

Mangoola Coal Project (MP 06_0014 MOD 8) Administrative Modification

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

1. BACKGROUND

Mangoola Coal Operations Pty Ltd (Mangoola) owns and operates the Mangoola Coal Mine, located near Wybong in the Upper Hunter Valley, 20 kilometres west of Muswellbrook (see **Figure 1**).

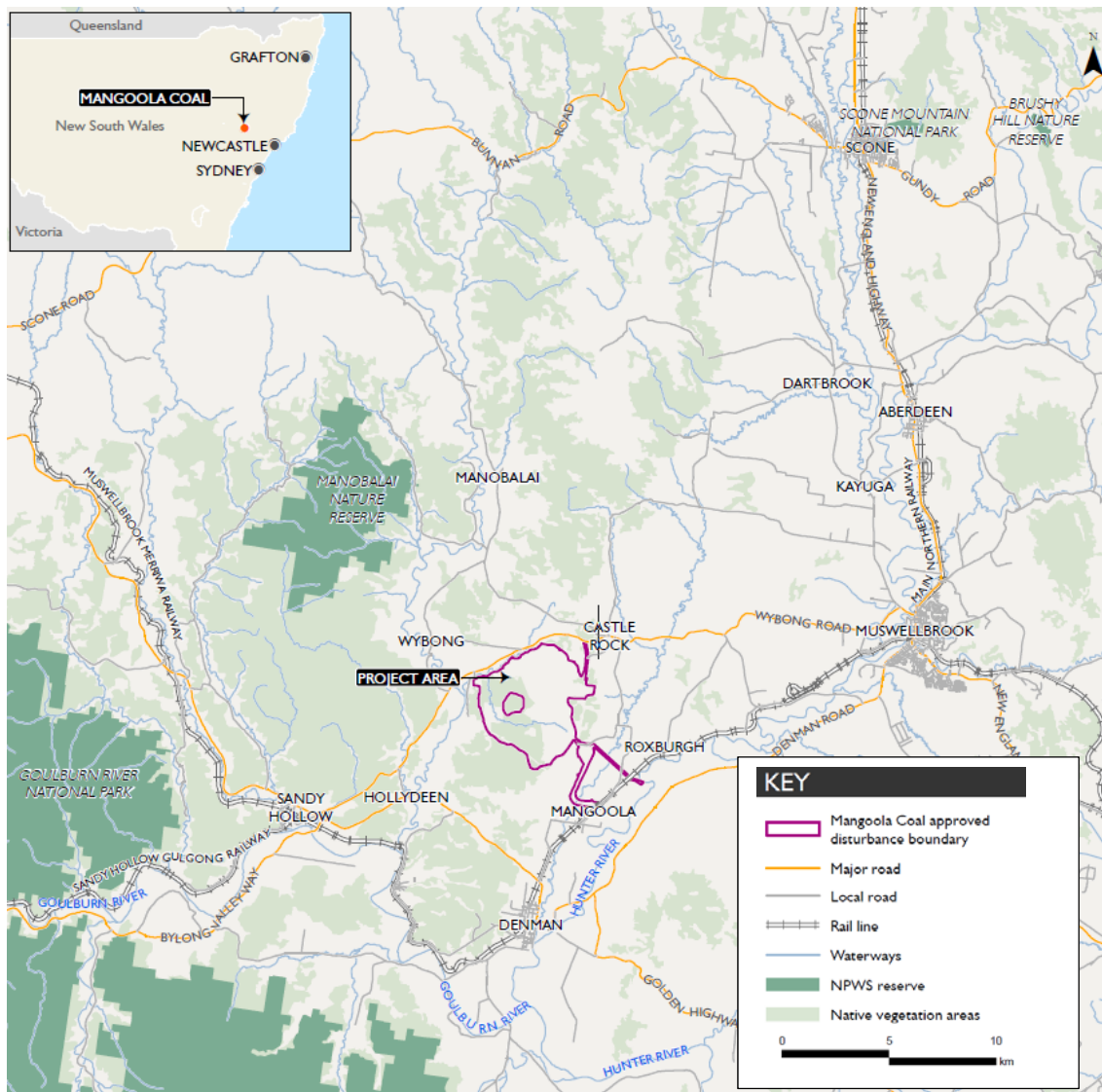


Figure 1: Locality Map

The project was approved as MP 06_0014 by the then Minister for Planning on 7 June 2007, at which time it was known as the 'Anvil Hill Coal Project'. The mine commenced operations in September 2010. Mangoola has modified the project approval on seven occasions. The most recent modification (MOD 7) involved the removal of a traffic noise management condition, as it represented a duplication of other compliance requirements.

2. PROPOSED MODIFICATION

Prior to MOD 7, condition 2 of Schedule 2 of MP 06_0014 required Mangoola to carry out the project 'generally in accordance with' the Environmental Assessment (EA) and the conditions of approval, as follows:

2. *The Proponent shall carry out the project generally in accordance with the:*
 - a) EA; and
 - b) conditions of this approval.

During the assessment of MOD 7, condition 2 of Schedule 2 was amended in line with the Department's then proposed drafting standards for conditions. This amendment removed the reference for general adherence to the conditions of approval and required Mangoola to carry out the project 'in accordance with' the conditions of approval and the Project Layout Plan, as follows:

2. *The Proponent must carry out the project generally in accordance with the:*
 - a) EA;
 - b) EA (MOD 1);
 - c) EA (MOD 2);
 - d) EA (MOD 3);
 - e) EA (MOD 4);
 - f) EA (MOD 5);
 - g) EA (MOD 6); and
 - h) EA (MOD 7).

- 2A. *The proponent must carry out the project in accordance with the conditions of this approval and the Project Layout Plan.*

On 8 November 2016, Mangoola lodged a modification application which proposed to amend conditions 2 and 2A to reinstate the requirement for 'general' accordance with the Project Layout Plan. Mangoola's justification for this request is that it is difficult to provide certainty that the location of all aspects of mining over the life the project will remain precisely the same, and slight deviations to the Project Layout Plan are often encountered due to the complex and changing nature of mining operations.

Mangoola also requested that the Project Layout Plan in the approval be updated to accurately reflect the current layout of the site, which had been up to the date of MOD 7, developed 'generally in accordance with' the Project Approval, as modified.

The proposed changes would not affect the nature and scale of the site's mining operations, and would not alter the previously approved environmental impacts of the project.

3. STATUTORY CONTEXT

3.1 Section 75W

The Mangoola Coal Project was originally approved under the now repealed Part 3A of the *Environmental Planning & Assessment Act 1979* (EP&A Act). However, the project remains a 'transitional Part 3A project' under Schedule 6A of the EP&A Act and the modification must be determined under the former section 75W of the Act.

The Department notes that the proposed modification is of a minor administrative nature. Consequently, the Department is satisfied that the proposed modification is within the scope of section 75W, and may be determined accordingly.

3.2 Approval Authority

The Minister for Planning is the approval authority for the application. However, the Planning Assessment Commission must determine the application under the Minister's delegation of 16 February 2015, as Mangoola's parent company Glencore Australia Holdings Pty Ltd has declared reportable political donations.

4. CONSULTATION

Due to the minor administrative nature of the proposed modification, the Department considered that neither public exhibition nor agency notification were required. However, the modification application and EA were made publicly available on the Department's website. No public or agency submissions were received.

5. ASSESSMENT

The Department has assessed the merits of the proposed modification in accordance with the relevant objects and requirements of the EP&A Act. In assessing these merits, the Department has considered the:

- EAs for the original project application and subsequent modifications;
- conditions of approval for the original project application, as amended by subsequent modifications;
- the modification application and EA for MOD 8 (see **Appendix A**); and
- relevant environmental planning instruments, policies and guidelines.

The Department firstly notes that the inclusion of condition 2A, requiring Mangoola to carry out the project 'in accordance with' the Project Layout Plan was reflective of the Department's then proposed standard suite of recommended conditions at the time that MOD 7 was determined.

For many years, the Department has required all mines and quarries to operate 'generally in accordance with' their environmental assessment documentation (i.e. EISs and EAs) which has included the plans found within those documents, some of which are then appended to project approvals or development consents.

The Department's desire is always for these plans to be accurate and for mining companies to implement them as accurately as possible. However, it is accepted by all parties (i.e. the Department, other agencies and mining companies) that it is commonly not possible for these plans to be prepared to a standard of absolute precision, particularly given that they may represent up to 30 years of future mining operations.

The Department therefore accepts that the appropriate standard to apply is that mining companies carry out the project 'generally in accordance with' project layout plans. The Department acted prematurely in applying a stricter standard to Mangoola in approving MOD 7.

Since that time, the Department has continued to refine its standard wording and conditioning for contemporary open cut mining proposals, with more recent consents and modifications all acknowledging the general nature of project layout plans. The Department therefore considers that the proposed amendment for Mangoola to carry out the project 'generally in accordance with' the Project Layout Plan is reasonable and reflects a realistic approach to long-term mining operations.

The proposed amendment would not alter the nature and scale of mining operations, nor would it have any additional environmental impacts beyond those already assessed and approved. It would also enable Mangoola to achieve compliance with its Project Approval.

Mangoola has also requested to update the Project Layout Plan shown in Appendix 2 of the Project Approval. The updated plan is based on the company's current 'Year 10' mine plan and includes a reduction to the setback distance between mining activities and the 500kV electricity transmission line (ETL) that traverses the southern boundary of the site.

The Department notes that the original 2007 Project Approval allowed Mangoola to undertake mining activities within this setback area and that the setback was then incorporated as part of MOD 4 to manage potential vibration impacts on the ETL and meet a blast impact vibration limit of 25 millimetres / second (mm/s).

The Department notes that since the approval of MOD 4, Mangoola has reached an agreement with Transgrid to allow the ETL to experience increased vibration. The agreement allows vibration levels up to 125 mm/s for suspension towers and 60 mm/s for tension towers. Mangoola has identified that these agreed vibration limits enable a reduced setback from the ETL and has updated its 'Year 10' mine plan to reflect this updated management approach.

The Department is satisfied that the proposed amendment to the Project Layout Plan reflects both the original Project Approval and current and approved operations at the mine and is therefore appropriate.

No changes are proposed to any other conditions of the approval and the Department is satisfied that the environmental impacts of the mine would continue to be managed satisfactorily under the existing conditions of approval and the site's Environmental Protection Licence.

Overall, the Department considers that the requested modification is reasonable and has recommended amendments to the relevant conditions of approval.

6. RECOMMENDED CONDITIONS

The Department has drafted a recommended Notice of Modification (see **Appendix B**) and a consolidated version of the Project Approval as it is proposed to be modified (see **Appendix C**).

Mangoola has considered and agreed to the recommended conditions.

7. CONCLUSION

The Department has assessed the merits of the proposed modification in accordance with the requirements of the EP&A Act. This assessment has concluded that the proposed amendments to conditions of approval can be made without any adverse environmental impacts. The proposed modification would allow for realistic flexibility in the Project Layout Plan and allow Mangoola to achieve compliance with its Project Approval. The Department is therefore 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:

- **considers** the findings and recommendations of this report;
- **determines** that the modification is within the scope of section 75W of the EP&A Act;
- **approves** the modification application, under section 75W, subject to conditions; and
- **signs** the notice of modification at **Appendix C**.



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29.5.17



Oliver Holm
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30/5/17

APPENDIX A – ENVIRONMENTAL ASSESSMENT

Refer to the Department's website:

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=8060

APPENDIX B – NOTICE OF MODIFICATION

APPENDIX C – CONSOLIDATED PROJECT APPROVAL

