

Modification of Development Consent

Section 4.55(2) of the *Environmental Planning and Assessment Act 1979*

As delegate of the Minister for Planning and Public Spaces, I approve the modification of the development consent referred to in Schedule 1, subject to the conditions in Schedule 2.



Steve O'Donoghue
Director
Resource Assessments

Sydney

22 December 2023

SCHEDULE 1

Development consent: MP08_0135 granted by the Planning Assessment Commission on 30 January 2015

For the following: Moolarben Coal Project Stage 2

Applicant: Moolarben Coal Operations Pty Limited

Consent Authority: Minister for Planning and Public Spaces

Modification: UG2 Mining Area Modification

SCHEDULE 2

1. In the list of definitions, delete the definitions for “DoI Water”, “DRG”, “OEH” and “RMS”, and insert the following definitions in alphabetical order:

BCS	Biodiversity Conservation and Science Directorate
BCT	Biodiversity Conservation Trust
BC Act	<i>Biodiversity Conservation Act 2016</i>
DPE Water	Water Group within the Department
Heritage NSW	Heritage NSW within the Department of Premier and Cabinet
Non-Compliance	An occurrence, set of circumstances or development that is a breach of this approval
Resources Regulator	Resources Regulator within the Department of Regional NSW
UG2 Mining Area	The entire UG2 mining domain, including the UG2 Extension Area, as described in the EA (MOD 4) and depicted under ‘Proposed UG Modification’ in Figure 4.3
UG2 Extension Area	The UG2 longwall extension area within the UG2 Mining Area approved under Modification 4, as described in the EA (MOD 4) and depicted as the ‘UG2 Longwall Extension Area’ in Figure 4.3 of Appendix 4.

2. In the definition for EA, after the last dot point insert the following:

“Moolarben Coal Complex UG2 Modification Report dated December 2021, associated Submissions Report dated November 2022 and additional information dated 24 October 2023, 27 November 2023, 8 December 2023 and 21 December 2023”

3. In the definition for Minister, after ‘Planning’, insert “and Public Spaces”.
4. Delete all references to “shall” and replace with “must”, except in conditions 3 and 5 of Schedule 2, condition 4 of Schedule 4, and the reference in the last paragraph in condition 5 of Schedule 5.
5. Delete all references to “OEH” and replace with “BCS”, except in condition 46 of Schedule 3 and 5(k) of Schedule 4.
6. In condition 46 of Schedule 3 and 5(k) of Schedule 4, delete the reference to “OEH” and replace with “Heritage NSW”
7. Delete all references to “DoI Water” and replace with “DPE Water”.
8. Delete all references to “DRG” and replace with “Resources Regulator”.
9. In condition 6 of Schedule 3:
 - a. delete “and implement”; and
 - b. at the end of the condition, insert:

“6A. The Proponent must implement the approved Noise Management Plan.”

10. In condition 16 of Schedule 3:
 - a. delete “and implement”; and
 - b. at the end of the condition, insert:

“16A. The Proponent must implement the approved Blast Management Plan.”

11. In condition 22 of Schedule 2:

- a. delete “and implement”; and
- b. at the end of the condition, insert:

“22A. The Proponent must implement the approved Air Quality Management Plan.

Note: With the introduction of the EPA’s Climate Change Policy and Climate Change Action Plan, the Proponent will be required to prepare and implement a Greenhouse Gas Mitigation Plan and a Climate Change Adaptation Plan in accordance with requirements provided by the EPA.

12. In condition 29 of Schedule 3:
 - a. delete “and implement”; and
 - b. at the end of the condition, insert:

“29A. The Proponent must implement the approved Water Management Plan.”

13. After condition 30 of Schedule 3, insert:

UG2 Extension Area

- 30A. Prior to the commencement of secondary workings within the UG2 Extension Area, the Proponent must retire the biodiversity credits specified in Table 15A below. The retirement of credits must be carried out in consultation with BCS and in accordance with the Biodiversity Offsets Scheme of the BC Act, to the satisfaction of the BCT.

Table 15A – Credit Liability UG2 Extension Area

Credit Type	Credits Required
Species Credits	
Broad-headed Snake (<i>Hoplocephalus bungaroides</i>)	20
Pink-tailed Worm Lizard (<i>Aprasia parapulchella</i>)	22
Large-Eared Pied Bat (<i>Chalinolobus dwyeri</i>)	12
Eastern Cave Bat (<i>Vespadelus troughtoni</i>)	12

Note:

- *The credit liability referred to in Table 15A accounts for offsetting the predicted impacts on threatened species habitat in the onsite offset area (ie double the offset credit requirements for predicted impacts in the offset area).*

14. In condition 39 of Schedule 3:
 - a. delete “and implement”; and
 - b. at the end of the condition, insert:

“39A. The Proponent must implement the approved Biodiversity Management Plan”.

15. In condition 46 of Schedule 3:
 - a. delete “and implement”; and
 - b. at the end of the condition, insert:

“46A. The Proponent must implement the approved Heritage Management Plan”.

16. In condition 53 of Schedule 3:
 - a. delete the first sentence and replace with:

“The Proponent must rehabilitate the site in accordance with the conditions imposed on the mining lease(s) associated with the development under the *Mining Act 1992*.”

- b. after Table 17, insert:

Note: The Proponent must prepare and implement a Rehabilitation Management Plan in accordance with the conditions imposed on the mining lease(s) associated with the development under the Mining Act 1992.

17. Delete condition 56 of Schedule 3.

18. In Table 18, in the performance measures for biodiversity, delete “subsidence impacts or”.

19. In the first note under Table 18, after “Appendix 4”, insert “, and excludes features subject to impacts from the UG2 Extension Area which are subject to separate performance measures listed in Table 18A”.

20. After condition 2 of Schedule 4, insert:

Performance Measures – Natural Features and Heritage Features UG2 Extension Area

2A. For the UG2 Extension Area, the Proponent must ensure that the project does not cause any exceedances of the performance measures in Table 18A, to the satisfaction of the Secretary.

Water Resources	
Drainage Line 8	No greater subsidence impacts or environmental consequences than predicted in the EA
Land	
Other cliffs	No greater subsidence impacts or environmental consequences than predicted in the EA
Minor cliffs Rock face features Steep slopes	Minor environmental consequences (that is, occasional rockfalls, displacement of or dislodgment of boulders or slabs, or fracturing, that in total do not impact more than 5% of the total face area of each such type of feature within any longwall mining domain)
Biodiversity	
Threatened species, threatened populations, or endangered ecological communities	Negligible environmental consequences
Habitat for Broad-headed Snake, Pink-tailed Worm Lizard, Large-eared Pied Bat and Eastern Cave Bat	No greater subsidence impacts than predicted in the EA
Known maternity / breeding cave for Large-eared Pied Bat and Eastern Cave Bat	Negligible subsidence impacts ¹ and environmental consequences
Onsite Offset Area	No greater environmental consequences than predicted in the EA
Heritage Sites	
Aboriginal heritage sites	No greater subsidence impact or environmental consequences than predicted in the EA
Mine workings	
First workings under an approved Extraction Plan beneath any feature where performance measures in this table require negligible subsidence impacts or negligible environmental consequences	To remain long-term stable and non-subsiding
Second workings	To be carried out only in accordance with an approved Extraction Plan

¹ Negligible subsidence impacts are defined as an impact which does not result in loss of, or change to the characteristics of, a maternity roost (breeding habitat).

Notes:

- The locations of the features referred to in Table 18A are shown in Figure 4.3 in Appendix 4, but only relate to those features within the UG2 Extension Area.
- The Proponent will be required to define more detailed performance indicators (including impact assessment criteria) for each of these performance measures in the various management plans that are required under this approval.
- Measurement and/or monitoring of compliance with performance measures and performance indicators is to be undertaken using generally accepted methods that are appropriate to the environment and circumstances in which the feature or characteristic is located. These methods are to be fully described in the relevant management plans. In the event of a dispute over the appropriateness of proposed methods, the Secretary will be the final arbiter.
- The requirements of this condition only apply to the impacts and consequences of mining operations, construction or demolition undertaken following the date of approval of MOD 4.

21. In the first note under Table 19, before “Appendix 4”, insert “Figures 4.2 and 4.4 in”.

22. In condition 5 of Schedule 5:

- a. in subparagraph (c), after “second workings”, insert “, overlying surface features”;
- b. in subparagraphs (d) and (f), after “Table 18”, insert “, 18A ”;
- c. in subparagraph (h):
 - i. before the first dot point, insert:
 - detailed baseline data on:
 - watercourses and/or waterbodies that could be affected by subsidence;
 - groundwater levels, yield and quality in overlying strata and the region;
 - ii. after the last dot point, insert:
 - a program to monitor and report on groundwater impacts of the UG2 Mining Area second workings, including the installation of at least two additional nested standpipes to investigate and, if identified, monitor perched water in overlying strata;
- d. delete subparagraph (i) and replace with:

include a Biodiversity Management Plan, which has been prepared in consultation with BCS and:

- establishes baseline data for existing habitat, including vegetation condition and threatened species habitat;
 - provides for the management of potential impacts and/or environmental consequences of second workings on terrestrial flora and fauna, with a specific focus on threatened species, populations and endangered ecological communities; and
 - includes impact assessment criteria to ensure compliance with the relevant performance measures in Tables 18 and 18A;
 - includes a monitoring program designed to detect and monitor maternity / breeding caves for the Eastern Cave Bat and Large-eared Pied Bat within the UG2 Mining Area;
- e. in subparagraph (m), after the last dot point, insert:
 - monitor the subsidence impacts of the project to ensure compliance with the performance measures in Tables 18, 18A and 19, including an appropriate trigger action response plan to ensure early detection of and response to potential exceedances of the performance measures;
 - monitor non-conventional subsidence impacts on cliffs, the Munghorn Gap Nature Reserve and any other sensitive features, including a trigger action response plan that enables early detection of any adverse or excessive non-conventional behaviour;

23. After condition 6 of Schedule 5, insert:

Bat Monitoring Program

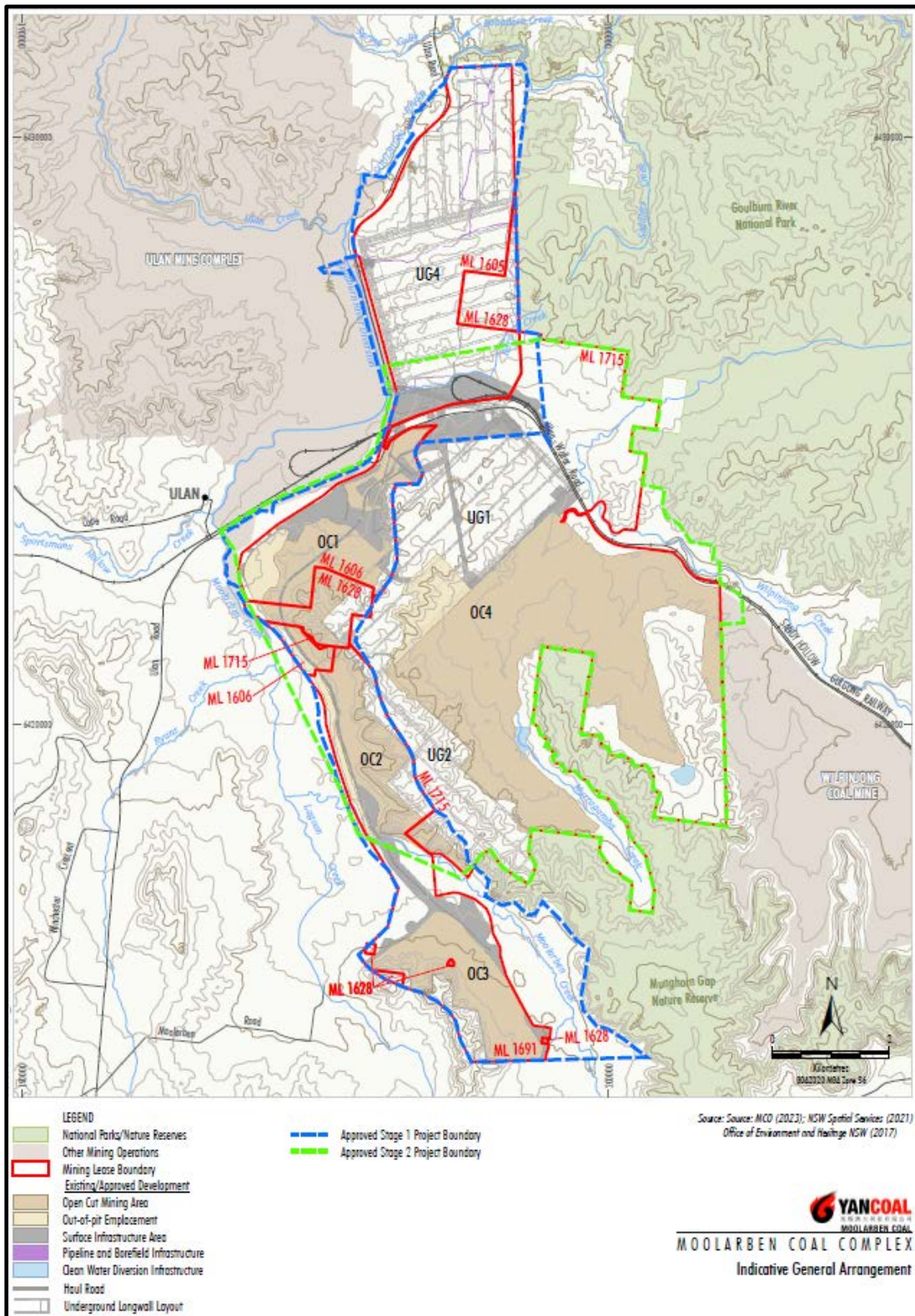
- 6A. Within twelve months of the determination of Modification 4, the Proponent must commence targeted bat surveys for any maternity / breeding caves for the Eastern Cave Bat and Large-eared Pied Bat in the UG2 Mining Area. Surveys must be undertaken during breeding season for the two bat species and continue until the completion of secondary extraction within the UG2 Mining Area.

The monitoring program must be generally consistent with the methodology outlined in the EA for Modification 4.

24. In condition 1 of Schedule 6:
- delete “and implement”; and
 - at the end of the condition, insert:

1A. The Proponent must implement the approved Environmental Management Strategy.

25. In Appendix 2, delete Figure 2.1 and replace with:



26. In Appendix 4, delete all figures and headings and replace with:

UG1 MINE LAYOUT AND LOCATION OF NATURAL AND BUILT FEATURES

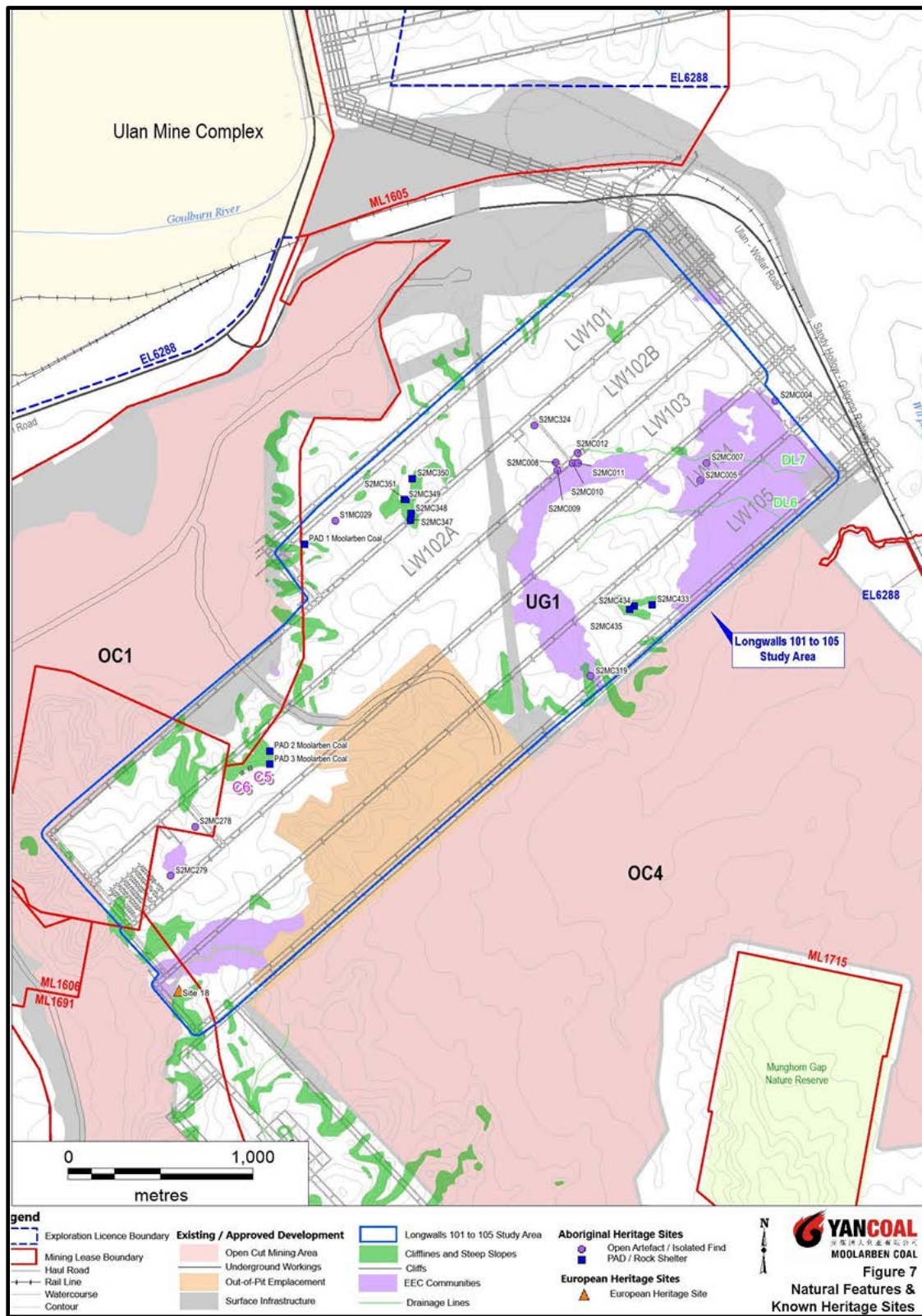


Figure 4.1: Natural and Heritage Features – UG1 Mining Domain

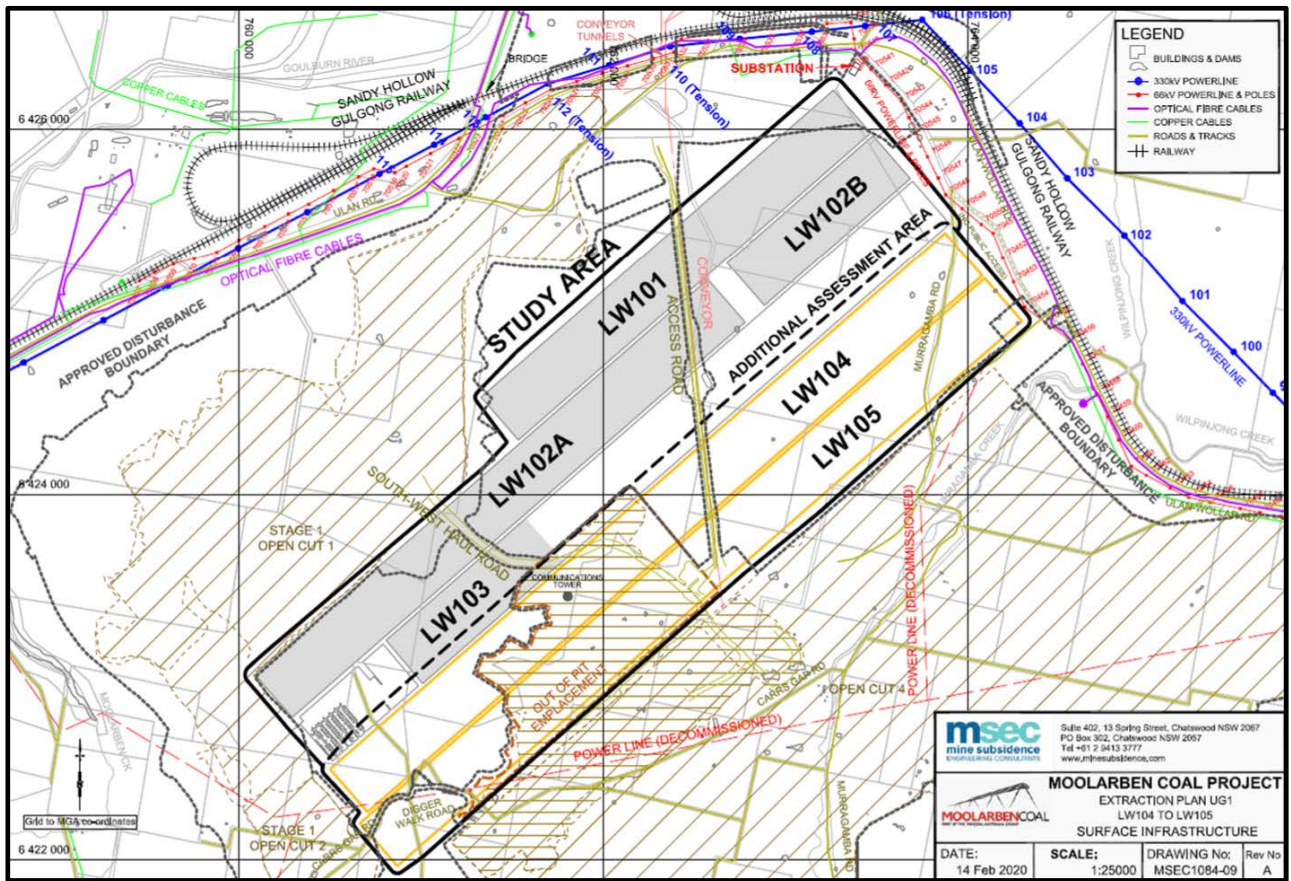


Figure 4.2: Built Features - UG1 Mining Domain

APPENDIX 4B UG2 MINING LAYOUT AND LOCATION OF NATURAL AND BUILT FEATURES

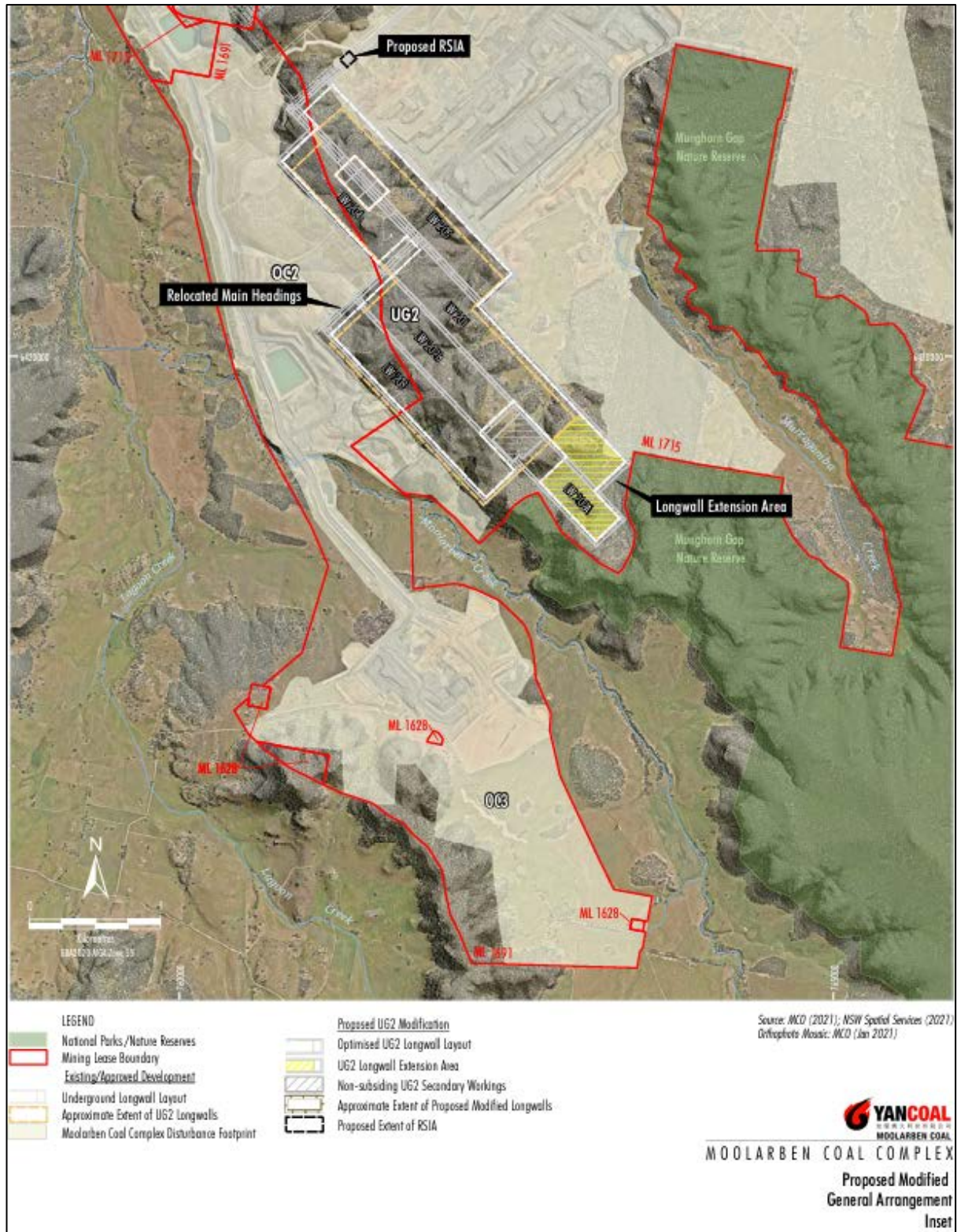


Figure 4.3 – UG2 Mining Layout

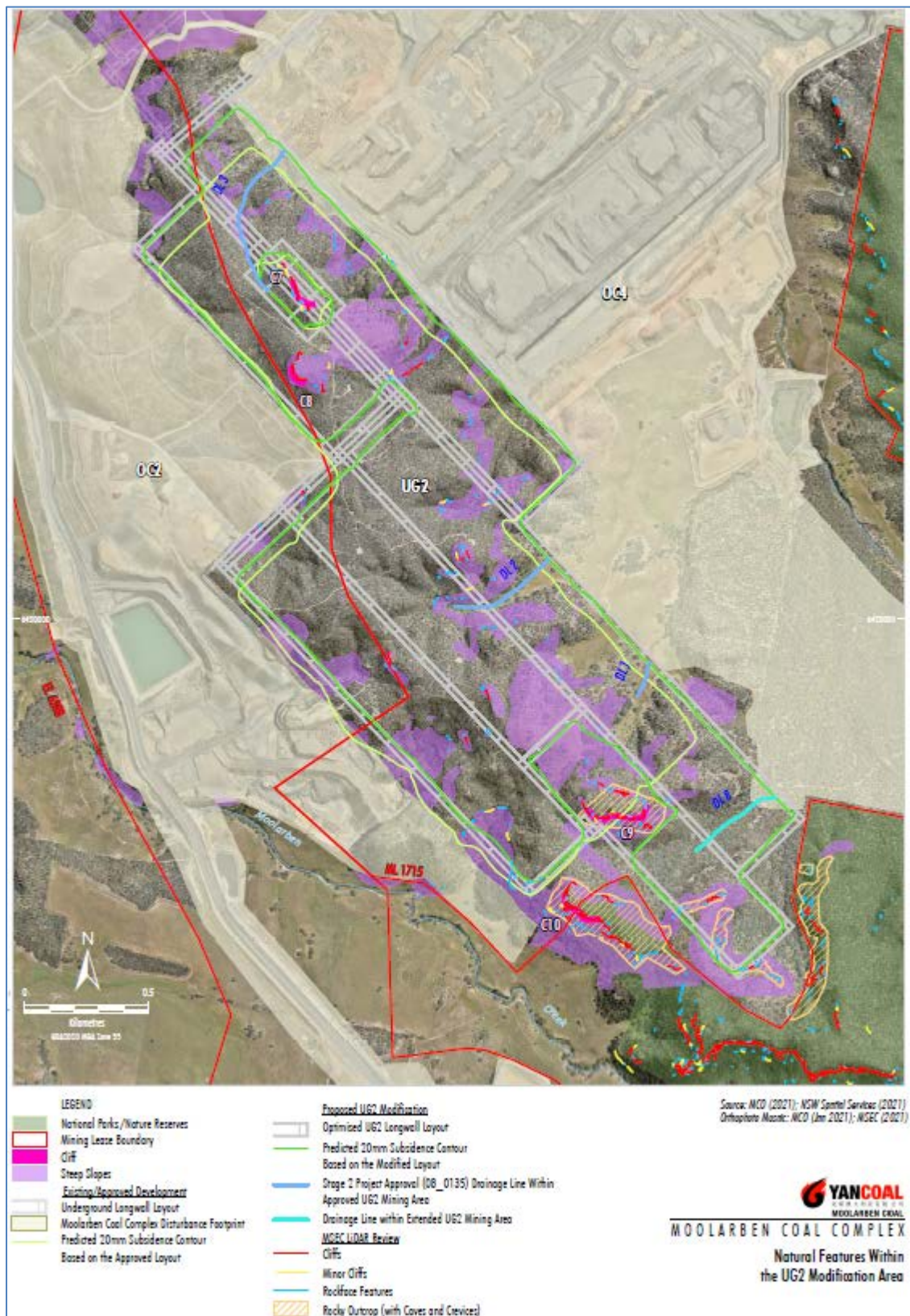


Figure 4.4 - Natural Features – UG2 Mining Domain

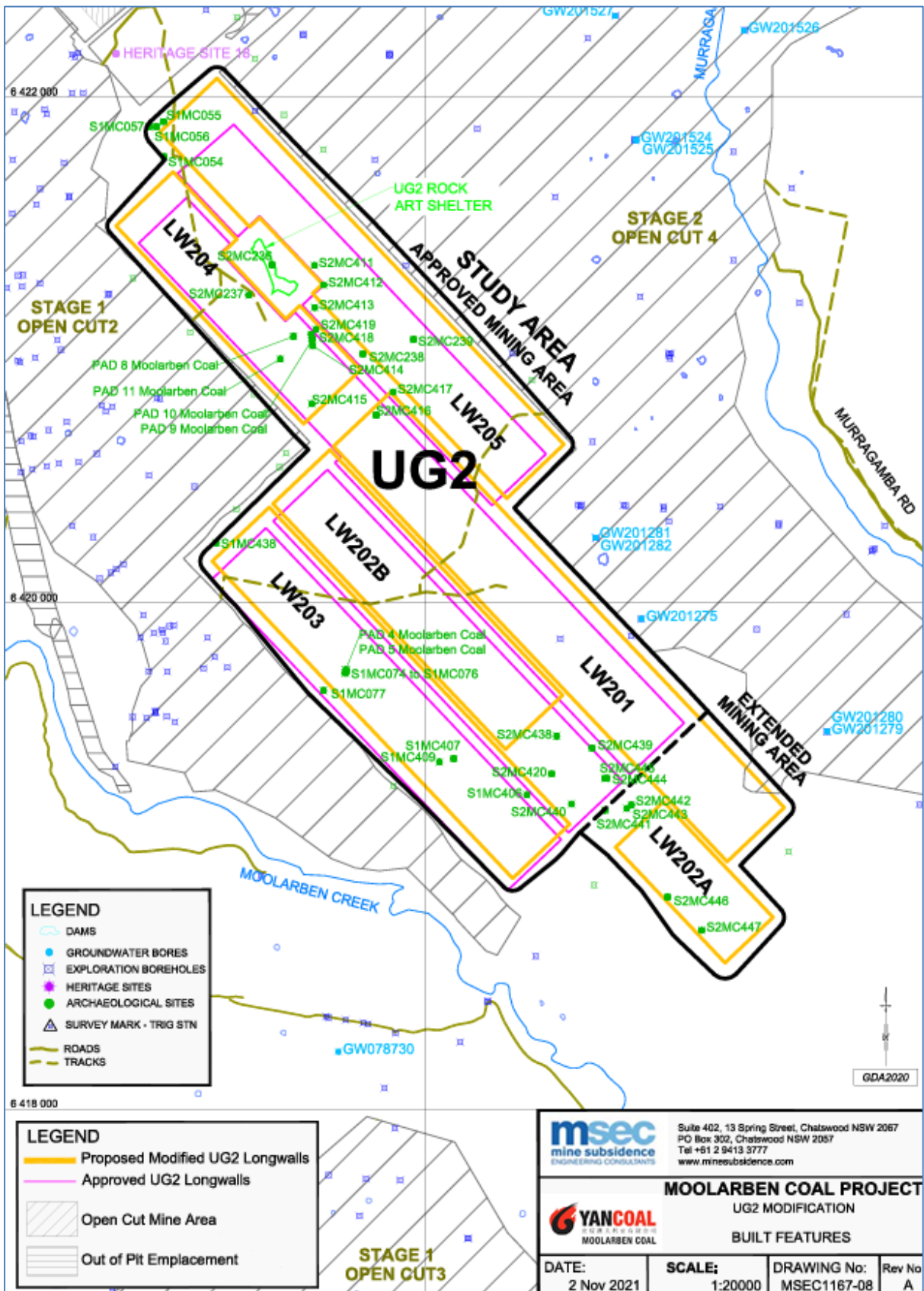
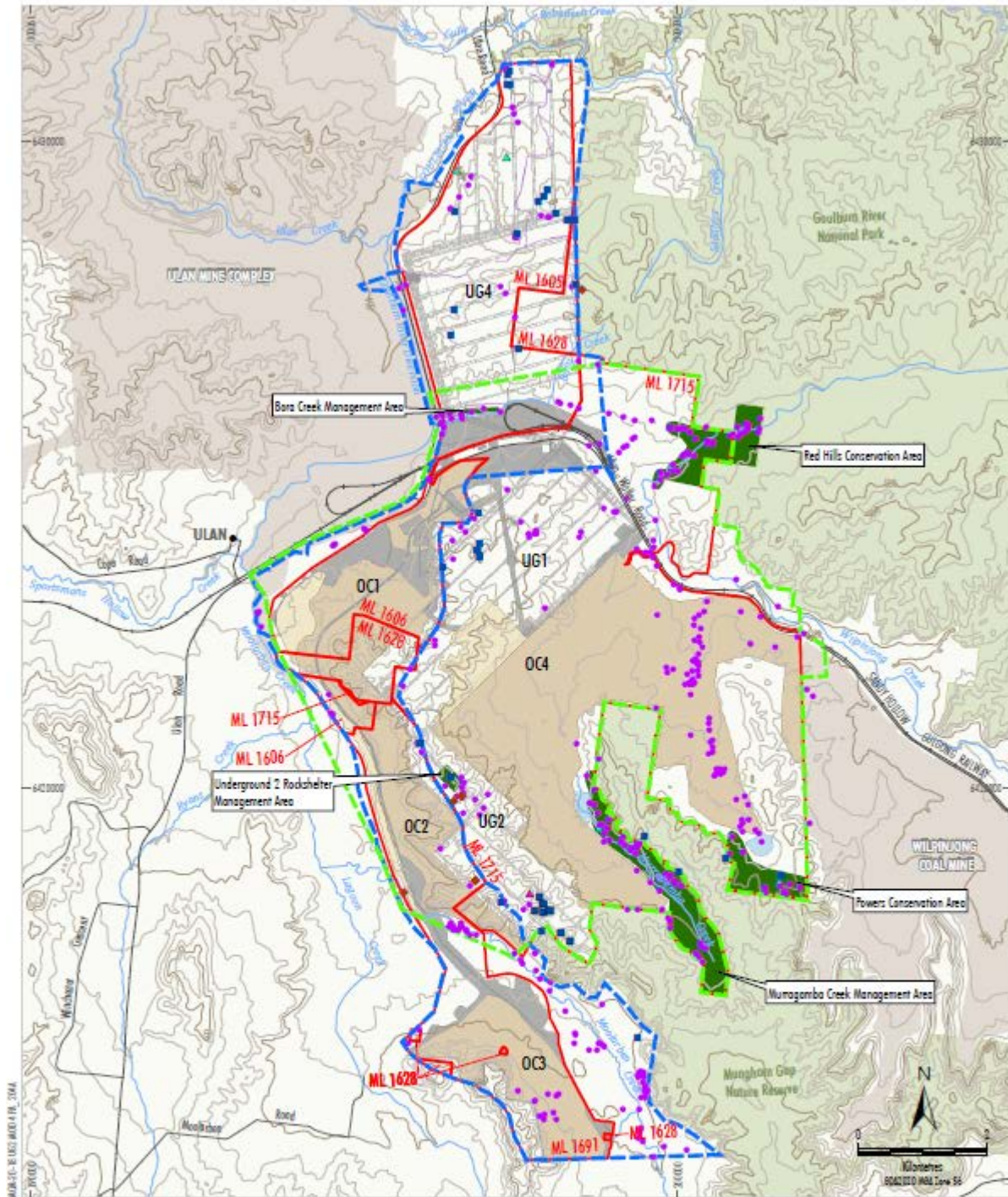


Figure 4.5 - Built and Heritage Features – UG2 Mining Domain

27. In Appendix 8, delete Figure 8.1 and replace with:



Source: Source: MCO (2021-2022); NDW Spatial Services (2021) Office of Environment and Heritage NSW (2017)

YANCOAL
MOOLARBEN COAL
Aboriginal Heritage Sites

<p>LEGEND</p> <ul style="list-style-type: none"> National Parks/Nature Reserves Other Mining Operations Mining Lease Boundary Management/Conservation Area Existing/Approved Development Open Cut Mining Area Out-of-pit Emplacement Surface Infrastructure Area Pipeline and Borefield Infrastructure Clean Water Diversion Infrastructure Haul Road Underground Longwall Layout 	<ul style="list-style-type: none"> Approved Stage 1 Project Boundary Approved Stage 2 Project Boundary Aboriginal Heritage Sites Open Artefact Site with or without PAD Grinding Grooves with or without Artefact Scatter PAD Rock Shelter with or without Art, Grinding Grooves, Artefacts or PAD Isolated Artefact
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28. In Table 8.1:

- a. In rows 11, 12, 17 and 21 (AHIMS 36-3-0956, 36-3-0957, 36-3-0884 and 36-3-0955), delete the site type and replace with "Rock Shelter with PAD";
- b. In row 20 (AHIMS 36-3-0954), delete the site type and replace with "Rock Shelter with Artefacts and PAD"; and
- c. insert the following rows at the end of the table:

36-3-3302	S1MC406	Artefact Scatter	36-3-3320	S2MC411	Artefact Scatter
36-3-3300	S1MC407	Artefact Scatter	36-3-3321	S2MC412	Isolated Find
36-3-3303	S1MC409	Rock Shelter with PAD	36-3-3322	S2MC413	Isolated Find
36-3-3454	S1MC438	Isolated Find	36-3-3323	S2MC414	Isolated Find
36-3-3809	S2MC440	Rock Shelter with Artefacts and PAD	36-3-3324	S2MC415	Isolated Find
36-3-3810	S2MC441	Rock Shelter with Artefacts and PAD	36-3-3450	S2MC416	Artefact Scatter
36-3-3812	S2MC442	Rock Shelter with PAD	36-3-3451	S2MC417	Artefact Scatter
36-3-3811	S2MC443	Rock Shelter with PAD	36-3-3449	S2MC418	Isolated Find
36-3-3813	S2MC444	Rock Shelter with PAD	36-3-3448	S2MC419	Artefact Scatter
36-3-3817	S2MC445	Rock Shelter with PAD	36-3-3452	S2MC420	Artefact Scatter
36-3-3814	S2MC446	Rock Shelter with Artefacts and PAD	36-3-3807	S2MC438	Isolated Find
36-3-3815	S2MC447	Rock Shelter with Artefact	36-3-3808	S2MC439	Rock Shelter with PAD

**End of modification
(MP08_0135 MOD 4)**