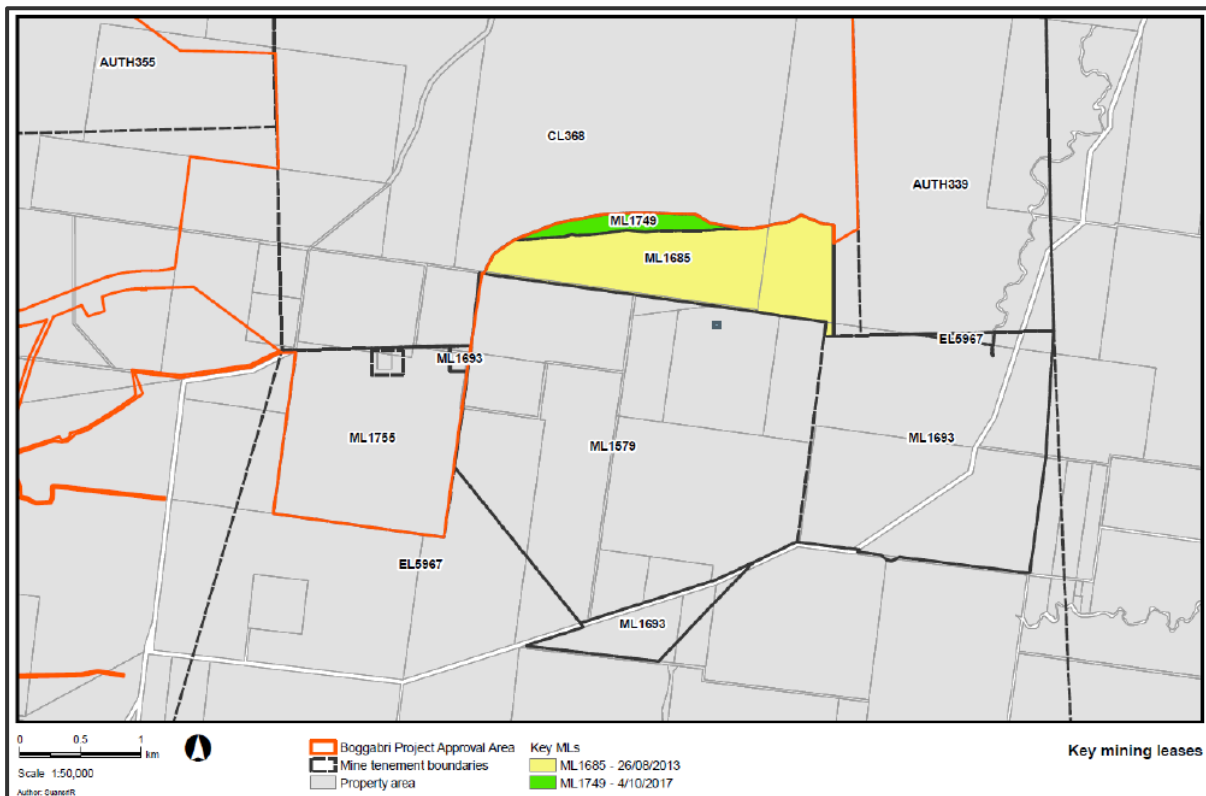


Figure 4: | Project and ML boundaries



6. Evaluation

The Department has assessed the potential environmental impacts of the proposed modification in consultation with relevant Government agencies, including EPA, OEH, and Council. The Department has also considered the issues raised by the community.

The Department's assessment found that the transport of coal samples would involve a very minor increase in traffic, and any additional impacts associated with this traffic would be negligible.

The Department considers that exploration and drilling activities within the approved project disturbance area may be considered part of standard mining operations. Any change to the approved impacts of the project resulting from these activities would be negligible and could be managed under the existing management plans for the mine.

The impacts associated with the use of the coal stockpile have already been assessed and approved, and the Department is satisfied that storing coal from Boggabri coal mine instead of the Tarrawonga coal mine would not change the impacts associated with the use of the stockpile area.

The Department is also satisfied that the realignment of the boundary and the changes to the biodiversity offsets security mechanism are administrative in nature and would not change the impacts of the project. The additional biodiversity security mechanisms strengthen the existing requirements, by including the option to transfer to National Park Estate and aligning with contemporary security options under the BC Act.

The Department considers that the modification would involve a negligible increase the environmental impacts of the project. The Department has prepared a Notice of Modification (see **Appendix C**), as well as a consolidated version of the project approval (see **Appendix D**).

The Notice of Modification includes the following changes:

- references the modification environmental assessment and therefore the additional activities identified in this assessment, including exploration activities and stockpiling of Boggabri product coal on the available and approved area currently reserved for coal from the Tarrawonga Coal Mine;
- allows the transport of up to 200 tonnes of coal a year by road from the site;
- allows Boggabri Coal to secure the biodiversity offsets by:
 - entering a biodiversity stewardship agreement;
 - entering conservation agreements; and/or
 - transferring land to National Park estate.
- updates the definition of the project area and boundary, including figures and tables referencing the project land; and
- administrative changes, including changes to NSW agency names.

Given these findings, the Department considers that the proposed modification is approvable subject to the recommended amendments to the project approval conditions.

This assessment report is hereby presented to the Independent Planning Commission for determination.

Recommended by:

 18/12/18

Stephen O'Donoghue

A/ Director

Resource and Energy Assessments

Recommended by:

 18/12/18

David Kitto

Executive Director

Resource Assessments and Business Systems



Appendices

Appendix A – Environmental Assessment

See the Department's website at

http://www.majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=9655

Appendix B – Agency Advice

See the Department's website at

http://www.majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=9655

Appendix C – Notice of Modification

See the Department's website at

http://www.majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=9655

Appendix D – Consolidated Approval

See the Department's website at

http://www.majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=9655