

Notice of Modification

Section 75W of the *Environmental Planning and Assessment Act 1979*

As delegate of the Minister for Planning, the Planning Assessment Commission approves the modification of the project approval referred to in Schedule 1, as set out in Schedule 2.

Member of the Commission	Member of the Commission	Member of the Commission
Sydney	2014	

SCHEDULE 1

The project approval for Stage 1 of the Moolarben Coal Project (05_0117), granted by the Minister for Planning on 6 September 2007.

SCHEDULE 2

1) In the page footer, delete references to “Infrastructure”, and replace with “Environment”.

2) In the list of Definitions, insert the following in alphabetical order:

EA (MOD 3)	Environmental assessment titled Moolarben Coal Project Stage 2 Environmental Assessment Report (6 volumes), dated March 2009 as modified by the preferred project report, dated January 2012; the response to submissions dated June 2012; the residual matters report dated August 2012; and the following supplementary information: • Groundwater Accounting and Water Sharing Plan prepared by RPS Aquaterra Pty Ltd and dated 13 June 2012; • Surface water information prepared by Worley Parsons Services Pty Ltd and dated 28 September 2012, 15 October 2012 and 9 November 2012; • Biodiversity Offset Strategy prepared by Cumberland Ecology Pty Ltd and dated December 2012; • Water Licensing Report – Wollar Creek Water Source prepared by Dundon Consulting Pty Ltd and dated 11 June 13.
Moolarben mine complex	The combined operations of the Moolarben Stage 1 and Stage 2 mines
Moolarben Stage 1 mine	The approved mining operations and associated development within the area marked in blue on the figures in Appendix 2
Moolarben Stage 1 mine surface infrastructure area	The approved surface infrastructure area, including the coal handling and preparation plant and the rail loop, as shown on the figures in Appendix 2
Moolarben Stage 2 mine	The approved mining operations and associated development within the area marked in red on the figures in Appendix 2

3) In conditions 7 and 8 of Schedule 2, conditions 1, 2, 17, 18, 19 of Schedule 3 and condition 6 of Schedule 5, delete all references to “project” and replace with:

- a) “Moolarben mine complex” for each reference where first appearing in any such condition; and
- b) “complex” for all subsequent references in any such condition.

4) Delete conditions 2(j) and (k) of Schedule 2, and insert the following:

- (j) EA (MOD 3);
- (k) statement of commitments; and
- (l) conditions of this approval.

5) Delete condition 5 of Schedule 2, except for the note, and insert the following:

5. The Proponent may carry out mining operations on the site until 31 December 2038.

6) Delete condition 7 of Schedule 2, and insert the following:

7. The Proponent shall not process more than 17 million tonnes of coal from the Moolarben mine complex in any calendar year.

7) Delete condition 13 of Schedule 2, and insert the following

13. With the approval of the Secretary, the Proponent may:

- (a) submit any strategy, plan or program required by this approval on a progressive basis; and
- (b) combine any strategy, plan, program, review, audit or report required by this approval with any similar strategy, plan, program, review, audit or report required under Project Approval 08_0135 for the Moolarben Coal Project Stage 2.

8) In condition 2 of Schedule 3, insert "(and a dwelling could be built on that land under existing planning controls)," after "any privately-owned land".

9) Delete Table 2, and place with the following:

Table 2: Land acquisition criteria

Day/Evening/Night <i>L_{Aeq}(15min)</i>	Receiver
55/50/45	All private land owners

10) Delete conditions 3 and 4 of Schedule 3.

11) In condition 5 of Schedule 3, delete "35" after "LAeq (15 min)" and replace with "37".

12) Delete the second row of Table 2 and replace with:

30

13) Insert "and be submitted to the Secretary for approval by 31 January 2015" after the following:

- a) "EPA" in conditions 7(a), 15(a) and 20(A)(a) of Schedule 3;
- b) "Secretary" in condition 33(a);
- c) "OEHL" in condition 36(a); and
- d) "values" in condition 39(b).

14) In condition 8 of Schedule 3, delete "site", and replace with "the Moolarben mine complex".

15) In condition 10 of Schedule 3:

- a) delete "any 12 month period.", and insert "a calendar year."; and
- b) insert "at the Moolarben mine complex." after paragraph (b).

16) In condition 19 of Schedule 3, insert the words "or on more than 25% of any privately-owned land (and a dwelling could be built on that land under existing planning controls)," after the words "on privately owned land."

17) In condition 19 of Schedule 3, delete the second row and fourth column of Table 9.

18) In Table 9 of Schedule 3, delete superscript "a" in the heading "Criterion".

19) In the Notes to Tables 8-10 in condition 19 of Schedule 3, delete note e.

20) Delete conditions 26 to 28 of Schedule 3.

21) Delete condition 29 of Schedule 3, and insert instead the following:

The Proponent shall ensure that:

- (a) it has sufficient water for all stages of the project, and if necessary, adjust the scale of operations on site to match its available water supply; and
- (b) any water supply constraints do not compromise any aspect of the environmental performance of the mine.

Note: Under the Water Act 1912 and/or the Water Management Act 2000, the Proponent is required to obtain the necessary water licences for the project.

22) In Table 11, insert the following row after the row “Mine water storages”:

Tailings, acid forming and potentially acid forming materials	• In-pit emplacement, encapsulation or capping to prevent the migration of pollutants beyond the pit shell
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23) After condition 33(a) of Schedule 3, insert the following:

- (a1) include reference to the National Water Quality Management Strategy;
- (a2) include detailed performance criteria and describe measures to ensure that the Proponent complies with the Water Management Performance Measures (see Table 11);

24) In condition 34 of Schedule 3, insert “for the project” after “biodiversity offset strategy”.

25) In condition 35 of Schedule 3, delete all words after “Table 12” and replace with “in perpetuity, in consultation with OEH and to the satisfaction of the Secretary.”

26) In condition 35 of Schedule 3, delete the note, and insert instead the following:

Note: The preferred mechanisms for the provision of long-term conservation security are via Biobanking Arrangements and additions to the OEH Estate.

27) In condition 36(b) of Schedule 3, delete the words “, including disturbance, on the area located between Open Cut 1 and Open Cut 2” and insert instead “of the project”.

28) In condition 53(b) of Schedule 3, after the words “Mineral Resources;” insert “for approval prior to the commencement of any development on site under this approval, unless the Secretary agrees otherwise;”.

29) Delete conditions 70 to 72 of Schedule 3, and insert the following:

SUBSIDENCE

Performance Measures – Natural and Heritage Features

70. The Proponent shall ensure that the project does not cause any exceedances of the performance measures in Table 14, to the satisfaction of the Secretary.

Table 14: Subsidence Impact Performance Measures

Water Resources	
The Drip, Goulburn River and the bed of the Goulburn River	Negligible impact or environmental consequences
Land	
Cliff Line 3	No greater subsidence impact or environmental consequences than predicted in the EA
Heritage Sites	
Aboriginal heritage sites 264, 280, 282, 283, 286 and 287	No greater subsidence impact or environmental consequences than predicted in the EA
Historic heritage sites	No greater subsidence impact or environmental consequences than predicted in the EA
Mine workings	
First workings under an approved Extraction Plan beneath any feature where performance measures in this table require negligible impact, negligible consequence or negligible loss	To remain long-term stable and non-subsiding.
Second workings	To be carried out only within the longwall mining domains, in accordance with an approved Extraction Plan.

Notes:

- The locations of the features referred to in Table 14 are shown in Appendix 7.
- The Proponent will be required to define more detailed performance indicators (including impact assessment criteria) for each of these performance measures in the various management plans that are required under this approval.
- Measurement and/or monitoring of compliance with performance measures and performance indicators is to be undertaken using generally accepted methods that are appropriate to the environment and circumstances in which the feature or characteristic is located. These methods are to be fully described in the relevant management plans. In the event of a dispute over the appropriateness of proposed methods, the Secretary will be the final arbiter.
- The requirements of this condition only apply to the impacts and consequences of mining operations, construction or demolition undertaken following the date of this approval.

Offsets

71. If the Proponent exceeds the performance measures in Table 14 and the Secretary determines that:
- it is not reasonable or feasible to remediate the impact or environmental consequence; or
 - remediation measures implemented by the Proponent have failed to satisfactorily remediate the impact or environmental consequence;
- then the Proponent shall provide a suitable offset to compensate for the impact or environmental consequence, to the satisfaction of the Secretary.

Note: Any offset required under this condition must be proportionate with the significance of the impact or environmental consequence.

Performance Measures – Built Features

72. The Proponent shall ensure that the project does not cause any exceedances of the performance measures in Table 15, to the satisfaction of the Secretary.

Table 15: Subsidence Impact Performance Measures – Built Features

Key public infrastructure:	
Gulgong-Sandy Hollow Railway Line	Always safe and serviceable.
Wollar-Wellington 330kV Transmission Line	Damage that does not affect safety or serviceability must be fully repairable, and must be fully repaired.
Other infrastructure:	

Roads	Safe, serviceable and repairable unless the owner agrees otherwise in writing
Other built features and improvements, including fences	Serviceability should be maintained wherever practicable. Loss of serviceability must be fully compensated. Damage must be fully repairable, and must be fully repaired or else replaced or fully compensated.
Public Safety	
Public safety	Negligible additional risk

Notes:

- The locations of the features referred to in Table 15 are shown in Appendix 7.
- The Proponent will be required to define more detailed performance indicators for each of these performance measures in Built Features Management Plans or Public Safety Management Plan (see condition 74 below).
- Measurement and/or monitoring of compliance with performance measures and performance indicators is to be undertaken using generally accepted methods that are appropriate to the environment and circumstances in which the feature or characteristic is located. These methods are to be fully described in the relevant management plans. In the event of a dispute over the appropriateness of proposed methods, the Secretary will be the final arbiter.
- The requirements of this condition only apply to the impacts and consequences of mining operations undertaken following the date of this approval.
- Requirements under this condition may be met by measures undertaken in accordance with the Mine Subsidence Compensation Act 1961.
- Requirements regarding safety or serviceability do not prevent preventative or mitigatory actions being taken prior to or during mining in order to achieve or maintain these outcomes.

73. Any dispute between the Proponent and the owner of any built feature over the interpretation, application or implementation of the performance measures in Table 15 is to be settled by the Secretary, following consultation with the Executive Director Mineral Resources. Any decision by the Secretary shall be final and not subject to further dispute resolution under this approval.

Extraction Plan

74. The Proponent shall prepare and implement an Extraction Plan for all second workings on site to the satisfaction of the Secretary. Each extraction plan must:
- be prepared by suitably qualified and experienced persons whose appointment has been endorsed by the Secretary;
 - be approved by the Secretary before the Proponent carries out any of the second workings covered by the plan;
 - include detailed plans of existing and proposed first and second workings and any associated surface development;
 - include detailed performance indicators for each of the performance measures in Tables 14 and 15;
 - provide revised predictions of the potential subsidence effects, subsidence impacts and environmental consequences of the proposed second workings, incorporating any relevant information obtained since this approval;
 - describe the measures that would be implemented to ensure compliance with the performance measures in Tables 14 and 15, and manage or remediate any impacts and/or environmental consequences;
 - include a Built Features Management Plan, which has been prepared in consultation with DRE and the owners of affected public infrastructure, to manage the potential subsidence impacts and/or environmental consequences of the proposed second workings, and which:
 - addresses in appropriate detail all items of key public infrastructure and other public infrastructure and all classes of other built features;
 - has been prepared following appropriate consultation with the owner/s of potentially affected feature/s;
 - recommends appropriate remedial measures and includes commitments to mitigate, repair, replace or compensate all predicted impacts on potentially affected built features in a timely manner; and
 - in the case of all key public infrastructure, and other public infrastructure except roads, trails and associated structures, reports external auditing for compliance with ISO 31000 (or alternative standard agreed with the infrastructure owner) and provides for annual auditing of compliance and effectiveness during extraction of longwalls which may impact the infrastructure;

- (h) include a Water Management Plan, which has been prepared in consultation with EPA and NOW, which provides for the management of the potential impacts and/or environmental consequences of the proposed second workings on watercourses and aquifers, including:
 - surface and groundwater impact assessment criteria, including trigger levels for investigating any potentially adverse impacts on water resources or water quality;
 - a program to monitor and report stream flows, assess any changes resulting from subsidence impacts and remediate and improve stream stability;
 - a program to monitor and report groundwater inflows to underground workings;
 - a program to predict, manage and monitor impacts on groundwater bores on privately-owned land; and
- (i) include a Biodiversity Management Plan, which has been prepared in consultation with OEH, which provides for the management of the potential impacts and/or environmental consequences of the proposed second workings on aquatic and terrestrial flora and fauna, with a specific focus on threatened species, populations and their habitats; endangered ecological communities; and water dependent ecosystems;
- (j) include a Land Management Plan, which has been prepared in consultation with any affected public authorities, to manage the potential impacts and/or environmental consequences of the proposed second workings on land in general;
- (k) include a Heritage Management Plan, which has been prepared in consultation with OEH and relevant stakeholders for both Aboriginal and historic heritage, to manage the potential environmental consequences of the proposed second workings on both Aboriginal and non-Aboriginal heritage items, and reflects all requirements under conditions 38-39 of schedule 3;
- (l) include a Public Safety Management Plan, which has been prepared in consultation with DRE, to ensure public safety in the mining area;
- (m) include a Subsidence Monitoring Program, which has been prepared in consultation with DRE, to:
 - describe the on-going subsidence monitoring program;
 - provide data to assist with the management of the risks associated with subsidence;
 - validate the subsidence predictions;
 - analyse the relationship between the predicted and resulting subsidence effects and predicted and resulting impacts under the plan and any ensuing environmental consequences; and
 - inform the contingency plan and adaptive management process;
- (n) include a contingency plan that expressly provides for adaptive management where monitoring indicates that there has been an exceedance of any performance measure in Tables 14 and 15, or where any such exceedance appears likely;
- (o) proposes appropriate revisions to the Rehabilitation Management Plan required under condition 68 of Schedule 3; and
- (p) include a program to collect sufficient baseline data for future Extraction Plans.

Note: To identify the longwall mining domains referred to in this condition, see Appendix 2.

- 75. The Proponent shall ensure that the management plans required under conditions 74(g)-(l) above include:
 - (a) an assessment of the potential environmental consequences of the Extraction Plan, incorporating any relevant information that has been obtained since this approval; and
 - (b) a detailed description of the measures that would be implemented to remediate predicted impacts.

First Workings

- 76. The Proponent may carry out first workings on site other than in accordance with an approved Extraction Plan, provided that DRE is satisfied that the first workings are designed to remain long-term stable and non-subsiding, except insofar as they may be impacted by approved second workings.

Payment of Reasonable Costs

- 77. The Proponent shall pay all reasonable costs incurred by the department to engage suitably qualified, experienced and independent experts to review the adequacy of any aspect of an Extraction Plan.

Gas Drainage

- 78. The Proponent shall implement all reasonable and feasible measures to minimise the greenhouse gas emissions from the underground mining operations to the satisfaction of the Secretary.

30) In condition 1 of Schedule 4, delete “August”, and replace with “December”.

31) In condition 1(a) of Schedule 4, delete the first dot point and insert instead the following:

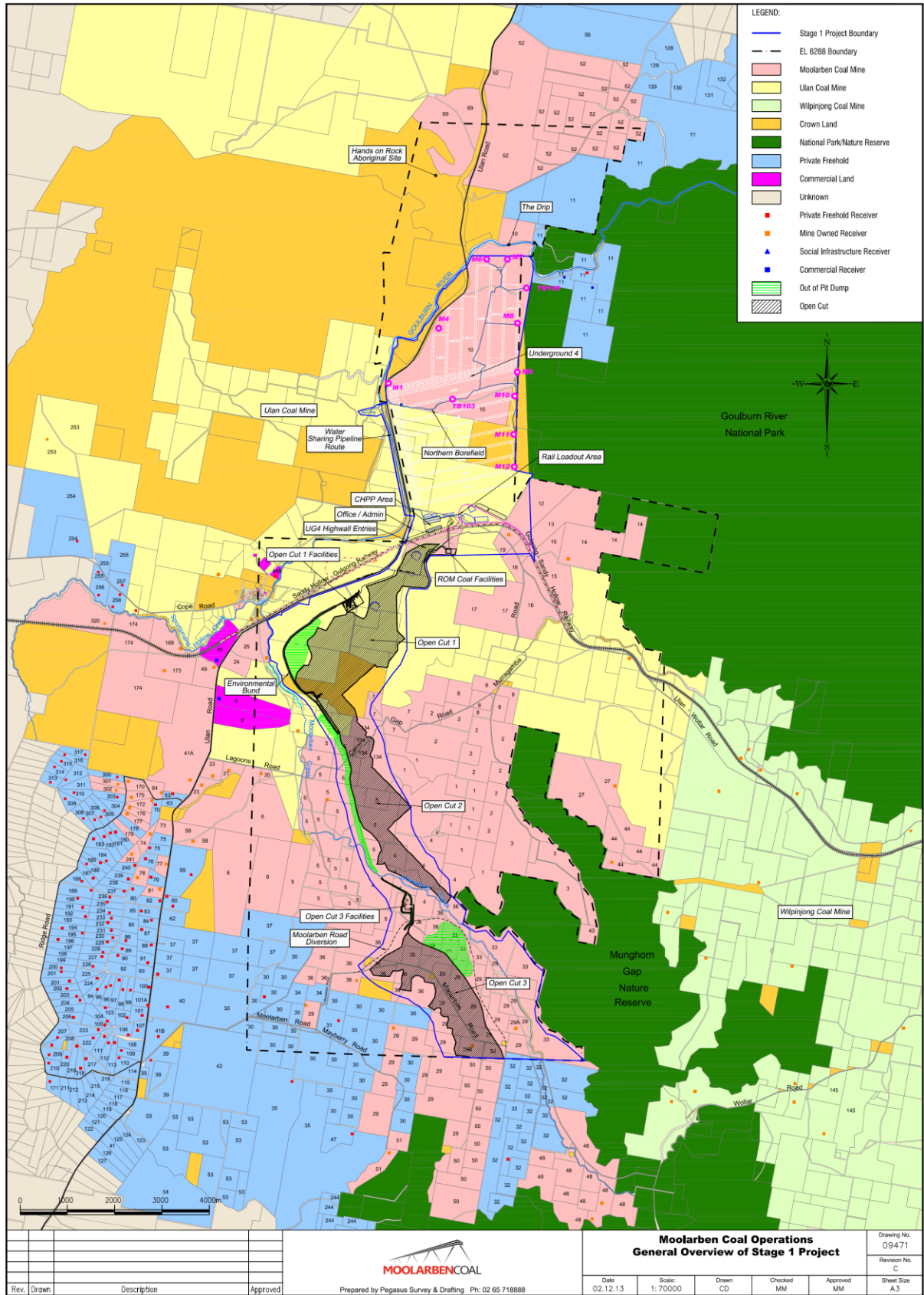
- any residence exceeding the criteria in Table 2 of Schedule 3 that they have the right to require the Proponent to acquire their land at any stage during the project;
- any residence on the land listed in Table 3 of Schedule 3 that they have the right to request the Proponent to ask for additional noise mitigation measures to be installed at their residence at any stage during the project; and

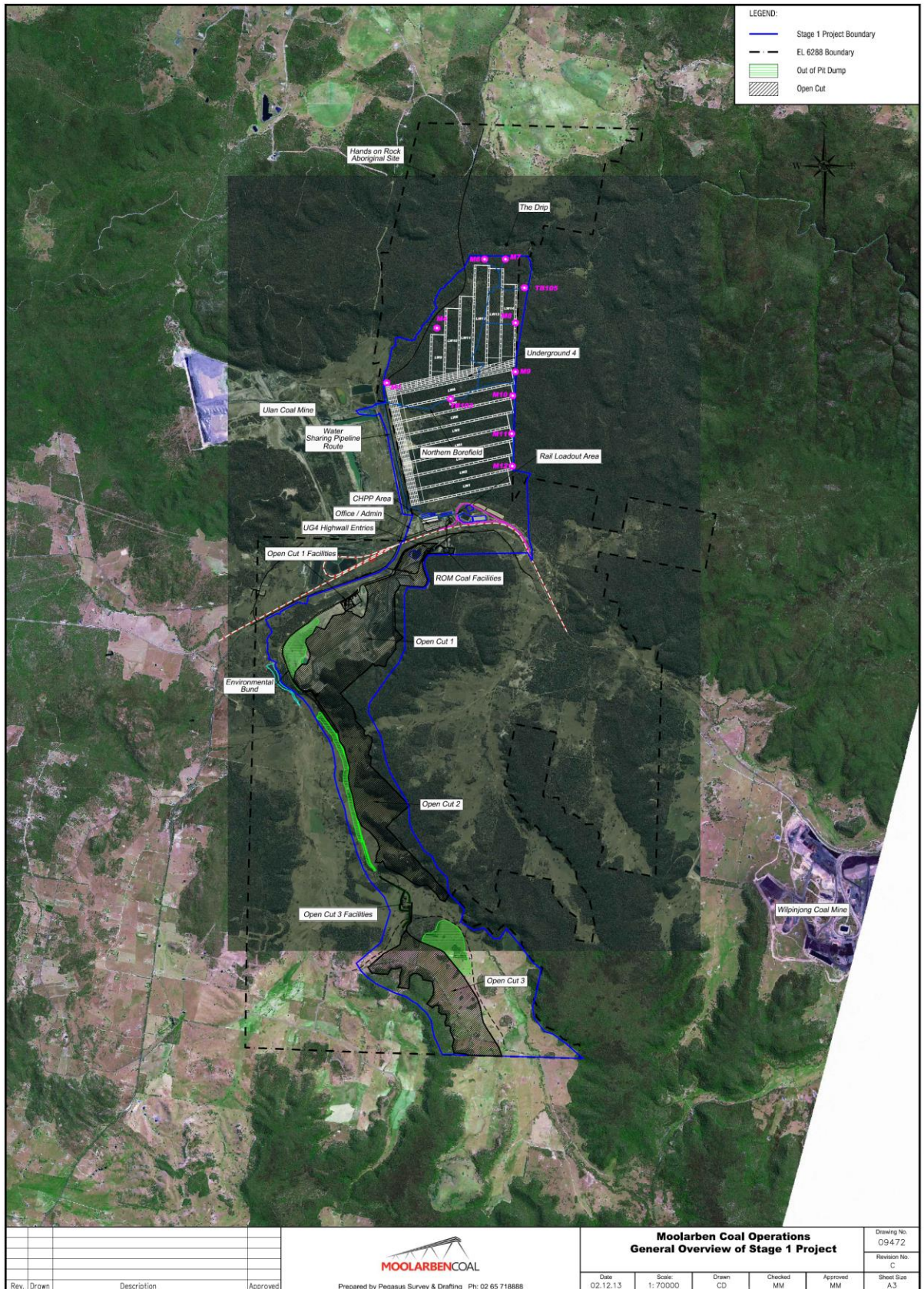
32) In Schedule 4:

- (a) delete conditions 5 to 9; and
- (b) in condition 10(a), delete “condition 1” and insert instead “condition 5”.

33) Delete Appendix 2, and insert the following:

APPENDIX 2: GENERAL LAYOUT OF PROJECT





Rev	Drawn	Description	Approved

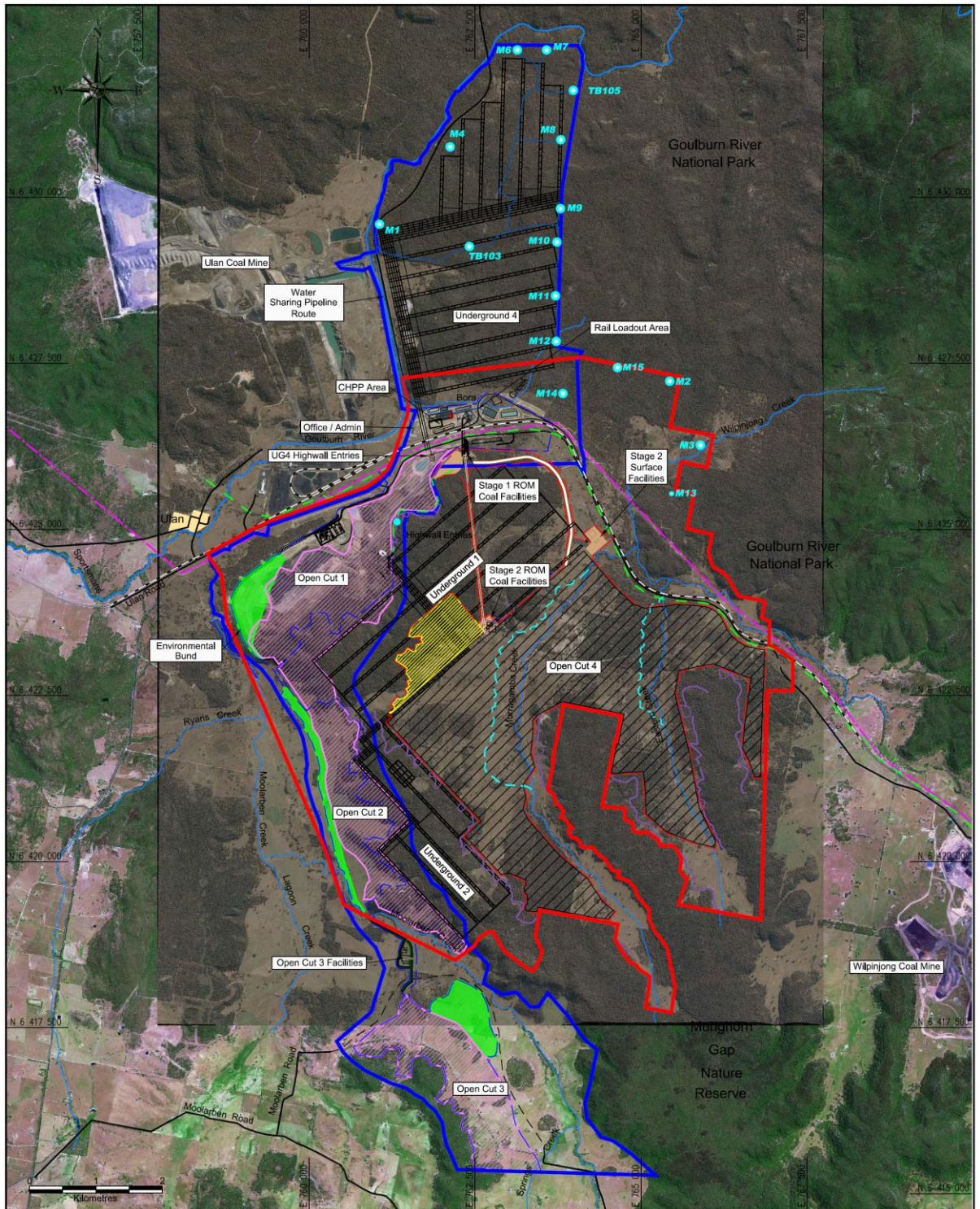


Prepared by Pegasus Survey & Drafting Pty 02 65 716888

**Moolarben Coal Operations
General Overview of Stage 1 Project**

Date	Scale	Drawn	Checked	Approved
02.12.13	1:70000	CD	MM	MM

Drawing No. 09472
Revision No. C
Sheet Size A3



- Haul Road
- Infrastructure Area
- Drainage Infrastructure
- Gulpong-Sandy Hollow Rail
- Existing Creeks
- 300kV Powerline
- Boreholes

- Stage 1
- Project Boundary
- Disturbance Boundary
- Open Cuts
- Out of Pit Emplacement
- 66kV Powerline

- Stage 2 Preferred Project
- Project Boundary
- Disturbance Boundary
- Out of Pit Emplacement

- Conveyor
- Creek Re-alignment
- Proposed Ulan-Wollar Road Diversion
- Water Storage

Rev.	Drawn	Description	Approved



Prepared by Pegasus Survey & Drafting Ph: 02 65 718888

Moolarben Coal Stage 1 and Stage 2 Indicative Project Layouts

Date	Scale	Drawn	Checked	Approved	Drawing No.
12.11.13	NTS	CP	MM		09485
					Revision No.
					A
					Sheet Size
					A3

