

Notice of Modification

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

As delegate for the Minister for Planning and Infrastructure, I modify the development consent referred to in schedule 1, subject to the conditions in schedule 2.

David Kitto
Director
Mining and Industry Projects

Sydney

23 December 2011

Blue Type represents 2015 modification
Purple Type represents 2022 modification

The Department has prepared a consolidated version of the approval which is intended to include all modifications to the original determination instrument.

The consolidated version of the consent has been prepared by the Department with all due care. This consolidated version is intended to aid the consent holder by combining all consents relating to the original determination instrument but it does not relieve a consent holder of its obligation to be aware of and fully comply with all consent obligations as they are set out in the legal instruments, including the original determination instrument and all subsequent modification instruments.

SCHEDULE 1

The development consent for the Whitehaven Coal Handling and Preparation Plant (DA 0079.2002), granted by Gunnedah Shire Council on 2 October 2002, under delegation from the Minister for Urban Affairs and Planning.

SCHEDULE 2

Replace existing conditions of consent with the following:

CONSOLIDATED APPROVAL

SCHEDULE 1

Development Application:	0079.2002
Applicant:	Whitehaven Coal Mining Pty Ltd
Consent Authority:	Minister for Urban Affairs and Planning
Land:	See Appendix 1
Development:	Construction and operation of the Whitehaven Coal Handling and Preparation Plant

FOR INFORMATION

CONSOLIDATED APPROVAL

TABLE OF CONTENTS

DEFINITIONS	5
ADMINISTRATIVE CONDITIONS	7
Obligation to Minimise Harm to the Environment	7
Terms of Consent	7
Limits on Consent	7
Structural Adequacy	7
Demolition	7
Protection of Public Infrastructure	7
Operation of Plant and Equipment	8
ENVIRONMENTAL PERFORMANCE, MANAGEMENT AND REPORTING	9
Environmental Performance	9
Noise	9
Air Quality	9
Water	9
Visual Amenity and Lighting	9
Waste	9
Rehabilitation	9
Road Maintenance	9
Bushfire Management	10
Environmental Management	10
Design and Construction	10
Environmental Management Plan	10
Water Management Plan	10
Rehabilitation Management Plan	11
Rehabilitation Bond	11
Reporting	11
Annual Report	11
Monitoring of Coal Transport	11
Access to Information	12
Incident Notification	12
Non-Compliance Notification	12
APPENDIX 1: SCHEDULE OF LAND	13
APPENDIX 2: PROJECT LAYOUT PLANS	14

CONSOLIDATED APPROVAL

DEFINITIONS

Applicant	Whitehaven Coal Mining Pty Ltd, or its successors
ARTC	Australian Rail Track Corporation
BCA	Building Code of Australia
BCS	Biodiversity, Conservation and Science Directorate
CHPP	Coal Handling and Preparation Plant
Conditions of this consent	Conditions contained in schedules 2 and 3 inclusive
Council	Gunnedah Shire Council
Day	The period from 7am to 6pm on Monday to Saturday, and 8am to 6pm on Sundays and Public Holidays
Department	Department of Planning and Environment
Development	The development described in the EIS
DPE Water	Water Group within the Department
EIS	The environmental impact statement for the Whitehaven siding CHPP dated June 2002, as modified by the: <ul style="list-style-type: none">• additional documents submitted to Gunnedah Shire Council and/or the EPA relating to the development, dated June 2002;• amended statement of environmental effects for the increase in throughput at the Whitehaven CHPP and rail loading facility, prepared by RW Corkery & Co Pty Limited, dated April 2008;• environmental assessment for establishment of additional reject ponds at the Whitehaven CHPP, prepared by Whitehaven Coal Mining Pty Ltd, dated August 2011 and the associated response to submissions, dated November 2011; and• environmental assessment titled <i>Whitehaven Coal Limited – Gunnedah CHPP and Rocglen Rejects Management Modification and Environmental Assessment</i>, dated May 2015.• environmental assessment titled <i>Whitehaven Coal Handling and Preparation Plant – Life Extension Modification Report</i>, dated May 2022 and the associated Submissions Report titled <i>Whitehaven CHPP Modification 4 (DA 0079-2002-Mod4) – Response To Submissions</i>, dated 12 August 2022
EPA	Environment Protection Authority
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EP&A Regulation	<i>Environmental Planning and Assessment Regulation 2000</i>
EPL	Environment Protection Licence issued under the POEO Act
Evening	The period from 6pm to 10pm
Feasible	Feasible relates to engineering considerations and what is practical to build or carry out
Incident	A set of circumstances that causes or threatens to cause material harm to the environment, and/or breaches or exceeds the limits or performance measures/criteria in this consent
Land	In general, the definition of land is consistent with the definition in the EP&A Act
Material harm	Is harm that: <ul style="list-style-type: none">• involves actual or potential harm to the health or safety of human beings or to ecosystems that is not trivial; or• results in actual or potential loss or property damage of an amount, or amounts in aggregate, exceeding \$10,000 (such loss includes the reasonable costs and expenses that would be incurred in taking all reasonable and practicable measures to prevent, mitigate or make good harm to the environment) <p>This definition excludes “harm” that is authorised under either this consent or any other statutory approval.</p>
Mining operations	Includes the processing, handling, storage and transportation of coal
Minister	Minister for Planning, or delegate
Minor	Small in quantity, size and degree
Mitigation	Activities associated with reducing the impacts of the development
Negligible	Small and unimportant, such as to be not worth considering
Night	The period from 10pm to 7am on Monday to Saturday, and 10pm to 8am on Sundays and public holidays
Non-compliance	An occurrence, set of circumstances or development that is a breach of this consent
POEO Act	<i>Protection of the Environment Operations Act 1997</i>
Public infrastructure	Linear and related infrastructure that provides services to the general public, such as roads, railways, water supply, gas supply, drainage, sewerage, telephony, telecommunications etc
Reasonable	Reasonable relates to the application of judgement in arriving at a decision, taking into account: mitigation benefits, cost of mitigation versus benefits provided, community views and the nature and extent of potential improvements
Rehabilitation	The treatment or management of land disturbed by the development for the purpose of establishing a safe, stable and non-polluting environment, and

CONSOLIDATED APPROVAL

Remediation	includes remediation Activities associated with partially or fully repairing the impacts and/or environmental consequences of the development
RR	NSW Resources Regulator
ROM	Run-of-mine
Secretary	Secretary of the Department, or nominee
Site	The land listed in Appendix 1

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CONSOLIDATED APPROVAL

SCHEDULE 2 ADMINISTRATIVE CONDITIONS

OBLIGATION TO MINIMISE HARM TO THE ENVIRONMENT

1. The Applicant shall implement all reasonable and feasible measures to prevent and/or minimise any material harm to the environment that may result from the construction, operation, or rehabilitation of the development.

TERMS OF CONSENT

2. The Applicant shall carry out the development:
 - (a) in general accordance with the EIS; and
 - (b) in accordance with the conditions of this consent.

Note: The general layout of the development is shown in Appendix 2.

3. If there is any inconsistency between the above documents, the most recent document shall prevail to the extent of the inconsistency. However, the conditions of this consent shall prevail to the extent of any inconsistency.
4. The Applicant shall comply with any reasonable requirement/s of the Secretary arising from the Department's assessment of:
 - (a) any reports, strategies, plans, programs, reviews or correspondence that are submitted by the Applicant in accordance with this consent; and
 - (b) the implementation of any actions or measures contained in these documents.

LIMITS ON CONSENT

Mining Operations

5. The Applicant may carry out mining operations on the site until 2 October 2026.

Note: Under this consent, the Applicant is required to decommission and rehabilitate the site and carry out other requirements in relation to mining operations. Consequently, this consent will continue to apply in all other respects - other than the right to conduct mining operations - until the rehabilitation of the site and these additional undertakings have been carried out satisfactorily.

Coal Processing

6. The Applicant shall not process more than 3.0 million tonnes of ROM coal on the site in a calendar year.

Coal Transport

7. The Applicant shall not dispatch more than 4.1 million tonnes of coal from the site in a calendar year.

STRUCTURAL ADEQUACY

8. The Applicant shall ensure that all new buildings and structures, and any alterations or additions to existing buildings and structures, are constructed in accordance with the relevant requirements of the BCA.

Notes:

- Under Part 4A of the EP&A Act, the Applicant is required to obtain construction and occupation certificates for proposed building works;
- Part 8 of the EP&A Regulation sets out the requirements for the certification of the development.

DEMOLITION

9. The Applicant shall ensure that all demolition work on site is carried out in accordance with AS 2601-2001: *The Demolition of Structures*, or its latest version.

PROTECTION OF PUBLIC INFRASTRUCTURE

10. Unless the Applicant and the applicable authority agree otherwise, the Applicant shall:
 - (a) repair, or pay the full costs associated with repairing, any public infrastructure that is damaged by the development; and
 - (b) relocate, or pay the full costs associated with relocating, any public infrastructure that needs to be relocated as a result of the development,

Note: This condition does not include matters that are expressly provided for in the conditions of this consent, such as the maintenance of public roads.

CONSOLIDATED APPROVAL

OPERATION OF PLANT AND EQUIPMENT

11. The Applicant shall ensure that all plant and equipment used on site, or to transport coal from the site, is:
- (a) maintained in a proper and efficient condition; and
 - (b) operated in a proper and efficient manner.
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FOR INFORMATION

CONSOLIDATED APPROVAL

SCHEDULE 3 ENVIRONMENTAL PERFORMANCE, MANAGEMENT AND REPORTING

ENVIRONMENTAL PERFORMANCE

Noise

1. The Applicant shall:
 - (a) comply with the noise limits specified in any EPL for the development;
 - (b) minimise the operational, low frequency, and rail noise generated by the development;
 - (c) ensure that its rail spur is only accessed by locomotives that are approved to operate on the NSW rail network in accordance with the noise limits in ARTC's EPL (No. 3142);to the satisfaction of the [Secretary](#).

Air Quality

2. The Applicant shall:
 - (a) minimise offsite odour, fume and dust emissions of the development;
 - (b) minimise the surface disturbance on site and revegetate disturbed areas as soon as practicable;to the satisfaction of the [Secretary](#).

Water

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

3. The Applicant shall ensure that any surface water discharges from the site comply with the discharge limits (both volume and quality) set for the development in any EPL.

Visual Amenity and Lighting

4. The Applicant shall undertake tree planting on the eastern and northern boundary of the additional reject ponds (9, 10 and 11) and settlement ponds (8 and 9), within 6 months of commencement of construction works, to the satisfaction of the [Secretary](#).
5. The Applicant shall:
 - (a) minimise the visual and off-site lighting impacts of the development;
 - (b) ensure no outdoor lights shine above the horizontal; and
 - (c) ensure that all external lighting associated with the development complies with *Australian Standard AS4282 (INT) 1997 – Control of Obtrusive Effects of Outdoor Lighting* or its latest version;to the satisfaction of the [Secretary](#).

Waste

6. The Applicant shall ensure that the waste generated by the development is appropriately stored, handled and disposed of in a lawful manner.

Rehabilitation

7. The Applicant must rehabilitate the site to the satisfaction of the Secretary. This rehabilitation must be generally consistent with the proposed rehabilitation strategy described in the EIS and comply with the objectives in Table 1A below.

Table 1A: Rehabilitation Objectives

Feature	Objective
All areas of the site affected by the development	<ul style="list-style-type: none">• Safe, stable and non-polluting• Final land use compatible with surrounding land uses
Surface Infrastructure	<ul style="list-style-type: none">• To be decommissioned, unless the Secretary agrees otherwise
Water quality	<ul style="list-style-type: none">• Water retained on the site is fit for the intended post development land use• Water discharged from the site is suitable for receiving waters
Community	<ul style="list-style-type: none">• Ensure public safety• Minimise adverse socio-economic effects associated with the closure of the development

Road Maintenance

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8. The Applicant shall, to the satisfaction of Council, seal the internal access road leading from Torrens Road, from the site boundary to the junction of the eastern boundary of Lot 111, DP 755503.
9. The Applicant shall enter into a formal agreement with Council to reimburse Council for 85% of annual routine maintenance costs for Torrens Road. The Applicant is also required to contribute, on an annual basis, to the future resealing of this road in accordance with Table 1. Annual contribution for future reseal is to be \$780.00 per annum to be indexed annually (from 2002).

Table 1: Road Maintenance

Reseal Cost	\$3.00 per square metre	
Torrens Road	0.6km x 6.5m width	= 3900 square metres
Total cost to reseal		= \$11700
Assumed 15 year life of seal		= \$11700/15
		= \$780.00

Bushfire Management

10. The Applicant shall:
 - (a) ensure that the development is suitably equipped to respond to any fires on site; and
 - (b) assist the Rural Fire Service and emergency services as much as possible if there is a fire in the vicinity of the site.

ENVIRONMENTAL MANAGEMENT

Design and Construction

11. The Applicant shall:
 - (a) consult with **DPE Water** and the CMA during detailed design of the reject and settlement ponds and earth bund;
 - (b) submit detailed designs to the **Secretary** for approval prior to commencement of construction; and
 - (c) submit to the **Secretary**, post construction (as executed) plans verifying that pond construction was completed in accordance with the approved pond design.
12. Construction work may only be carried out on site between 7am and 6pm Monday to Friday and 8am and 1pm on Saturdays. No construction work is allowed on Sundays, public holidays or at any other time without the written approval of the **Secretary**.

Environmental Management Plan

13. The Applicant **must** prepare an Environmental Management Plan for the development to the satisfaction of the **Secretary**. This plan must:
 - (a) be submitted to the **Secretary** for approval by the end of June 2012;
 - (b) describe the roles and responsibilities of key personnel involved in environmental management;
 - (c) describe the relevant statutory requirements, limits or performance measures/criteria and the measures that would be implemented to comply with these requirements;
 - (d) detail the best practice management measures to be implemented, including all reasonable and feasible measures, to:
 - minimise the operational, low frequency, and rail noise generated by the development;
 - minimise offsite odour, fume and dust emissions;
 - minimise visual and off-site lighting impacts; and
 - avoid, minimise, reuse and recycle all waste streams generated by the development.
 - (e) include a program to monitor and report on the environmental performance of the development and the effectiveness of any management measures;
 - (f) include a protocol for managing, reporting and responding to any complaints, incidents or non-compliances; and
 - (g) include a protocol for periodic review of the plan.

13A The Applicant **must** implement the approved Environmental Management Plan.

Water Management Plan

14. The Applicant **must** prepare a Water Management Plan for the development to the satisfaction of the **Secretary**. This plan must be prepared in consultation with **DPE Water** and the **EPA** and be submitted to the **Secretary** for approval prior to construction of the additional reject and settlement ponds. The plan must include:

CONSOLIDATED APPROVAL

- (a) an Erosion and Sediment Control Plan, prepared in accordance with *Managing Urban Stormwater: Soils and Construction (the Blue Book)*, 4th Edition or its latest version;
- (b) a Surface Water Management Plan, including:
 - a program to monitor surface water flows and quality in the watercourses that could be affected by the project, including trigger levels for investigating adverse impacts; and
 - a site water balance that includes details of:
 - i. predicted annual inflows and outflows from the site;
 - ii. sources and security of water supply for the life of the development (including authorised entitlements and licences);
 - iii. water storage capacity;
 - iv. water use and management on the site, including measures to manage freeboard and minimise offsite discharges;
 - v. licenced discharge points and limits; and
 - vi. reporting procedures.
- (c) a Groundwater Management and Response Plan, which must include:
 - baseline data of groundwater levels, yield and quality in the project area;
 - groundwater impact assessment criteria, including trigger levels for investigating any adverse groundwater impacts;
 - a program to monitor groundwater in the area of the additional reject and settlement ponds;
 - a response protocol for any exceedances of assessment criteria; and
 - measures to mitigate and/or offset any adverse impacts on groundwater.

14A The Applicant must implement the approved Water Management Plan.

Rehabilitation Management Plan

15. The Applicant must prepare a Rehabilitation Management Plan for the development to the satisfaction of the Secretary. This plan must:
- (a) be prepared in consultation with the EPA, DPE Water and Council;
 - (b) be submitted to the Secretary for approval within 12 months of the determination of Modification 4;
 - (c) describe:
 - (i) the overall rehabilitation outcomes for the development including facility closure, final landform and final land use;
 - (ii) the measures to be undertaken to ensure compliance with the rehabilitation objectives in this consent, including the measures that would be undertaken to rehabilitate the various domains of the development, including reject ponds, water storages, stockpile areas, and site infrastructure;
 - (iii) include detailed performance and completion criteria for evaluating the performance of the rehabilitation of the site, including triggers for remedial action, where these performance or completion criteria are not met;

15A The Applicant must implement the approved Rehabilitation Management Plan.

Rehabilitation Bond

- 15B. Within two months of the approval of the Rehabilitation Management Plan, the Applicant must lodge a Rehabilitation Bond with the Department. The sum of the bond must be an amount agreed by the Secretary and determined by:
- (a) calculating the likely costs of rehabilitating all disturbed areas of the site, taking into account planned surface disturbance for the development life; and
 - (b) employing a suitably qualified and experienced person to verify the calculated costs.
- 15C. The calculation of the Rehabilitation Bond must be submitted to the Department for approval at least one month prior to the lodgement of the bond.
- 15D. If rehabilitation of the site is completed generally in accordance with the relevant performance and completion criteria, to the satisfaction of the Secretary, the Secretary will release the bond.
- 15E. If rehabilitation of the site is not completed generally in accordance with the relevant performance and completion criteria, the Secretary will call in all, or part of, the bond, and arrange for the completion of the relevant works.

REPORTING

Annual Report

16. The Applicant shall report annually on the environmental performance of the development, in accordance with the requirements of the EPL.

CONSOLIDATED APPROVAL

Monitoring of Coal Transport

17. The Applicant shall:
- (a) keep records of the:
 - amount of coal transported from the site (on a monthly basis); and
 - date and time of each train movement generated by the development; and
 - (b) make these records available on its website at the end of each calendar year.

Access to Information

18. The Applicant shall:
- (a) make the following information publicly available on its website:
 - the EIS;
 - all current statutory approvals for the development;
 - approved plans required under the conditions of this consent;
 - a comprehensive summary of the monitoring results of the development, which have been reported in accordance with the various plans approved under the conditions of this consent or the EPL;
 - a complaints register, which is to be updated on a monthly basis;
 - any other matter required by the [Secretary](#); and
 - (b) keep this information up to date, to the satisfaction of the [Secretary](#).
19. Within 3 months of:
- (a) The submission of an annual report under condition 16 above;
 - (b) any modification to the conditions of this consent; or
 - (c) the submission of an incident report under condition 20 of Schedule 3.
- the Applicant shall review, and if necessary revise, the plans required under this consent to the satisfaction of the [Secretary](#). Where this review leads to revisions of any plan then within four weeks of the review the revised document must be submitted to the [Secretary](#) for approval.

Note: This is to ensure the plans are updated on a regular basis, and incorporate any recommended measures to improve the environmental performance of the project.

Incident Notification

20. The Applicant must immediately notify the Department and any other relevant agencies after it becomes aware of an incident. The notification must be in writing via the Department's Major Projects Website and identify the development (including the application number and name) and set out the location and nature of the incident.

Non-Compliance Notification

21. Within seven days of becoming aware of a non-compliance, the Applicant must notify the Department of the non-compliance. The notification must be in writing via the Department's Major Projects Website and identify the development (including the application number and name), set out the condition of this consent that the development is non-compliant with, why it does not comply and the reasons for the non-compliance (if known) and what actions have been, or will be, undertaken to address the non-compliance.

Note: A non-compliance which has been notified as an incident does not need to also be notified as a noncompliance.

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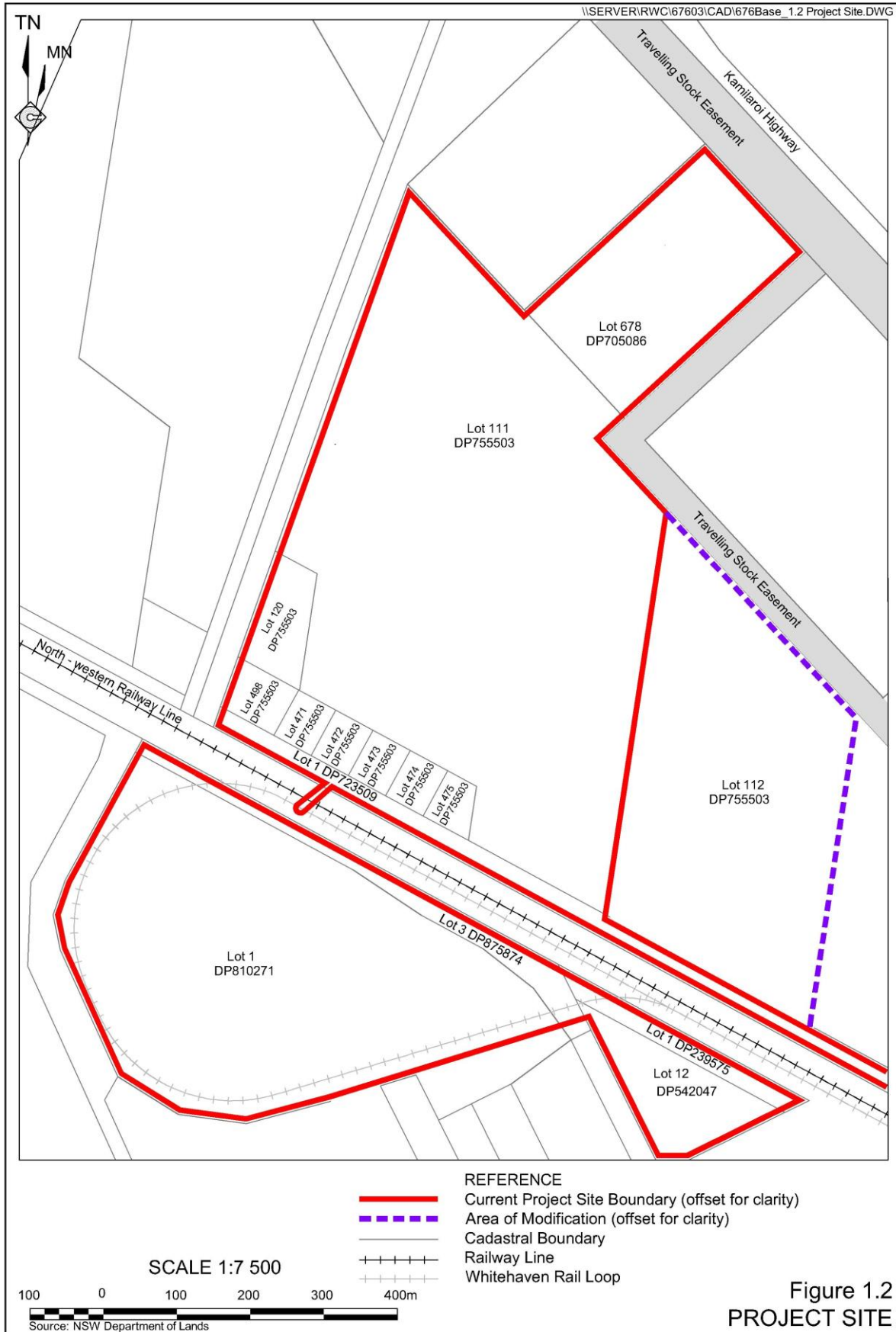
APPENDIX 1 SCHEDULE OF LAND

Lot	Deposited Plan
678	705086
1	723509
111,112,120,471,472,473,474,475,498	755503
1	810271
3	875874
12	542047
North-Western Railway Corridor, incorporating rail load out bin adjacent to Lot 3 DP 875874	

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APPENDIX 2 PROJECT LAYOUT PLANS



Development consent boundary (MOD 2 extension shown by dashed purple line).

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Source: The State of NSW (2020); Whitehaven Coal (2021).

Figure 2: Development layout.