



Regional
NSW

Deputy Premier

Briefing – Approval to grant ELA 6442 and ELA 6443 to Narrabri Coal Pty Ltd and others for Group 9 (coal) minerals

Issue:	Approval to grant two exploration licences for Group 9 (coal) minerals in satisfaction of Exploration Licence Application 6442 (Act 1992) (ELA 6442) and Exploration Licence Application 6443 (Act 1992) (ELA 6443) to Narrabri Coal Pty Ltd (Narrabri Coal), Narrabri Coal Australia Pty Ltd, Kores Narrabri Pty Limited, J-Power Australia Pty Ltd, POSCO International Narrabri Investment Pty Ltd and Upper Horn Investments (Australia) Pty Ltd.
Analysis:	<p>The applications are for operational allocation purposes associated with the Narrabri Underground Mine. The applicants are seeking the exploration licences to explore for coal resources to support future extension of the life of the mine and better mine design (subject to relevant approvals and development consent).</p> <p>On 18 July 2022 Cabinet endorsed the recommendation of the Coal Resource Operational Allocation Committee (CROAC) to grant ELA 6442 over 1746 hectares for a term of six years and to grant ELA 6443 over 1975 hectares for a term of six years.</p> <p>On 22 July 2022, Mining, Exploration and Geoscience (MEG) notified the applicants of its intention to recommend the decision-maker grant ELA 6442 and ELA 6443. Draft Instruments of Grant were included in the notification. The applicants have paid all required fees. The applications may now be determined by the Minister.</p>
Deadline for approval:	12 September 2022

Recommendations

The Deputy Premier:

- 1 Grants** an exploration licence to Narrabri Coal Pty Ltd, Narrabri Coal Australia Pty Ltd, Kores Narrabri Pty Limited, J-Power Australia Pty Ltd, POSCO International Narrabri Investment Pty Ltd and Upper Horn Investments (Australia) Pty Ltd in satisfaction of Exploration Licence Application 6442 (Act 1992) for a term of six years over 1746 hectares in accordance with section 22 of the *Mining Act 1992*, subject to the terms and conditions detailed in the Instrument of Grant (Attachment A).
- 2 Signs** the Instrument of Grant document (Attachment A) and returns it to MEG.
- 3 Grants** an exploration licence to Narrabri Coal Pty Ltd, Narrabri Coal Australia Pty Ltd, Kores Narrabri Pty Limited, J-Power Australia Pty Ltd, POSCO International Narrabri Investment Pty Ltd and Upper Horn Investments (Australia) Pty Ltd in satisfaction of Exploration Licence Application 6443 (Act 1992) for a term of six years over 1975 hectares in accordance with section 22 of the *Mining Act 1992*, subject to the terms and conditions detailed in the Instrument of Grant (Attachment B).
- 4 Signs** the Instrument of Grant document (Attachment B) and returns it to MEG.
- 5** If approved, **signs** and **sends** the letter at Attachment C to the applicants.

References:
CM9 Ref: RVF22/4653

Division/Branch:
A&S/MEG

Contact:
Peter Bower, Manager Title
Assessments – Coal and Petroleum,
(02) 4063 6733

→ Deputy Premier's approval: *Paw Toole*

Date: 6/9/22

Comments

Checked by DLO:

Approved/Noted by Advisor/CoS:

Key reasons

On 24 February 2022, Narrabri Coal and others submitted two valid applications (Attachments D and E) for ELA 6442 and ELA 6443.

ELA 6442 is for the exploration of Group 9 (coal) minerals for a term of six years over an area of 1746 hectares. The application area is adjacent to Mining Lease 1609 (Act 1992) that forms the Narrabri Underground Mine. The application was made under the operational allocation framework for coal.

ELA 6442 is located to the north-west of the Narrabri Mine, around 17 kilometres south south-east of Narrabri in the Narrabri Local Government Area.

ELA 6443 is for the exploration of Group 9 (coal) minerals for a term of six years over an area of 1975 hectares. The application area is adjacent to Exploration Licence 6243 (Act 1992) that forms part of the Narrabri Underground Mine project area. The application was made under the operational allocation framework for coal.

ELA 6443 is located to the north north-west of the Narrabri Mine, around 12 kilometres south south-east of Narrabri in the Narrabri Local Government Area. A locality map showing both applications is provided at Attachment F.

In assessing ELA 6442 and ELA 6443, MEG has considered whether the:

- applications meet the operational allocation criteria
- applicants' environmental record is satisfactory
- applicants have the finances and technical capability to carry out the proposed work program.

The applications have been assessed in accordance with the relevant legislation and the Operational Allocation Guidelines (Guidelines) (Attachment G).

The applications were assessed separately by the Resources Regulator (RR) (Attachment H) and the Geological Survey of New South Wales (GSNSW) (Attachments I and J). The assessments did not raise any issues which would prevent the granting of ELA 6442 and ELA 6443. A full assessment summary for each application is at Attachments K and L.

On 10 June 2022, CROAC recommended the grant of ELA 6442 and ELA 6443 to the applicants over the full application areas for terms of six years (Attachment M). This recommendation was endorsed by Cabinet on 18 July 2022.

ELA 6442 and ELA 6443 meet all legislative and operational allocation requirements

- The applications will extend the life of Narrabri Mine. The current Narrabri Mine would exhaust existing mineable coal reserves in around 2031. There is currently an application for an MLA (MLA 612) for the Stage 3 Extension Project to the south of the existing mine that will extend the life of mine to 2044. It is estimated that the development of ELA 6442 and ELA 6443 could add around 15 years to the life of mine (subject to further approvals and dependent on production rates).

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- The applications will enable a better mine design. The existing headings from the Narrabri Mine could be extended to the west to provide earliest access to the coal resource within ELA 6442. A further set of development headings could then be extended to the north to gain access to ELA 6443. The use of existing infrastructure increases efficiencies and reduces costs.
- The application area contains a resource that would otherwise be likely to be sterilised. A 2019 Commercial Viability Assessment for the Gorman North area indicated the resource may support a new marginally viable underground mining operation however concluded that the likelihood of this asset being developed on a standalone basis is low.
- There is insufficient interest from other potential applicants to justify a competitive selection process. MEG issued a call for expressions of interest in exploring for coal in the larger Gorman North area which includes both application areas. No expressions of interest were received.
- The application satisfies all other relevant requirements and considerations under the *Mining Act 1992* (the Act), including the following:
 - It meets the application area thresholds – the areas are each 32% of the areas covered by relevant titles held by the applicants.
 - The applicants' compliance and environmental performance history is satisfactory, and no information was identified to support a finding that the applicants are not a fit and proper person.
 - The proposed work program, and the applicant's technical and financial capability to carry out the proposed work program, meets the published minimum standards.
- ELA 6443, having been applied for against an existing exploration licence, has additionally been assessed against the criteria in 7.3 of the Guidelines. The application has met all criteria except that it is associated with a colliery holding. The Guidelines may be taken into account by the decision-maker and MEG has taken the broader perspective that all other requirements have been met and this criteria should not preclude grant of this application.

The applications are within the Gorman North strategic release area

The Strategic Release Framework was developed by the NSW Government to deliver greater transparency and control over the release of coal exploration areas. The *Strategic Statement on Coal Exploration and Mining in NSW* identified a limited number of areas the Government would consider for release, including the Gorman North coal exploration area.

Both ELA 6442 and ELA 6443 are within the Gorman North area. The granting of these applications would reduce the available resource for a standalone operation.

The Department of Regional NSW (DRNSW) commissioned a commercial viability assessment to determine if the area could support a standalone mine. The report noted that the area could potentially support a standalone mine however margins would be small. Given the marginal viability of a standalone mine and lack of market interest, the best return from the Gorman North area would be to access the coal from the existing infrastructure of Narrabri Mine.

Protection of the environment has been considered

Following consideration of the need to conserve and protect the environment there is not considered to be any reason to object to the application. The current standard coal exploration licence conditions (including environmental conditions) are recommended to be applied to any licences.

The minimum security of \$10,000 will be applied on grant of each licence and has been paid. This amount may change over the life of the licence depending on what exploration activities are conducted, and their impacts and associated rehabilitation liabilities.

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Supporting analysis

There are no compliance or contentious issues considered significant enough to refuse the grant of ELA 6442 and ELA 6443

The assessment of the applicants' compliance history was undertaken by the RR (Attachment F) and the following non-compliances were identified:

- Narrabri Coal Pty Ltd – court action was taken against Narrabri Coal for failure to undertake exploration activities in accordance with the activity approval. Narrabri Coal plead guilty to 19 offences and were fined a total of \$132,500. Narrabri Coal Pty Ltd also had five other non-compliances where official cautions were issued.
- Narrabri Coal Australia Pty Ltd, Kores Narrabri Pty Ltd, POSCO International Narrabri Investment Pty Ltd and Upper Horn Investments (Australia) Pty Ltd – compliance histories for each of these applicants shows the same non-compliances as Narrabri Coal as they occurred on jointly held titles. These companies were issued with official cautions for all matters.
- J-Power Australia Pty Ltd – has the same non-compliances as Narrabri Coal on the jointly held titles and received official cautions. Additionally, on separately held titles, they had a further 11 non-compliances resulting in official cautions and a late letter.

Consideration of the compliance histories of the related companies has not resulted in their being considered to not be a fit and proper person for the purposes of the Act. Accordingly, the compliance history of the applicant and related persons are not considered significant enough to warrant refusal of the applications.

The grants meet the requirements under the *Native Title Act 1993 (Cth) (NTA)*

The standard native title condition is recommended for both applications to fulfil the requirements of the NTA.

Notice of these applications were published and nine submissions were received

Invitation for public comment in relation to ELA 6442 and ELA 6443 was advertised in The Sydney Morning Herald on 22 March 2022 and in The Courier on 24 March 2022 in accordance with section 13A of the Act.

Both applications were also published in the NSW Government Gazette (as required under section 136 of the Act) on 4 March 2022.

MEG received nine public comments in response to these notifications, to which the applicant has provided a response. The public comments focused on the potential for negative social, environmental and cultural impacts.

The matters raised by the public will be addressed by the requirement for activity approval, the standard conditions, provisions of the Mining Act and other relevant legislation such as the *Environmental Planning and Assessment Act 1979* and the *Water Management Act 2000*. The standard native title condition as well as other legislation ensures that aboriginal sites and rights are protected.

Procedural fairness has been provided

On 22 July 2022, MEG notified the applicants of its intention to recommend the decision-maker grant ELA 6442 and ELA 6443. Draft Instruments of Grant were included in the notice. Narrabri Coal, on behalf of the applicants, confirmed acceptance of the proposal.

All fees required prior to the grant of the exploration licences, including security, have been paid.

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Departmental approvals

Comments:

Position	Signature	Date
Approving officer: Daniel Summerhayes, Director Title Assessments, 0460 625 772		1/09/2022
Approving officer: Jamie Tripodi, Executive Director Assessments and Systems, 0408 981 293		1/09/2022
Endorsing officer: Georgina Beattie, CEO Mining, Exploration and Geoscience, 0407 948 751	Approved via email	2 September 2022

Additional Background

Narrabri Mine exploration licence applications ELA 6442 and ELA 6443 are joint applications between Narrabri Coal Pty Ltd, Narrabri Coal Australia Pty Ltd, Kores Narrabri Pty Limited, J-Power Australia Pty Ltd, POSCO International Narrabri Investment Pty Ltd and Upper Horn Investments (Australia) Pty Ltd.

Narrabri Coal Pty Ltd and Narrabri Coal Australia Pty Ltd are subsidiaries of Whitehaven Coal Limited.

The Narrabri Mine has been operational since 2011. In 2019-20 and 2020-21 it accounted for two to three per cent of NSW's saleable production of thermal coal. The applicants currently hold two titles – Mining Lease 1609 (Act 1992) (ML 1609) and Exploration Licence 6243 (Act 1992) (EL 6243).

The applicants have also applied for Mining Lease Application 612 (Act 1992) (MLA 612) to the south of ML 1609 and over part of EL 6243. MLA 612 covers the Narrabri Underground Mine Stage 3 Extension Project which was approved by the Independent Planning Commission on 1 April 2022.

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Attachments and references

Attachments / Reference	Title
A - RDOC22/163269	Instrument of Grant – ELA 6442
B - RDOC22/163267	Instrument of Grant – ELA 6443
C - RDOC22/163266	Letter from Deputy Premier to Applicants
D - RDOC22/163265	Application Form – ELA 6442
E - RDOC22/163264	Application Form – ELA 6443
F - RDOC22/163263	Location Map
G - RDOC22/163262	Operational Allocation Guidelines
H - RDOC22/163261	Resources Regulator Assessment
I - RDOC22/163260	Geological Survey of NSW Assessment – ELA 6442
J - RDOC22/163258	Geological Survey of NSW Assessment – ELA 6443
K - RDOC22/163257	Assessment Summary – ELA 6442
L - RDOC22/163256	Assessment Summary – ELA 6443
M - RDOC22/163255	CROAC meeting minutes for 10 June 2022

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