

ASSESSMENT REPORT

PINE DALE COAL MINE YARRABOLDY EXTENSION EXTENSION OF TIMEFRAMES MODIFICATION (10_0041 MOD 1)

1 BACKGROUND

Enhance Place Pty Ltd (Enhance Place) owns and operates the Pine Dale Coal Mine in the Western Coalfield of New South Wales. The mine is located adjacent to two former coal mines (Wallerawang Colliery and Enhance Place Coal Mine), two existing coal mines (Springvale Coal Mine and Angus Place Coal Mine) and between the Mt Piper and Wallerawang Power Stations, about 17 kilometres northwest of Lithgow (see Figure 1).

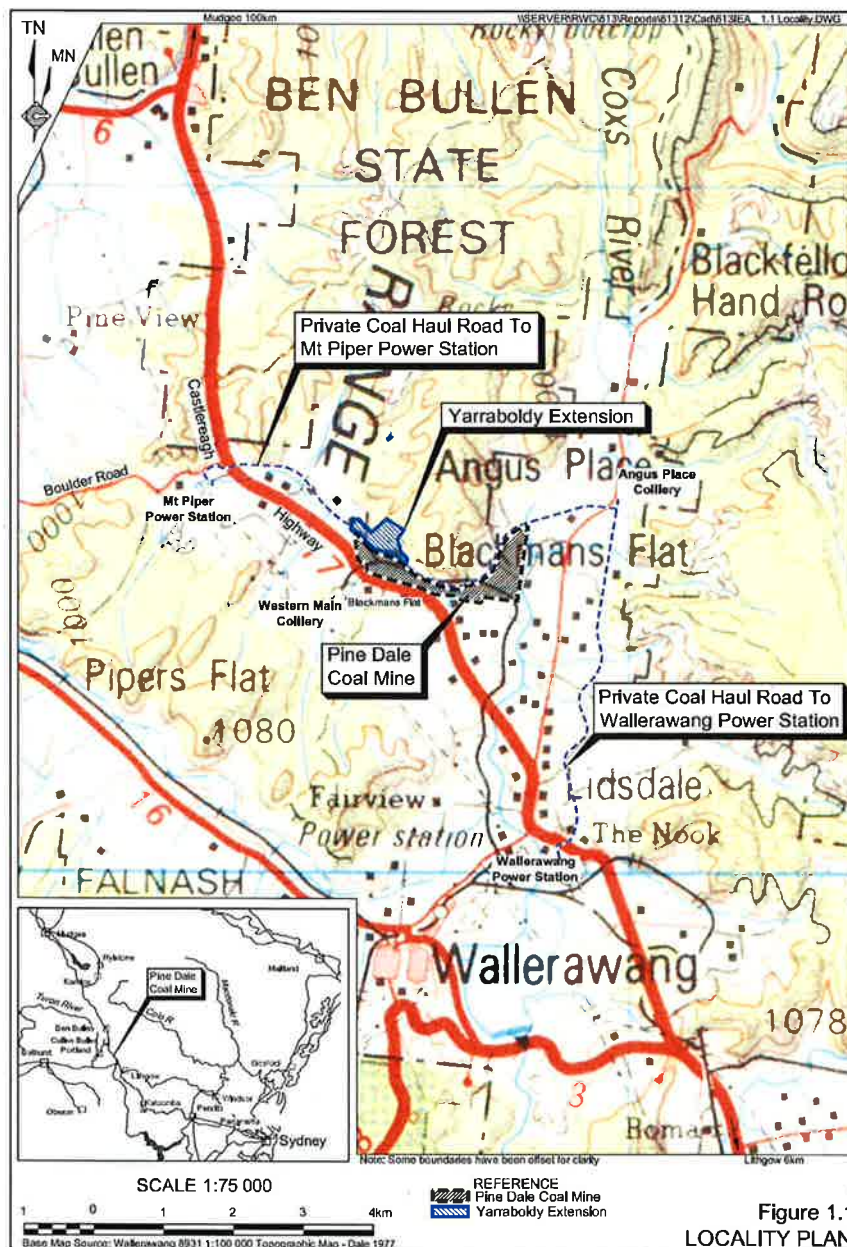


Figure 1: Project Location

The Pine Dale Coal Mine has been supplying approximately 350,000 tonnes per annum (tpa) of steaming coal to Mt Piper Power Station since early 2006. Coal reserves in the open cut mining area were exhausted in early December 2010. An extension to the open cut mine (the Yarraboldy Extension) was granted by the Deputy Director-General, as delegate for the Minister for Planning, on 20 February 2011. The approval enabled continued extraction of 350,000 tpa of ROM coal from an additional 27 hectare open cut mining area for a period of two and a half years. The approved Yarraboldy Extension project is shown on Figure 2.

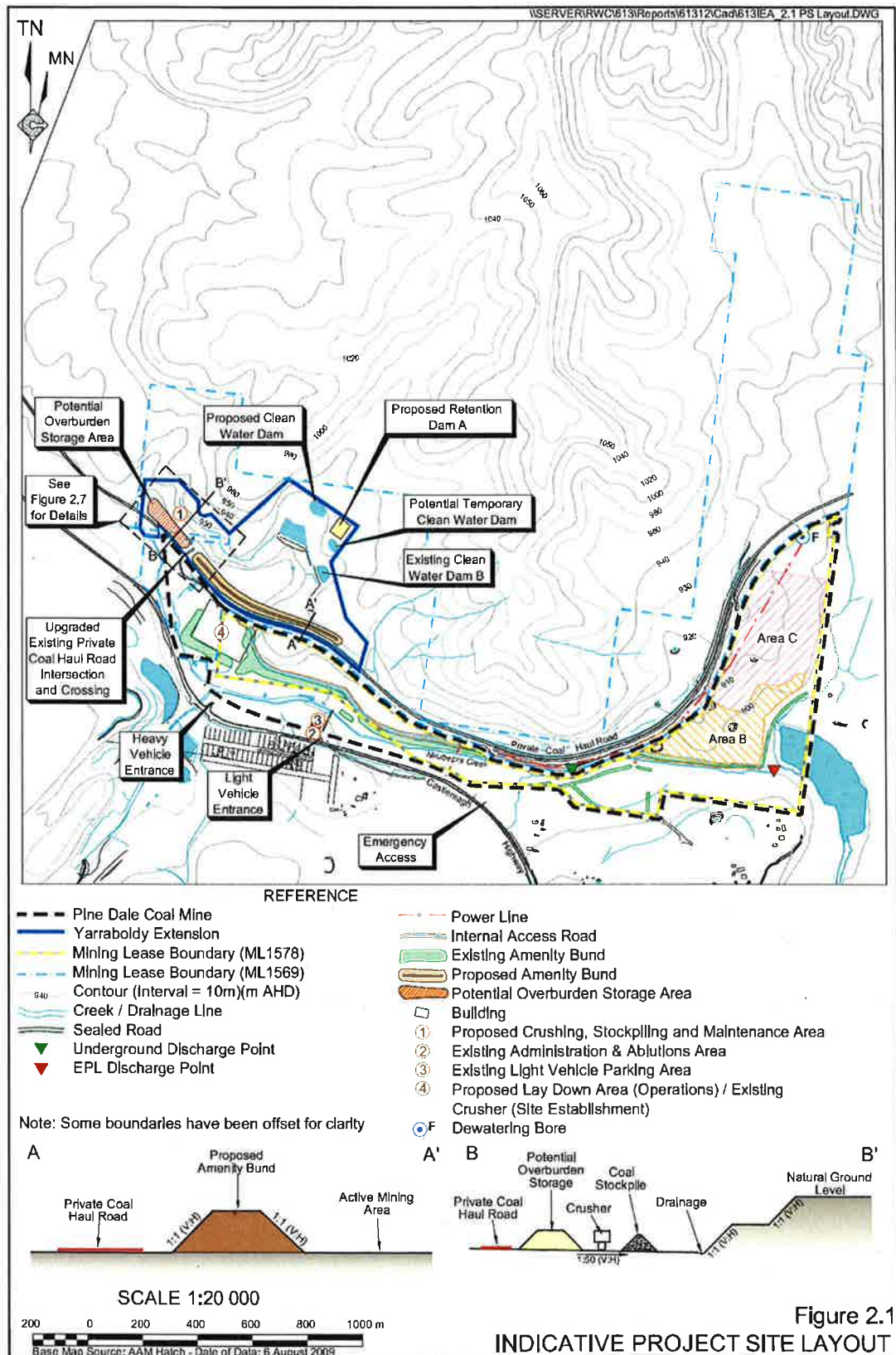


Figure 2: Approved Project Layout

Mining was expected to commence in April 2011, however the Commonwealth Department of Sustainability, Environment, Water, Population and Communities (DSEWPaC) advised that the Yarraboldy Extension project should be referred to DSEWPaC to determine whether it was a 'controlled action' under the Commonwealth's *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act). On 20 October 2011, DSEWPaC advised that the project was not a controlled action if undertaken in a particular manner. DSEWPaC's decision included several conditions to avoid impacts on Commonwealth listed threatened species and communities. The Commonwealth's consideration of the project delayed commencement of mining the Yarraboldy Extension by 8 months. Mining has now started.

2 PROPOSED MODIFICATION

On 29 December 2011, Enhance Place submitted an application to the Department, seeking to modify the Minister's approval for the Pine Dale Coal Mine under Section 75W of the *Environmental Planning and Assessment Act 1979* (EP&A Act). Enhance Place proposes to extend the timeframe for meeting a number of project approval conditions. The extension of time is required due to delays in commencement of mining resulting from the Commonwealth's assessment of the project.

Enhance Place proposes to:

- extend the timeframe to conduct mining operations by 16 months, from 31 August 2013 to 31 December 2014;
- enable extraction of all minable coal from the project area;
- enable an alternative timeframe to be agreed with the Director-General for submission of a conservation bond;
- amend the condition allowing transport of product coal on public roads during emergency situations; and
- extend the timeframe for completion of the Annual Review and Independent Environmental Audit.

The proposed modifications are detailed in the Application Form and Annexure (see **Appendix C**).

3 STATUTORY CONTEXT

Approval Authority

Under section 75W of the EP&A Act, the Minister for Planning and Infrastructure is the approval authority for this modification application. However, under the Minister's delegation of 14 September 2011, the Planning Assessment Commission must determine the modification application, as Enhance Place has made reportable political donations.

Modification

The proposed modification involves a 16 month extension to the approved project and several minor amendments to the project approval. The modification does not involve changes to any of the mine's approved mining methods or extraction volume. Consequently, the Department is satisfied that it can be properly characterised as a modification to the original project approval, rather than a new project in its own right, and can therefore be assessed and determined under section 75W of the EP&A Act.

4 CONSULTATION

Under section 75W of the EP&A Act, the Department is not required to exhibit the modification application or to undertake consultation. Given the minor nature of the modification, the Department did not consider consultation to be warranted.

5 ASSESSMENT

The Department's consideration of the requested modifications is presented in Table 1.

Table 1: Assessment of Proposed Modification

Schedule/ Condition	Requested Modification	Assessment and Recommendation
Schedule 2 Condition 5	• Extend the time to carry out mining operations from 31 August 2013 to 31 December 2014.	• The Department supports the extension of time given the delay in commencement of mining. No additional impacts would result, as there is no increase in the volume of coal to be mined, processed or transported. • The extension of time would enable extraction of coal at agreed volumes and rates and allow sufficient time for site rehabilitation in accordance with the project approval.

Schedule/ Condition	Requested Modification	Assessment and Recommendation
Schedule 2 Condition 6	Amend project approval to require extraction of "all mineable coal from within the project area".	The Department does not support this request. The EA for the original project approval estimated that 800,000 tonnes of coal was economically recoverable within the project area, and that certain economic, geotechnical and environmental constraints had been taken into account. The requested modification comes without justification or environmental assessment, and if agreed to, could permit additional open cut (and possibly also highwall mining) within other parts of the project area than proposed in the original project application. If additional coal is to be mined beyond the approved volume and area, then further detailed assessment would be required.
Schedule 3 Condition 31	Alternate timeframe, to be agreed with the Director-General, for submission of the conservation bond, currently required to be lodged within 3 months of approval of the project's Biodiversity Offset Strategy.	- The Department does not support this request. The delay caused by DSEWPaC's consideration of the project should not have delayed Enhance Place's preparation of the Biodiversity Offset Strategy and Biodiversity Management Plan required under its project approval, and hence submission of a conservation bond. - The project approval requires a Biodiversity Offset Strategy to be prepared by the end of February 2012. This period of 12 months was reasonable; given the short timeframe of the project and that the offset area had not been identified in the project application. - The Department has instead recommended that the time period for the submission of the Biodiversity Offset Strategy and Biodiversity Management Plan is extended by three months (ie until the end of May 2012). This extension would also allow the company to make suitable arrangements for the long-term security of its offset area.
Schedule 3 Condition 35	Enable transport of product coal to the Mt Piper and Wallerawang Power Stations on public roads during "emergency situations, when the Proponent shall report the reason for the emergency and estimated tonnage delivered to the Director-General within one business day of any such emergency occurring".	- The Department's assessment of the original project application determined that product coal should be transported via the private haul road to the power stations to minimise heavy vehicle traffic on the Castlereagh Highway. Public roads may only be used during emergency situations, and with the "prior written approval of the Director-General". - The Department considers that the condition should be retained in its current form. This would ensure tighter control over truck movements on the Castlereagh Highway and limit transport on public roads to defined emergency situations. In an emergency, written approval can be granted quickly, through electronic means such as email. It is not appropriate that the determination of an emergency situation is entirely within the power of the proponent, with outcomes simply being reported to the Department.
Schedule 5 Condition 3	- Extend the timeframe for submission of the first Annual Review required under the project approval, from April 2012 to December 2012. - Seek to use the Independent Environmental Audit to satisfy the requirement for an Annual Review in 2012 and 2014.	- Given the delay in the commencement of mining under the project approval, the Department accepts that it is reasonable to re-align submission of Annual Reviews to calendar years. This would require that Annual Reviews were completed by 31 March each year, starting in 2013. - However, the request to use the Independent Environmental Audit to satisfy the requirement for Annual Reviews in 2012 and 2014 is not supported, since they have very different purposes. The Annual Review reports on the environmental performance of the mine, including results of monitoring and an analysis of actual versus predicted impacts. The Independent Audit assesses compliance with the project approval, Environment Protection Licence, mining lease and any other regulatory approvals.
Schedule 5 Condition 8	Extend the timeframe to conduct Independent Environmental Audits by 12 months (first audit required in December 2012 instead of December 2011; and second audit required in June 2014)	The Department supports the request to re-align audit timeframes. It proposes that the audit should take place shortly after finalisation of the first Annual Review (ie by end April 2013), and also at a time shortly before the intended completion of mining activities in December 2014 (ie by 30 September 2014).

6 RECOMMENDED CONDITIONS

The Department has drafted the attached notice of modification to the project approval (see **Appendix A**). The primary change proposed is the extension of the period of approval to conduct mining operations, until 31 December 2014. Other changes include extensions of time to conduct Annual Reviews and Independent Environmental Audits. Enhance Place has reviewed and accepted the recommended conditions. The notice of modification would vary the existing approval to the form shown in **Appendix B** (the "consolidated approval").

7 CONCLUSION

The Department has assessed the modification request in accordance with the relevant requirements of the EP&A Act. The Department is satisfied that the proposed modification would allow Enhance Place to complete mining and rehabilitation in an efficient manner with negligible change to the project's approved impacts.

The Department is satisfied that the proposed modification is in the public interest and should be approved, subject to conditions.

8 RECOMMENDATION

It is **RECOMMENDED** that the Planning Assessment Commission, as delegate of the Minister:

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



30/3/12

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2/4/12

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