



Notification of approval

Boggabri Coal Mine SSD 09_0182 Modification 8, NSW (EPBC 2021/8875)

This decision is made under section 130(1) and 133(1) of the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act). Note that section 134(1A) of the EPBC Act also applies to this approval. That provision provides, in general terms, that if the approval holder authorises another person to undertake any part of the Action, the approval holder must take all reasonable steps to ensure that the other person is informed of any conditions attached to this approval, and that the other person complies with any such conditions.


Proposed Action

person to whom the approval is granted (approval holder)	Boggabri Coal Pty Limited ACN: 122 087 398
Action	To extend an open-cut mining operation at the Boggabri Coal Mine, Boggabri, NSW. The proposed action will include increasing the depth of the existing Boggabri mining operations within the currently approved mine disturbance boundary to recover an additional coal resource. [See EPBC Act referral 2021/8875, subject to the variation of the proposed Action accepted by the Minister under section 156B on 15 January 2024].

Approval decision

decision	My decision on whether or not to approve the taking of the Action for the purposes of the controlling provision for the Action is as follows.	
	Controlling Provision	Decision
	Unconventional gas or large coal mining development with impact on water resources (section 24D and section 24E)	Approved
period for which the approval has effect	This approval has effect until 31 December 2053.	
conditions of approval	The approval is subject to conditions under the EPBC Act as set out in Annexure A.	

Person authorised to make decision

name and position	Kate Gowland Branch Head Environment Assessments (NSW, ACT)
Signature	
date of decision	19 December 2024

Annexure A

Note: Words and terms appearing in **bold** (excluding headings) have the meaning assigned to them at **Part C – Definitions**.

Part A – Conditions specific to the Action

The objective of conditions 1 to 13 is to minimise the impacts of the Action on **water resources**.

- 1) The approval holder must not extract more than 8.6 million tonnes of run of mine coal from the **Boggabri Coal Mine Modification Project Area** as part of the Action in any calendar year and must cease coal extraction by 31 December 2036.
- 2) The **approval holder** must ensure the Action has no **adverse effect** on the **function** of a **water resource**.
- 3) The **approval holder** must comply with conditions 33, 35, 36, 38, 38A, 69, 70, 71, 71A and 72 of the **NSW Approval** to the extent that they apply to the Action and **water resources**.

Water Management Plan

- 4) Prior to the commencement of coal extraction from below the Merriown Seam, the **approval holder** must publish on the **website** a copy of the Water Management Plan approved by the **NSW Planning Secretary** (the **Approved Water Management Plan**) and notify the **department** of its publication, with a link to the **website**. The **Approved Water Management Plan** must remain published on the **website** until the expiry of this approval.
- 5) If the **Minister** is not satisfied that the **Approved Water Management Plan** is sufficient to protect **water resources**, the **Minister** may direct the **approval holder** to include specific measures in the **Approved Water Management Plan**. If the **Minister** directs the **approval holder** to include specific measures, the **approval holder** must update the **Approved Water Management Plan** with the required measures.

- a) The **approval holder** must submit the updated Water Management Plan to the **NSW Planning Secretary** for approval, within 30 **business days** of receiving the Minister's direction.
- 6) The **approval holder** must notify the **department** within 10 **business days** of submitting a request to have a revised version of the **Approved Water Management Plan** approved by the **NSW Planning Secretary**. If a revised version of the **Approved Water Management Plan** is approved by the **NSW Planning Secretary**:
 - a) a document specifying what changes have been made from the previous version (including by supplying a copy with these changes marked in track mode) and a description of any implications of the changes for **water resources** must be provided to the **department** within 20 business days of the revised plan being approved, and
 - b) the **approval holder** must publish the revised version of the **Approved Water Management Plan** on the **website** within 20 business days of the revised plan being approved.
- 7) If, at any time until the end date of this approval, the **approval holder** detects the exceedance of a **performance criteria** in the **Approved Water Management Plan**, the **approval holder** must:
 - a) notify the **department** of the exceedance within 10 **business days**, and
 - b) publish on the **website** within 3 months a description of the cause of the exceedance, and the corrective actions that have been/will be undertaken.
- 8) Upon receiving notification of an exceedance of a **performance criteria** under condition 7, the **Minister** may direct the **approval holder** to undertake specific corrective actions to minimise impacts to **water resources**. The **approval holder** must implement any specific corrective actions to minimise impacts to **water resources** as directed by the **Minister**.
- 9) The **approval holder** must include in each **compliance report**, a copy of all monitoring reports required by the **Approved Water Management Plan**.

Surface water

- 10) The **approval holder** must ensure that the **Approved Water Management Plan** required by condition 38 of the **NSW Approval**, also includes:
 - a) detailed **baseline data** for **physico-chemical parameters, metals and metalloids** of **receiving surface waters**,
 - b) a program to monitor **physico-chemical parameters, metals and metalloids** in discharged and **receiving surface waters**,
 - c) specific performance criteria and trigger levels for **physico-chemical parameters, metals and metalloids**,
 - d) reporting procedures for the results of the monitoring program, and

- e) a plan to respond to any exceedances of the performance criteria, and to mitigate any **adverse effects** of the **Action**.

Groundwater and groundwater dependant ecosystems

- 11) The **approval holder** must ensure that the **Approved Water Management Plan** required by condition 38 of the **NSW Approval**, includes:
 - a) a program to monitor alluvial groundwater and groundwater dependent ecosystem health, as recommended by WSP in Appendix I of the *Boggabri Coal Mine Modification 8 to SSD 09_0182 Submissions Report* dated 28 November 2022,
 - b) specific performance criteria and trigger levels for alluvial groundwater and groundwater dependent **ecosystem function**,
 - c) reporting procedures for the results of the monitoring program,
 - d) a plan to respond to any exceedances of the performance criteria, and to mitigate any **adverse effects** of the **Action**, and
 - e) a plan to offset any **adverse effects** to groundwater dependent ecosystems in accordance with the EPBC Act Environmental Offsets Policy or NSW Biodiversity Offset Scheme.
- 12) Prior to the commencement of coal extraction from below the Merriown Seam, the **approval holder** must install groundwater monitoring bores in general accordance with Attachment A and ensure:
 - a) bores are installed to detect changes to groundwater levels, pressure and quality within the Templemore, Nagero and Merriown seams,
 - b) bores installed in the alluvial sediments of Nagero Creek are capable of detecting changes to groundwater levels and quality within the alluvial sediments in Nagero Creek, and
 - c) bores are installed that are capable of monitoring the depressurisation in the coal seams as mining progresses.
- 13) The approval holder must ensure that the **Approved Water Management Plan** required by condition 38 of the **NSW Approval** includes the monitoring bores listed in condition 12, as part of the Groundwater Management Plan.

Part B – Administrative conditions

SUBMISSION AND PUBLICATION OF PLANS

- 14) Wherever these conditions require the approval holder to submit any **plan** to the **department**, all such **plans** must be submitted to the **department** electronically.
- 15) Unless otherwise agreed to in writing by the **Minister**, the approval holder must publish each **plan** on the **website** within 20 **business days** of the date:

- a) of this approval, if the version of the **plan** to be implemented is specified in these conditions, or
 - b) the **plan** is approved by the **Minister** in writing, if the **plan** requires the approval of the **Minister**, or
 - c) the **plan** is approved by a state government official as required under a state government condition which must be complied with in accordance with these **EPBC Act** conditions.
- 16) The approval holder must keep all **plans** published on the **website**, in a format that is easily accessible and downloadable, from the first date which that **plan** must be published and until the expiry date of this approval.
- 17) The approval holder is required to exclude or redact **sensitive biodiversity data** from any version of a **plan** before that **plan** is published on the **website** or otherwise provided to a member of the public. If **sensitive biodiversity data** is excluded or redacted from a **plan**, the approval holder must notify the **department** in writing what exclusions and redactions have been made in the version published on the **website**.

MODIFICATIONS TO STATE OR TERRITORY APPROVAL

- 18) The approval holder must notify the **department** in writing of any proposed change to the **NSW Approval** that may relate to **protected matters** within 5 **business days** of formally proposing such a change and within 5 **business days** of becoming aware of any proposed change.
- 19) The approval holder must notify the **department** in writing of any change to the **NSW Approval** conditions that may relate to **protected matters**, within 5 **business days** of such a change to conditions coming into effect. Such notification must include a copy of the changed **NSW Approval** conditions showing what changes have been made.

COMMENCEMENT OF THE ACTION

- 20) The approval holder must notify the **department** electronically of the date of **commencement of the Action**, within 5 **business days** following **commencement of the Action**.
- 21) The approval holder must not **commence the Action** later than 5 years after the date of this approval decision.

COMPLIANCE RECORDS

- 22) The approval holder must maintain accurate and complete **compliance records** and document the procedure for recording and storing **compliance records**.
- 23) If the **department** makes a request in writing, the approval holder must provide electronic copies of **compliance records** to the **department** within the timeframe specified in the request.

Note: **Compliance records** may be subject to audit by the **department**, or by an **independent auditor** in accordance with section 458 of the **EPBC Act**, and/or be used to verify compliance with the conditions. Summaries of the results of an audit may be published on the **department's** website or through the general media.

- 24) The approval holder must ensure that any **monitoring data**, surveys, maps, and other spatial and metadata required under the conditions of this approval are prepared in accordance with the *Guidelines for biological survey and mapped data*, Commonwealth of Australia 2018, where relevant or as otherwise specified by the **Minister** in writing.
- 25) The approval holder must ensure that any **monitoring data**, surveys, maps, and other spatial and metadata required under the conditions of this approval are prepared in accordance with the *Guide to providing maps and boundary data for EPBC Act projects*, Commonwealth of Australia 2021, or as otherwise specified by the **Minister** in writing.
- 26) The approval holder must submit all **monitoring data**, surveys, maps, other spatial and metadata electronically to the **department** by 31 March each year, to align with the requirements of EPBC 2009/5256 (as varied on 26 February 2020) until the expiry date of this approval.

ANNUAL COMPLIANCE REPORTING

- 27) The approval holder must prepare a **compliance report** for each **Annual Compliance Report period (ACR period)**.
- 28) The approval holder must ensure each **compliance report** includes:
 - a) accurate and complete details of compliance and any non-compliance with:
 - i) each condition attached to this approval decision,
 - ii) each condition imposed under the **NSW Approval**, if a condition attached to this approval decision requires compliance with that **NSW Approval** condition, and
 - iii) all commitments made in each **plan**,
 - b) a schedule of all **plans** in effect in relation to these conditions during the **ACR period**,
 - c) accurate and complete details of how each **plan** was implemented during the **ACR period**, and
 - d) if any **incident** occurred, accurate and complete details of each **incident**.
- 29) The approval holder must ensure each **compliance report** is completed to the satisfaction of the **Minister** and is consistent with the *Annual Compliance Report Guidelines*, Commonwealth of Australia 2023.
- 30) The approval holder must, within 70 **business days** following the end of each **ACR period**, in a format that is easily accessible and downloadable, publish on the **website** each **compliance report**.
- 31) The approval holder must:
 - a) Exclude or redact **sensitive biodiversity data** from each **compliance report** and **shapefile** published on the **website** or otherwise provided to a member of the public.

- b) If **sensitive biodiversity data** is excluded or redacted from a version of a **compliance report** published or otherwise provided to a member of the public, submit the full **compliance report** to the **department** within 5 **business days** of its publication on the **website** and notify the **department** in writing what exclusions and redactions have been made in the version published on the **website** or otherwise provided to a member of the public.
 - c) If **sensitive biodiversity data** is excluded or redacted from a version of a **shapefile** published or otherwise provided to a member of the public, submit the full **shapefile** to the **department** within 5 **business days** of its publication on the **website** and notify the **department** in writing what exclusions and redactions have been made in the version published on the **website** or otherwise provided to a member of the public.
- 32) The approval holder must notify the **department** electronically, within 5 **business days** of each date of publication that the **compliance report** has been published on the **website**. In this notification, the approval holder must provide the **department** with the web address for where the **compliance report** and related **shapefile** are published on the **website**.
- 33) The approval holder must keep each **compliance report** and related **shapefile** published on the **website** from the first date which that **compliance report** must be published and until the expiry date of this approval.

Note: **Compliance reports** may be published on the **department's** website.

REPORTING NON-COMPLIANCE

- 34) The approval holder must notify the **department** electronically, within 2 **business days** of becoming aware of any **incident**. The approval holder must specify in each notification:
- a) any condition or commitment made in a **plan** which has not been, or may have not been, complied with,
 - b) a short description of the **incident**, and
 - c) the location (if applicable, including co-ordinates), date and time of the **incident**.
- 35) The approval holder must provide to the **department** electronically, within 12 **business days** of becoming aware of an **incident**, the details of that **incident**. The approval holder must specify:
- a) all corrective measures and investigations which the approval holder has already taken in respect of the **incident**,
 - b) the potential impacts of the **incident**,
 - c) the method and timing of any corrective measures that the approval holder proposes to undertake to address the **incident**, and
 - d) any variation of these conditions or revision of a **plan** that will be required to prevent recurrence of the **incident** and/or to address its consequences.

INDEPENDENT AUDIT

- 36) The approval holder must ensure that an **independent audit** of compliance with the conditions is conducted for every **audit period**.
- 37) The approval holder must submit details of the proposed **independent auditor** and their qualifications to the **department** within 10 **business days** following the end of each **audit period**.
- 38) The approval holder must ensure the scope of each **independent audit** is sufficient to determine the compliance status for each condition of approval, and each commitment made in each **plan**.
- 39) The approval holder must ensure the criteria for each **independent audit** and the undertaking of each **independent audit** are consistent with the **Independent Audit and Audit Report Guidelines**
- 40) The approval holder must submit an **audit report** to the **department** for written agreement from the **department** within 3 months following the end of each **audit period**, or as otherwise directed by the **Minister** in writing.
- 41) The approval holder must ensure each **audit report** is completed to the satisfaction of the **Minister** and is consistent with the **Independent Audit and Audit Report Guidelines**.
- 42) The approval holder must publish each **audit report** on the **website**, in a format that is easily accessible and downloadable, within 10 **business days** of the date the **department** agrees to that **audit report** in writing.
- 43) The approval holder must notify the **department** within 5 **business days** of the date the **audit report** is published on the **website**. In this notification, the approval holder must provide the **department** with the web address for where the **audit report** is published on the **website**.
- 44) The approval holder must keep each **audit report** published on the **website** from the first date which that **audit report** must be published and until the expiry date of this approval.

COMPLETION OF THE ACTION

- 45) Within 20 **business days** after the **completion of the Action**, and, in any event, at least 20 **business days** before this approval expires, the approval holder must notify the **department** electronically of the date of **completion of the Action** and provide **completion data**. The approval holder must submit any spatial data that comprises **completion data** as a **shapefile**.
- 46) The approval holder must notify the **department** electronically 60 **business days** prior to the expiry date of this approval, that the approval is due to expire.

Note: Section 145C of the **EPBC Act** entitles the approval holder to request an extension to the period of effect of this approval.

Part C – Definitions

Words and terms appearing in **bold** (excluding headings) have the meaning assigned to them in the list below:

Adverse effect means the occurrence of any impacts on water resources greater than an impact predicted in the assessment documentation.

Annual Compliance Report period or **ACR period** means each subsequent 12-month period following 3 May to align with the approval requirements of EPBC 2009/5256 (as varied on 26 February 2020) until the expiry date of this approval.

Approved Water Management Plan means the water management plan as approved by the NSW Planning Secretary under NSW Approval condition 38.

Audit period means each subsequent five-year period following date to align with the requirements of EPBC 2009/5256 (as varied on 26 February 2020) until the expiry date of this approval.

Audit report means a written report of an **independent audit**.

Baseline data is the data used to establish a baseline value or range for each monitoring parameter. These data must be established in accordance with the Australian and New Zealand Guidelines for Fresh and Marine Water Quality (2018) for *slightly to moderately disturbed systems* and be derived from two years of site-specific monitoring data. In lieu of site-specific monitoring data, the default trigger values for physical and chemical stressors *for south-east Australia for slightly disturbed ecosystems*, as defined in section 3.3.2.5 of the Australian and New Zealand Guidelines for Fresh and Marine Water Quality (2018) can be used as a baseline.

Biodiversity data means ‘biodiversity data’ as described in the *Policy on Accessing and Sharing Biodiversity Data*, Commonwealth of Australia 2024.

Boggabri Coal Mine Modification Project Area means within the currently approved Mine Disturbance Boundary below the Merriown Coal Seam down to the Templemore Coal Seam.

Business day means a day that is not a Saturday, a Sunday, or a public holiday in NSW.

Commence the Action or **commences the Action** means the first instance of mining below the Merriown Coal Seam down to the Templemore Seam.

Commencement of the Action means the date on which the approval holder **commences the Action**.

Completion data means an environmental report and spatial data clearly detailing how the conditions of this approval have been met.

Completion of the Action means the date on which all activities associated with the approved Action have permanently ceased and/or been completed.

Compliance records means all documentation or other material in whatever form required to demonstrate compliance with these conditions of approval (including compliance with commitments made in **plans**) in the approval holder’s possession, or that are within the approval holder’s power to obtain lawfully.

Compliance report means a written report of compliance with, and fulfilment of, these conditions (including compliance with commitments made in **plans**).

Department means the Australian Government agency responsible for administering the EPBC Act.

Environmental Management Plan Guidelines means the *Environmental Management Plan Guidelines*, Commonwealth of Australia 2024.

EPBC Act means the *Environment Protection and Biodiversity Conservation Act 1999* (Cth).

Function means the ecosystem components, processes and benefits or services that characterise the associated user including support for biological diversity or species composition.

Harm means to cause any measurable direct or indirect disturbance or deleterious change as a result of any activity associated with the Action.

Incident means any:

- event which has the potential to, or does, **harm** any **protected matter**,
- potential non-compliance with these conditions, including the administrative requirements,
- actual non-compliance with these conditions, including the administrative requirements, and/or
- actual non-compliance with one or more commitment made in a **plan**.

Independent audit means an audit, conducted by an **independent auditor**, of compliance with and fulfilment of these conditions and the commitments made in **plans**, objectively evaluated against the audit criteria developed by the **independent auditor**, in accordance with the **Independent Audit and Audit Report Guidelines**.

Independent Audit and Audit Report Guidelines means the *Environment Protection and Biodiversity Conservation Act 1999 Independent Audit and Audit Report Guidelines*, Commonwealth of Australia 2019.

Independent auditor means a person, or firm, who:

- does not have any individual, financial*, employment* or family affiliation or any conflicting interests with the Action, the approval holder or the approval holder's staff, representatives, or associated persons,
- has demonstrated experience in undertaking government-regulated environmental compliance audits, and
- holds relevant professional qualifications and accreditations.

*Other than for the purpose of undertaking the role for which an independent person, or firm, is required.

Metals and metalloids means aluminium, arsenic, copper, lead, molybdenum, selenium and zinc.

Minister means the Australian Government Minister administering the **EPBC Act**, including any delegate thereof.

Monitoring data means the data required to be recorded under the conditions of this approval, including **sensitive biodiversity data**.

New or increased impact means any direct or indirect increase in the impacts of an Action, an increase to the likelihood of an impact occurring, a reduction to the monitoring or mitigation measures for a **protected matter**, and/or a change to the nature or management of an environmental offset as outlined in the *Guidance on 'new or increased impact' relating to changes to approved management plans under EPBC Act environmental approvals*, Commonwealth of Australia 2017.

NSW Approval means the State of New South Wales state development consent for modification application number MP09_0182-Mod-8 approved on 22 January 2024 under the *NSW Environmental Planning and Assessment Act 1979*.

Performance criteria means criteria for specific parameters that are specified in the **Approved Water Management Plan**.

Physico-chemical parameters means dissolved oxygen, temperature and electrical conductivity.

Plan means any action management plan or strategy that the approval holder is required by these conditions to implement.

Protected matter means a matter protected under a controlling provision in Part 3 of the **EPBC Act** for which this approval has effect.

Receiving surface waters means upstream, downstream and reference sites capable of detecting additional physico-chemical parameters, metals and metalloids.

Sensitive biodiversity data means **biodiversity data** which, if released, published or otherwise exposed, may result in **harm** to the relevant **protected matter** as a result of the intentional or unintentional misuse of that **biodiversity data**.

Shapefile means location and attribute information about the Action provided in an Esri shapefile format containing:

- '.shp', '.shx', '.dbf' files,
- a '.prj' file which specifies the projection or geographic coordinate system used, and
- an '.xml' metadata file that describes the shapefile for discovery and identification purposes.

Trigger level(s) means the **trigger levels** for identifying and investigating any potentially adverse water impacts (or trends) as specified in the **Approved Water Management Plan** required by condition 38 of the **NSW Approval**. It is noted that **trigger levels** are designed to initiate an early

response and/or adaptive management and do not necessarily mean that harm and/or an exceedance of a **performance criteria** has occurred.

Water Resource means surface water or groundwater; or a watercourse, lake, wetland, or aquifer (whether or not it currently has water in it); and includes all aspects of the water resource (including water, organisms and other components and ecosystems that contribute to the physical state and environmental value of the water resource), as defined in the *Water Act 2007* (Cth).

Website means a set of related web pages located under a single domain name attributed to the **approval holder** and available to the public.



Australian Government

Department of Climate Change, Energy,
the Environment and Water

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Attachment A

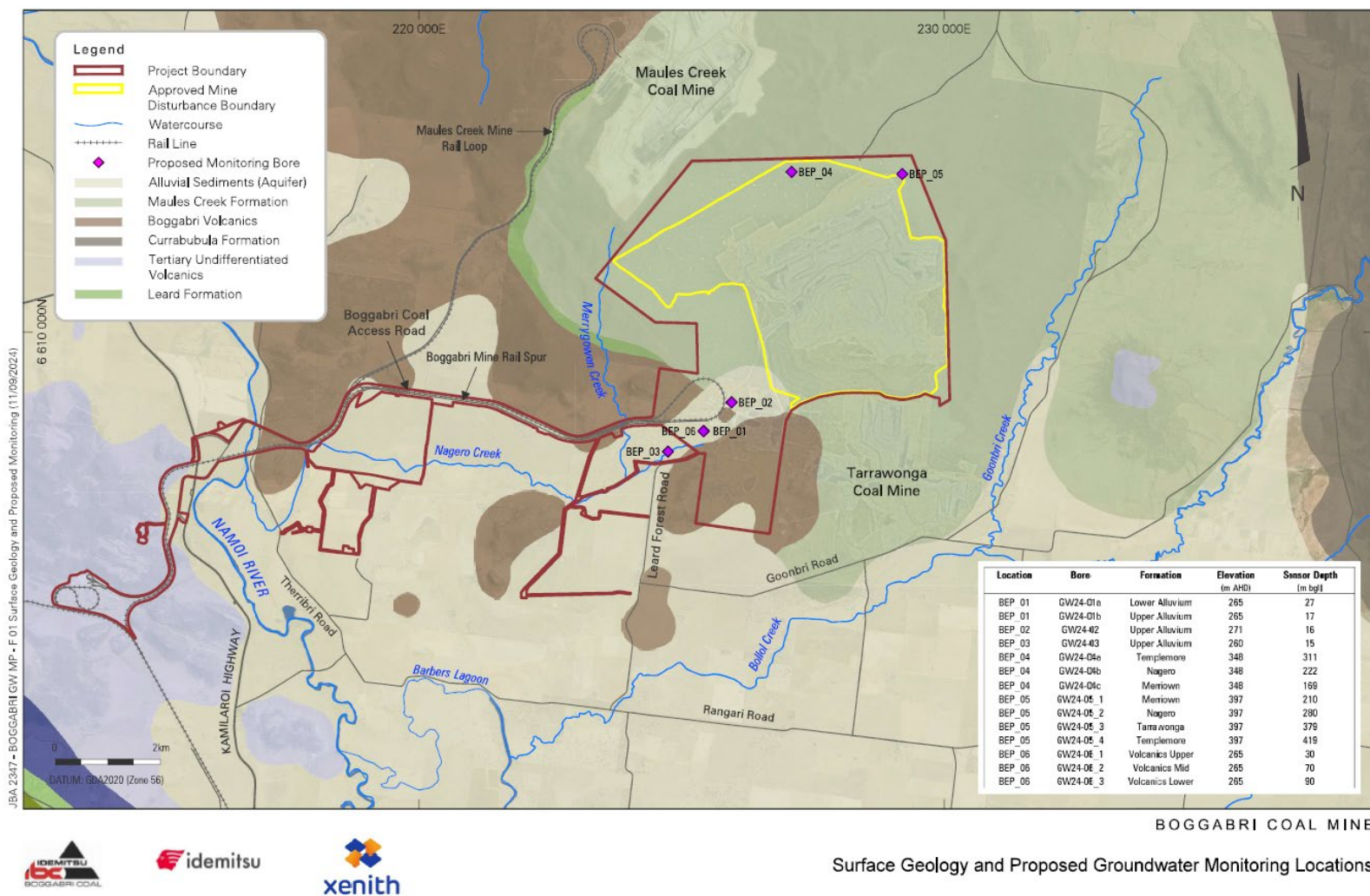


FIGURE 1

DCCEEW.gov.au

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