

BOGGABRI COAL
OPERATIONS
PTY LTD

ABN 76 600 191 455

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Resources Group

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Ref: 05-115-717

14 May 2019

Professor Snow Barlow
Independent Planning Commission
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cc: Stephen.ODonoghue@planning.nsw.gov.au; Matthew.Todd-Jones@ipcn.nsw.gov.au

Dear Sir,

**RE SECTION 75W MODIFICATION 09_0182 MOD 7 TO BOGGABRI COAL MINE - RESPONSE
TO FURTHER REPRESENTATIONS FROM COMMUNITY AND SPECIAL INTEREST GROUPS**

We refer to the comments submitted to the Independent Planning Commission (IPC) and published on its website since the public meeting on Friday, 12 April 2019 (**the Further Submissions**). We provide the following response to some issues raised in those Further Submissions.

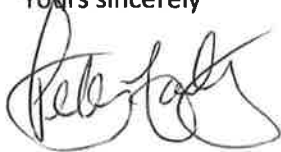
Issue	Boggabri Coal's response
<p><i>Drilling and Exploration</i></p> <p>In recent submissions, concerns were raised in relation to:</p> <ul style="list-style-type: none"> i. level of detail of proposed drilling; ii. level of assessment and impacts of the proposed drilling; iii. whether Mod 7 permits drilling inside the Vegetated Corridor with Maules Creek Coal Mine and/or outside the Project Boundary; iv. whether BCM is permitted to drill within the Project Boundary; v. extent of drilling, including drilling beyond the Merriown seam; vi. consideration of climate change, groundwater and other impacts; and vii. cumulative impacts. 	<p>In our view, many of the concerns raised in relation to these comments stem from a misunderstanding of the legislative framework that applies to Boggabri Coal Mine (BCM) and how drilling and exploration activities are regulated. In that regard, we wish to clarify that:</p> <ol style="list-style-type: none"> 1. Section 73 of the <i>Mining Act 1992</i> states that the holder of a mining lease granted in respect of a mineral (such as CL368) has the right to prospect on land within a mining lease (provided that it is done in accordance with the conditions of the lease). 2. Clause 6 of the <i>State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007</i>, states that "mineral exploration and fossicking" (which is defined as "prospecting pursuant to a ...mining lease...under the Mining Act 1992...") is development that may be carried out without development consent. 3. Therefore, as Boggabri Coal is the holder of a mining lease (CL386) there is no strict requirement for BCM to obtain development consent (i.e. a planning approval) for the drilling and explorations activities (nor to include it in the Project Approval) as prospecting within the area covered by that lease is "development permissible without consent". 4. Accordingly, Coal Lease 368 is the source of BCM's obligations and limitations in undertaking drilling and exploration activities. The amendments sought in Mod 7, being to expressly refer to the drilling and exploration activities will not alter BCM's obligations in that regard. The effect of the modification is one of form (not substance), as it will clarify that the exploration and drilling activities form part of the description of works undertaken at BCM. <p><i>Assessment of drilling and exploration program</i></p> <p>As noted above, BCM's drilling and exploration program is authorised pursuant to CL386, and includes a condition requiring that mining operations are carried out in accordance with a Mine Operation Plan (MOP) that has been approved by the Director-General. All of the required assessment of the drilling and exploration program, including in relation to groundwater and cumulative impact etc has been undertaken and does need to be re-examined as part of the assessment process for Mod 7.</p> <p><i>Location of exploration and drilling</i></p>

	<p>The Further Submissions raised concerns as to the location of the drilling and exploration, including whether it will occur outside the vegetated corridor. For clarity, included at Annexure 1 is a figure that extracts the MOP drilling program area and over lays this against other approval boundaries.</p> <p>As shown in the figure, there is no drilling planned to occur within the vegetated corridor, pursuant to the conditions of the Project Approval.</p> <p>We acknowledge that BCM's commitment "that all drilling and exploration activities in the MOP (and also EA submitted with the Mod 7 application) would be undertaken inside the mine disturbance approval boundary" is not accurately reflected in figure 5.2 of the MOP.</p> <p>We confirm, having regard to the other references in the MOP that exploration and drilling will be limited to areas within the mine disturbance approval boundary. If, in future, Boggabri Coal were to undertake any prospecting activities outside the mine disturbance footprint we would seek to amend our MOP and obtain any further approvals as required.</p> <p><i>Depth of drilling</i></p> <p>As noted above, BCM's obligations in carrying out the drilling program are found in the conditions of CL386, which includes that mining operations must not be carried out otherwise than in accordance with an approved MOP. The current approved MOP contemplates that drilling activities will extend beyond the Merriown seam subject to determination under Part 5 of the <i>Environmental Planning and Assessment Act 1979</i>. The Project Approval as amended by Mod 7 will allow drilling to occur beyond the Merriown seam.</p> <p><i>Rehabilitation of exploration holes</i></p> <p>Holes that are located within the area ahead of mining will be decommissioned in accordance with the Guideline for mineral exploration drilling; drilling and integrity of petroleum exploration and production wells (DRE, 2016); and,</p> <p>Holes that are located outside of the area that has been cleared ahead of mining will be decommissioned in accordance with the Guideline for mineral exploration drilling; drilling and integrity of petroleum exploration and production wells (DRE, 2016) and rehabilitated in accordance with the Exploration Code of Practice: Rehabilitation (DRG, July 2015).</p> <p><i>Allegations made in relation to Aboriginal Impact Assessment and need for EPBC Referral</i></p>
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	These issues are not relevant as Mod 7 does not include any proposal to undertake drilling activities outside the mine disturbance footprint.
<p>Long Term Security of Offsets</p> <p>In the recent further submissions, concerns were raised in relation to:</p> <ul style="list-style-type: none"> i. whether Mod 7 will weaken the existing condition provisions; and ii. the timing of registration from the agreement or transfer of land in relation to Condition 47 	<p>The proposed modification to Condition 47 to permit alternative security mechanisms for the Biodiversity Offsets will not change, alter or diminish Boggabri Coal's offset obligation and there will be no change to the biodiversity impacts of the Project Approval.</p> <p>All biodiversity offset land will continue to be managed for conservation purposes in accordance with the approved <u>Biodiversity Management Plan (BMP)</u> which is an existing requirement of Boggabri Coal's Project Approval.</p> <p>The extension for the registration of the agreement until February 2020 is to align with the EPBC Approval requirement for registration for offset areas. This requirement does not delay or put on hold BCM's existing biodiversity obligations under the Project Approval, which it is continuing to comply with.</p>

We respectfully request that the IPC have regard to the above matters in determining the Modification Application.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Peter Forbes', written in a cursive style.

Peter Forbes
Health Safety and Environment Manger

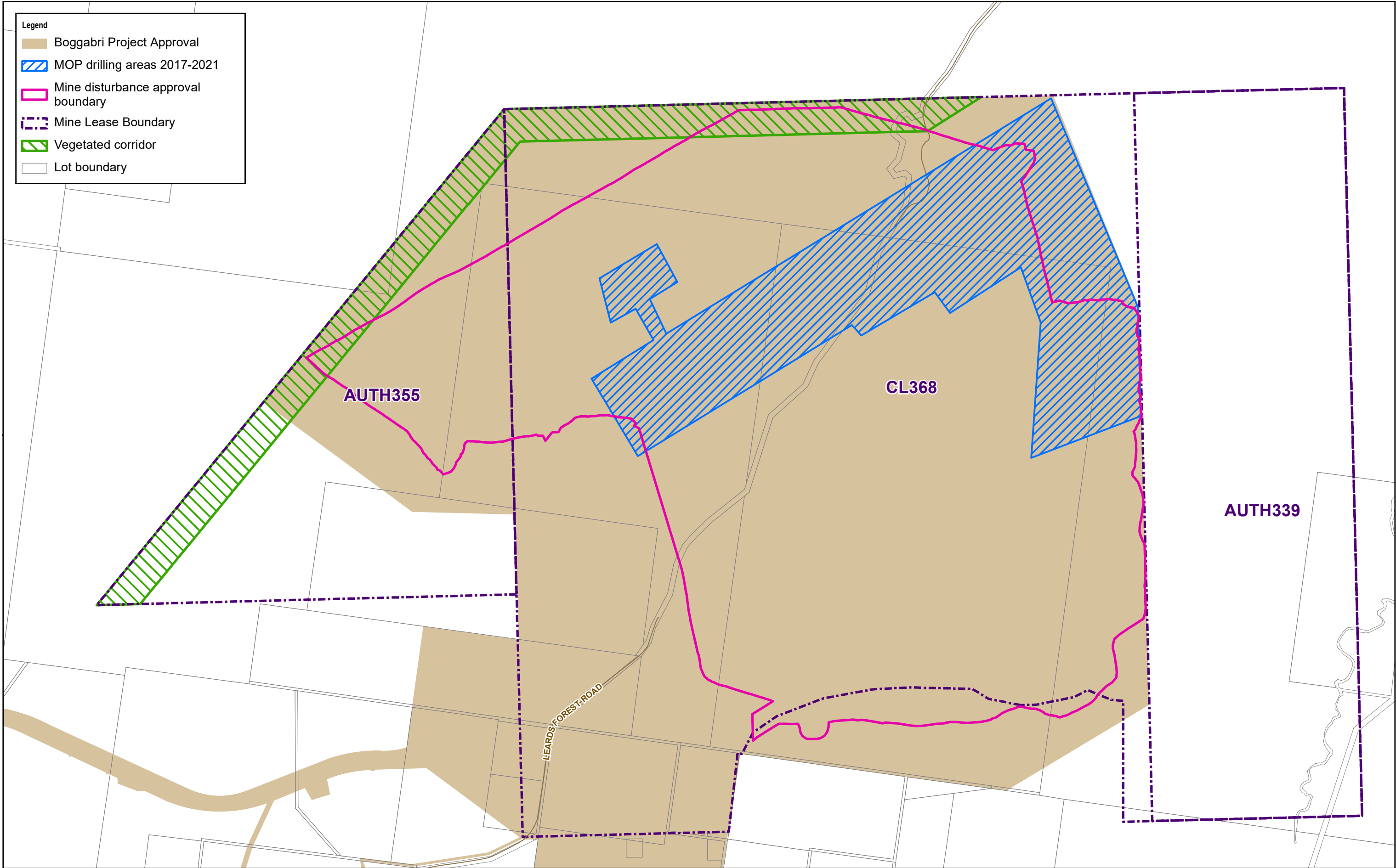
Schedule 1 - Figure for IPC

1
1

1
1

2
2

1



Legend

- Boggabri Project Approval
- MOP drilling areas 2017-2021
- Mine disturbance approval boundary
- Mine Lease Boundary
- Vegetated corridor
- Lot boundary

0 200 400 600 800 m

Scale 1:26,467

Projection: Transverse Mercator
Coordinate System: GDA 1994 MGA Zone 56
Scale correct when printed at A3 Landscape

Imagery:

wsp

IDEMITSU
BOGGABRI COAL

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MINE NAME:	BCOPL_GIS_IPC001_A1
AUTHOR:	suansri
EDITED BY:	SuansriR
DATE:	8/05/2019

PLAN NO. **1**

FIGURE FOR IPC

TITLE: