

MCCC Submission to IPC re Boggabri Coal Mod 7

Thank you commissioners for extending the exhibition period and attending this hearing with the public in Boggabri today. It is important that the inherent conflict of interest that the Dept of Planning as regulator and consent authority is broken down every time it is contemplated.

Having said this, we would note that the Departments recommendations in a Draft Consolidated Consent Conditions (highlighted in purple) have been conveniently placed on the IPC's website in anticipation of a speedy approval. We hope that the legitimate arguments put forward at this meeting will be incorporated into your deliberations.

You may be interested why there is interest in the so called 'administrative change' claimed by the Dept of Planning. Particularly at Maules Creek. Well the Dept claimed a modification for the Maules Creek mine to be an administrative change and approved a modification that allows the Maules Creek coal mine to keep its Water Management Plan secret. This is an outrage. Water was identified in the very early planning stages (even as early as the 1980's) as a major issue and water has always been an issue in parts of Maules Creek, particularly in drought. It is clear to us at least, that the mine is drawing down much more water than was modelled. Now we have a case where the mine is finger pointing, saying the drought is the reason for the loss of water even though we have had plenty of droughts before in living memory which have had nowhere near the damage.

We have learnt from bitter experience that the Dept of Planning is not to be trusted.

Mod 7 is described as an administrative change to the existing mine approval as a means to extend Boggabri coals infrastructure to work with Tarrawonga, to make more efficient use of the coal handling infrastructure at Boggabri Coal.

This may be true, but as it is currently framed it is quite possible that Mod 7 could facilitate the mining of the Biodiversity corridor between itself and the Maules Creek coal mine. In its original statement of commitments the company said;

Ref	Commitment	Section
23.	Boggabri Coal will maintain a natural vegetation corridor link between its operations and the Maules Creek Coal Project until further assessments are undertaken, relevant approvals are received and appropriate offset measures are put in place.	Section 2.1.1 of the Residual Matters Report

The consolidated consent conditions following Mod 6 say;

7. The Proponent shall not clear native vegetation from any land within 250 metres of the adjoining Maules Creek Coal Mine mining lease boundary, except with the approval of the Director-General, following endorsement of OEH.

Notes: The purpose of this condition is to ensure that a 500 metre wide native vegetation corridor is maintained between the open cut pits of the project and the adjoining Maules Creek Project, if it is approved. However, alignment of this corridor directly along the lease boundaries may not be its most efficient location, from either an environmental or economic perspective. Consequently, with the endorsement of OEH, the Director-General may approve substitution of an alternative native vegetation corridor of at least 500 metres width and equivalent or better ecosystem value, within the general vicinity of the lease boundary. See also condition 51 of Schedule 3.

Without drill hole locations, Mod 7 could allow the company to explore in the Native Vegetation Corridor while delaying or making changes to offsets measures. Once this is done, all that is left is for OEH to endorse the companies offset changes and the Secretary to approve the newly proposed corridor behind closed doors at a time unknown to the community.

Like Boggabri coal, the Maules Creek Community Council do not believe that exploration of the Native Vegetation Corridor is expressly permitted under the existing state or federal consent conditions. The EPBC approval says;

3. The person taking the action must submit a Biodiversity Corridor Plan for the approval of the **Minister** within three months of the date of this approval. The plan must address the following matters:
 - a. protection of native vegetation of a total width of 500 metres (m) where the Boggabri coal mine lease boundary is adjacent to the Maules Creek coal mine lease boundary;
 - b. maintenance in perpetuity of this area as a **biodiversity corridor**; and
 - c. evidence that the **biodiversity corridor** will be protected in perpetuity through a legal mechanism that would provide the equivalent protection of a conservation covenant.

The approved Biodiversity Corridor Plan must be implemented.

We do not believe that Mod 7 respects the original intent to maintain the area in perpetuity as per the Native Vegetation/Biodiversity Corridor in Condition 3 of the EPBC approval and we would strongly oppose any changes that could be used to impact on the existing Native Vegetation Corridor.

For this reason we recommend that any drilling program to explore should be limited to areas in the project area outside the existing 250 meter Native Vegetation Corridor between the Maules Creek and Boggabri mines.

Furthermore the current consent is framed so that the “proponent shall carry out the project so that it is generally in accordance with the EA”. Page 24 of the EA specifically states that the company will mine down to the Merriown seam. A exploration program of drilling that goes below the Merriown seam potentially to 400m would also in our view be outside the scope of the EA and existing consent conditions and would not be considered an administrative change in our view.

This is an example of the creeping approvals process employed by mining and the Dept to get around the intent of the original approval conditions in order to increase mining intensity and duration. Cumulatively it has the the effect of industrialising the landscape further impacting the local community. The original approvals of Boggabri coal, Maules Creek coal and Tarrawonga coal have had a total of 17 modifications applications since the original consents were made from 2012.

Rather than operational or administrative efficiencies, some modifications appear to be designed purely to get around the conditions imposed in the original consent because they are inconvenient or costly. Mod 4 from Maules Creek coal to reduce sound power requirements comes to mind and from the communities perspective is an expensive, time wasting, abuse of the process.

Indeed Mod 7 will generate 22 more train movements through Boggabri and more noise, over a longer duration for those residents. We would argue that this is not an administrative change and should never have been characterised as such.

That the Dept thinks that this is so speaks volumes about a culture that appears to have arisen out of the 1994 document “Land Use Conflict on Coal Resources” by Mullard et al.

The Mullard Report advocated for action to minimise the threat to coal mining from urban areas, water storages, conservation areas and prime agricultural land. Rather than adopt an integrated planning approach, such as the Cumulative Risk Assessment Tool by the former Namoi CMA that works with existing land uses, the Report has become a blueprint for land use conflict and the Planning process has been the enabler of this conflict.

Together with the framework of flexible environmental management plans, the 17 Modifications represent a platform of shifting sands that severely challenges the communities understanding of the original project concepts and the so called ‘strict conditions’ on which they are given their start in the district.

Unfortunately there is no such planning modification process to reduce the impacts on the community or the environment when lived experience or new information comes to light. It is all one way traffic, and as such, the modification process is inherently unfair.

It also rankles when the original conditions have not been implemented in a timely manner post approval and then modifications are sought. A clear example before us is the Biodiversity Offset condition imposed on Boggabri coal. Rather than implement the condition straight away it can be more expedient to game the system by delaying, ignoring or changing the consent definitions while lobbying government to change or introduce new legislation and regulations in the background such as the Biodiversity conservation Act 2016 to gain financial advantage down the track.

We believe that there should be a clear transactional cost for not implementing conditions or seeking modifications so that companies think carefully when seeking such changes.

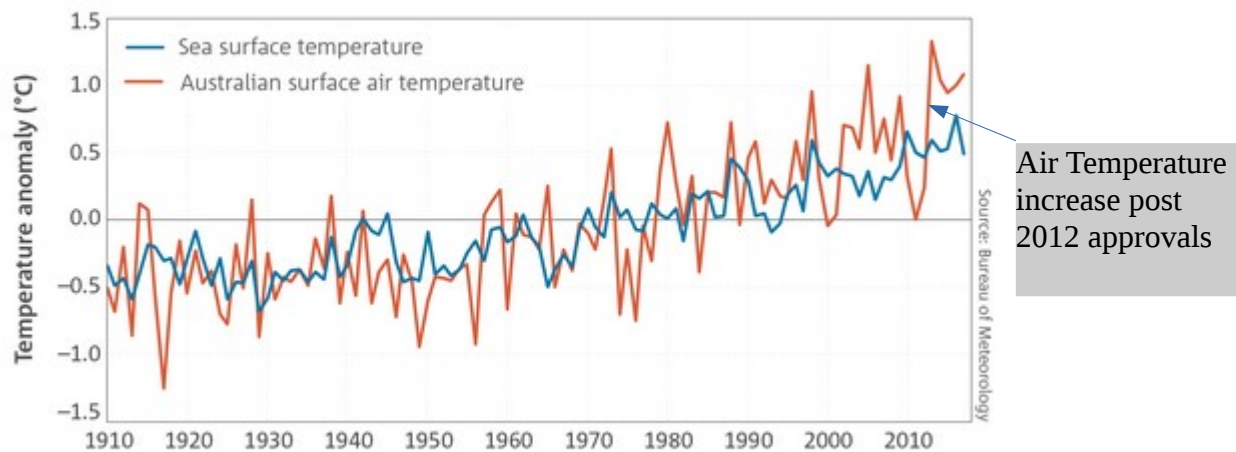
For example recent consent conditions at Wallarah 2 have shifted the burden of proof for compensatory water loss onto the miners rather than the community. This makes sense because unlike the community the mining companies have the resources, access to baseline studies, water monitoring bores, expert hydrologists and Dept of Planning specialists.

Other obvious conditions that should be part of the tariff for seeking modifications should include the backfilling of final voids, requiring water meters with telemetry to monitor all ground and surface water take, and the installation of surveillance cameras to monitor blast gases and air quality. Its time that such conditions are included as a deliberate path to upgrade consent conditions on behalf of the community when modifications are sought.

In this instance we would recommend that as a result of this modification that the Tarrawonga Coal mine backfill its mine pit like Boggabri Coal so that no final void remains at the end of the mine life.

We also recommend that based on our communities lived experience that both companies be required to install water meters with telemetry on all water sources and surveillance cameras to monitor mine blasts. This data should be available in real time, online, for the community.

In addition new information which has come to light as mining operations have progressed should be factored in.



For example since 2012 when these mines were re-approved, extreme weather conditions due to climate change have become of increasing concern. Furthermore, groundwater drawdown, potentially due to higher temperatures, more evaporation and less runoff, is affecting everyone in this district.

We think on balance the climate risks are being exasperated by the operations of both coal mining companies and both should offset the scope 3 emissions from their product coal.

It is arguable that a company like Boggabri Coal which is part of the vertically integrated group, Idemitsu is partially responsible for scope 3 emissions from the generation of power within the group and therefore should be directly accountable. The Tarrawonga mine's parent, Whitehaven coal, also partners with other end users in joint ventures and it should also be accountable for its scope 3 emissions.

Thank you for your attention.