

ASSESSMENT REPORT

Mangoola Coal Mine Section 75W Modification (06_0014 MOD 5)

BACKGROUND

The Mangoola Coal Project is located near Wybong, approximately 20km south west of Muswellbrook in the Upper Hunter Valley. It was approved by the Minister on 7 June 2007, allowing development of a new open cut coal mine to extract a total of 150 million tonnes of coal over 21 years.

The Department approved a modification to the project approval in June 2009 (MOD 2) for relocation of the pipeline for supplying water to the mine from the Hunter River. The location of the pipeline is shown on Figure 1.

Xstrata is now seeking to undertake short term construction works, involving works at night, to allow construction of the pipeline underneath a railway line. As night-time works are expressly prohibited by the project approval, Xstrata has lodged an application requesting a modification to the approval under Section 75W of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

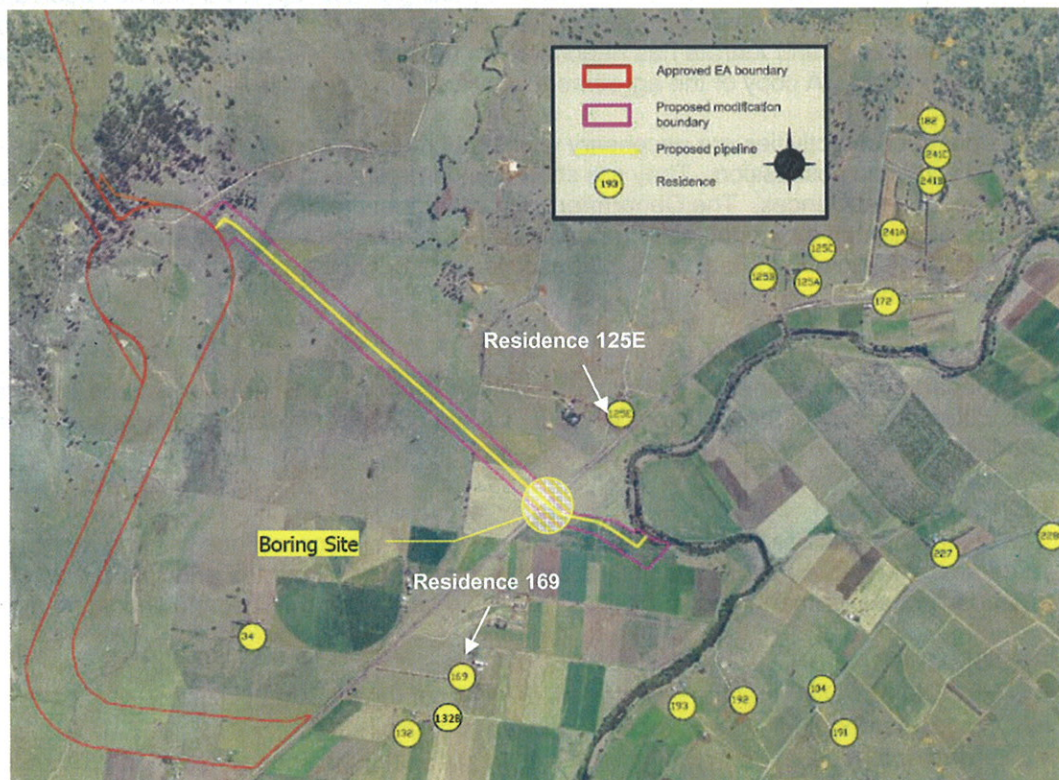


Figure 1: Location of the Hunter River Pipeline and Nearest Residences

PROPOSED MODIFICATIONS AND NEED

Xstrata proposes to carry out night-time construction works over a 48 hour period to bore a water pipeline underneath the Ulan to Muswellbrook railway line. Construction activities would involve boring through the railway easement and installing and concreting the pipeline.

Australian Rail Track Corporation (ARTC) as the railway operator grants a short period of time, known as 'line possession', for the works to be carried out. Given the extent of works to be completed within the 48 hour period, Xstrata is required to work continuously, including through both nights.

STATUTORY CONTEXT

The Minister was the approval authority for the original project application, and is consequently the approval authority for this modification application. However, on 25 January 2010, the Minister delegated his powers and functions as an approval authority to modify certain project approvals under section 75W of the EP&A Act to the Director, Mining and Industry. This modification application meets the terms of this delegation; therefore the Director may determine the application under delegated authority.

The proposed modification does not involve changes to any of the mine's operating functions or approved extraction volume. Consequently, the Department is satisfied that the proposed modification may be determined under Section 75W of the EP&A Act.

CONSULTATION

The Department is not required to notify or exhibit applications under section 75W of the EP&A Act. As the proposed works are minor and short term, the Department considers that consultation is unwarranted.

CONSIDERATION

The key issue for consideration is noise impacts. Wilkinson Murray conducted a noise assessment for the proposed construction works which would be carried out over a 48 hour period. The assessment concluded that noise emissions would exceed relevant night-time criteria at two residences (169 and 125E) over two nights, by a maximum of 2dB(A). These residences are shown on Figure 1.

Residence 169 had acquisition rights under the existing project approval and has been acquired by Xstrata and is therefore no longer privately owned. Residence 125E is located within a noise management zone and Xstrata has negotiated an agreement with the landowner for the 48 hour duration of works. A copy of the agreement is included in Appendix B.

The construction activities are necessary works that must be carried out during the timeslot provided by ARTC for line possession. They are short term in nature and would have minimal impacts on neighbouring residences. The Department considers that the noise impacts have been adequately addressed through the negotiated agreement with the affected residence and considers it appropriate to allow Xstrata to conduct these works throughout the night-time period for the 48 hour duration of works.

RECOMMENDED CONDITIONS

The Department recommends a modified condition to allow night-time works to be undertaken with the written approval of the Director-General. Xstrata does not object to the inclusion of this condition.

CONCLUSION

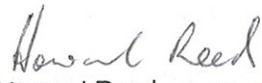
The Department has assessed the proposed modification in accordance with the relevant requirements of the EP&A Act, including the objects of the Act and the principles of ecologically sustainable development, and is satisfied that it is in the public interest and should be approved.

RECOMMENDATION

It is RECOMMENDED that the Director, as delegate of the Minister:

- consider the findings and recommendations of this report;
- determine that the proposed modification falls within the scope of section 75W of the EP&A Act;
- approve the application under section 75W, subject to conditions; and
- sign the notice of modification in Appendix A.

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