

[REDACTED]

Attention: Carolyn McNally
Department of Planning and Environment
320 Pitt St
Sydney NSW 2000

By email: carolyn.mcnally@planning.nsw.gov.au

[REDACTED]

Re: Boggabri Coal Mine - Modification 7

Dear Ms McNally,

The [REDACTED]
[REDACTED]
[REDACTED]
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We are writing to raise concerns regarding Boggabri Coal Mine (Mod 7), particularly the process for assessing and determining the modification application, and the proposed changes to the biodiversity offset long term security arrangements. [REDACTED]
[REDACTED] have brought these matters to our attention as they are deeply concerned with the lack of transparency and disregard of the impacts of this modification proposal.

Process for assessing and determining the modification application

We understand that the modification application is being assessed under the former s75W of the *Environmental Planning and Assessment Act 1979* (EPA Act), however the process for assessing and determining the application is unclear and has not been adequately communicated to the public, including opportunities for public consultation.

We do not agree with the characterisation of the proposed modification as 'largely administrative amendments to the Boggabri Project Approval with minimal resulting impacts'¹. The application proposes modifications to five different components of the existing approval, including to conditions of consent. We do not believe the modifications are minor or involve minimal environmental impact. Our specific concerns regarding the proposed changes to the biodiversity offset long term security arrangements are outlined in more detail below.

We support the calls of our members that the modification application should be dealt with under section 4.55 of the EPA Act and that public consultation on the modification application should be required.

¹ [Boggabri Mine Project Approval 09_0182, Environmental Assessment Modification 7](#), August 2018, p 7

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Proposed changes to the biodiversity offset long term security arrangements

We do not support the proposed changes to the biodiversity offset long term security arrangements outlined in the Environmental Assessment for Modification 7, and make the following comments:

- The Boggabri Coal Project approval is underpinned by the original biodiversity assessment, and conditions relating to biodiversity offsets. To amend the conditions without a robust assessment of the impacts on biodiversity is irresponsible and would undermine the original environmental assessment.
- The proponent indicates that it is seeking this particular modification in order to rely on alternative mechanisms for securing offsets that are now available. This is essentially retrospective application of current offsetting mechanisms. We have significant concerns with the biodiversity offsetting scheme introduced under the *Biodiversity Conservation Act 2016*, and have been vocal in our opposition of the scheme due to its failure to require best-practice offsetting².
- Substantial work has been done developing the Biodiversity Offset Strategy consistent with requirements under the Boggabri Project Approval, including consultation with the Community Consultative Committee. This modification proposal, which we understand was not discussed with the CCC prior to the modification application being lodged, undermines this work.
- The Environmental Assessment for Modification 7 lacks sufficient detail about the alternative mechanisms that the proponent will rely on to secure its offsets. We do not consider there to be sufficient information explaining why this change is needed (e.g. why is the proponent unable to enter into a conservation agreement or agreements pursuant to section 69B of the *National Parks and Wildlife Act 1974*) or to allow a proper assessment of the adequacy of the alternative mechanisms. This is particularly concerning given that the Planning Assessment Commission specifically amended the relevant condition (Condition 47) in order to provide greater specificity concerning mechanisms for ensuring long term security of offsets³.
- There are also concerns with how this proposed modification will impact on the work done on the Leard Mine Precinct Regional Biodiversity Strategy, as well as broader concerns regarding the poor community engagement in developing, and delay in finalising, that strategy.

This modification application is of significant concern to the local community who are also impacted by a number of other mines in the region, including Maules Creek, Vickery and Tarrawonga mine.

² See for example, Nature Conservation Council of NSW, [*Paradise Lost - The weakening and widening of NSW biodiversity offsetting schemes, 2005-2016*](#), 2017

³ [*Planning Assessment Commission Determination Report for the Boggabri Coal Mine Expansion Project Narrabri Local Government Area*](#), 18 July 2012, p 5

We urge you to consider the options available to you for ensuring this application is assessed through a rigorous and transparent process, with ample opportunity for public engagement, including the assessment of this application under section 4.55 of the EPA Act,.

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