



APPROVAL

MOOLARBEN COAL PROJECT STAGE 2 NSW (EPBC 2008/4444)

This decision is made under sections 130(1) and 133 of the *Environment Protection and Biodiversity Conservation Act 1999*.

Proposed action

person to whom the approval is granted Moolarben Coal Operations Pty Ltd

proponent's ACN 077 939 569

proposed action To develop a new open cut coal mine and two underground coal mines, 40 km north-east of Mudgee, NSW and as described in the referral received under the EPBC Act on 9 September 2008 and the request for variation received under the EPBC Act on 27 February 2012.

Approval decision

Controlling Provision	Decision
• Listed threatened species and communities (sections 18 & 18A)	approve
• Listed migratory species (sections 20 & 20A)	approve
• A water resource, in relation to coal seam gas development and large coal mining development (sections 24D & 24E)	approve

conditions of approval

This approval is subject to the conditions specified below.

expiry date of approval

This approval has effect until 31 December 2065.

Decision-maker

name and position Paula Stagg
Acting Assistant Secretary
South-Eastern Australia Environment Assessments

signature

date of decision

18/5/15

Conditions of approval:

1. The **approval holder** must not clear more than 1,534 hectares of native vegetation within the defined footprint at Schedule 1.
2. To mitigate the impacts of the proposal on the Large-eared Pied Bat, Southern Long-eared Bat, Regent Honeyeater, Swift Parrot and the Spotted-tail Quoll, the **approval holder** must prepare and submit, prior to the proposed date of **commencement** of the action, a mine site Vegetation Clearance Protocol and Landscape Management Plan (**VCPLMP**) for the **Minister's** written approval. The **VCPLMP** must:
 - a. Delineate areas to be cleared, describe pre-clearance survey methods, specify actions to minimise fauna impacts and detail vegetation clearance procedures.
 - b. Require collection and stockpiling of habitat features important to threatened fauna species for reinstatement in rehabilitation areas.
 - c. Require use of native, locally sourced seed for propagation for rehabilitation activities.
 - d. Specify a two stage clearing protocol where non-habitat trees are cleared 24 hours prior to any habitat trees being cleared, to encourage fauna to move out of an area.

The **approval holder** must not **commence** until the **VCPLMP** is approved by the **Minister**. The approved **VCPLMP** must be implemented.

3. To compensate for the loss of 123.3 hectares of the *White Box-Yellow Box- Blakely's Red Gum Grassy Woodland and Derived Native Grassland* (WBGW) ecological community and 902 hectares of habitat for EPBC listed threatened species, the **approval holder** must prepare and submit (within 3 months after the approval), a Biodiversity Offset Management Plan (**BOMP**) for the proposed EPBC Offset Areas, for the **Minister's** written approval. The **BOMP** must:
 - a. Identify those lands described as the Offset Areas at Schedule 2 (Figures 1-7) of this notice that are necessary to achieve the outcomes required by the *Environmental Offsets Policy 2012*. This must include **offset attributes**, **shapefiles**, textual descriptions and maps to clearly define the location and boundaries of the offset area(s).
 - b. Provide a survey and description of the current condition (prior to any management activities) of the offset areas identified in Condition 3a.
 - c. Detail management actions and regeneration and revegetation strategies to be undertaken on the offset areas to improve the ecological quality of these areas, including:
 - (i) a description and timeframe of measures that would be implemented to improve the condition of the ecological communities on the site;
 - (ii) performance and completion criteria for evaluating the management of the offset area, and criteria for triggering remedial action;
 - (iii) a program to monitor and report on the effectiveness of these measures, and progress against the performance and completion criteria;

- (iv) a description of potential risks to the successful implementation of the plan, a description of the measures that will be implemented to mitigate against these risks and a description of the contingency measures that will be implemented if defined triggers arise; and
- (v) details of who would be responsible for monitoring, reviewing, and implementing the plan.

The approved **BOMP** must be published on the approval holder's internet web site, within 1 month of being approved and for a period of 5 years thereafter. The approved **BOMP** must be implemented.

4. To compensate for the loss of 123.3 hectares of the *White Box-Yellow Box- Blakely's Red Gum Grassy Woodland and Derived Native Grassland* (WBGW) ecological community and 902 hectares of habitat for EPBC listed threatened species, within 24 months of the date of this approval, the **approval holder** must secure the lands identified as the *Offset Areas* at Schedule 2 (Figures 1-7) of this notice as a biodiversity offset by a legal instrument under relevant nature conservation legislation on the title of the land. This instrument must:
 - a. provide for the protection of the land in perpetuity;
 - b. prevent any future development activities, including mining and mineral extraction;
 - c. ensure the active management of the land; and
 - d. be provided to the Department within 3 months of it being issued, as evidence of compliance with this condition.
5. The **approval holder** must undertake management and monitoring of water resources in accordance with the project approval for Application Number 08-0135 issued by the NSW Planning Assessment Commission under the *Environmental Planning and Assessment Act 1979* (NSW) on 30 January 2015.
6. Upon request, the **approval holder** shall supply the groundwater monitoring data for the Moolarben Coal Project to the **Department**, NSW Government agencies, operators of the Ulan and/or Wilpinjong mines or other adjacent mine operators. A protocol for the supply of the data will be included in the project's Water Management Plan.
7. The **approval holder** must make available to the **Minister** on request, all plans or programs and any review of plans or programs produced pursuant to Condition 5.
8. Within 30 days after the **commencement** of the action, the **approval holder** must advise the **Department** in writing of the actual date of **commencement**.
9. The **approval holder** must maintain accurate records substantiating all activities associated with or relevant to these conditions of approval, including measures taken to implement the **BOMP** and **VCPLMP**, and make them available upon request to the **Department**. Such records may be subject to audit by the **Department** or an independent auditor in accordance with section 458 of the EPBC Act, or used to verify compliance with the conditions of approval. Summaries of audits will be posted on the **Department's** website. The results of audits may also be publicised through the general media.
10. Within three months of every 12 month anniversary of the **commencement** of the action, the **approval holder** must publish a report on their website addressing compliance with each of the conditions of this approval, including implementation of the

BOMP and **VCPLMP** as specified in the conditions. Documentary evidence providing proof of the date of publication must be provided to the **Department** at the same time as the compliance report is published.

11. Non-compliance with any of the conditions of this approval must be reported to the **Department** within 2 business days of becoming aware of the non-compliance.
12. Upon the direction of the **Minister**, the **approval holder** must ensure that an independent audit of compliance with the conditions of approval is conducted and a report submitted to the **Minister**. The independent auditor must be approved by the **Minister** prior to the **commencement** of the audit. Audit criteria must be agreed to by the **Minister** and the audit report must address the criteria to the satisfaction of the **Minister**.
13. If the **approval holder** wishes to carry out any activity otherwise than in accordance with the Plans as specified in the conditions, the **approval holder** must submit to the **Department** for the **Minister's** written approval a revised version of that Plan. The **approval holder** must not **commence** the varied activity until the **Minister** has approved the varied Plan in writing. The **Minister** will not approve a varied plan unless the revised Plan would result in an equivalent or improved environmental outcome over time. If the **Minister** approves the revised Plan, that Plan must be implemented in place of the Plan originally approved.
14. If the **Minister** believes that it is necessary or convenient for the better protection of listed threatened species and ecological communities to do so, the **Minister** may request that the **approval holder** make specified revisions to the Plan specified in the conditions and submit the revised Plan for the **Minister's** written approval. The **approval holder** must comply with any such request. The revised approved Plan must be implemented. Unless the **Minister** has approved the revised Plan then the **approval holder** must continue to implement the Plan originally approved.
15. If, at any time after 5 years from the date of this approval, the **approval holder** has not **substantially commenced** the action, then the **approval holder** must not **substantially commence** the action without the written agreement of the **Minister**.

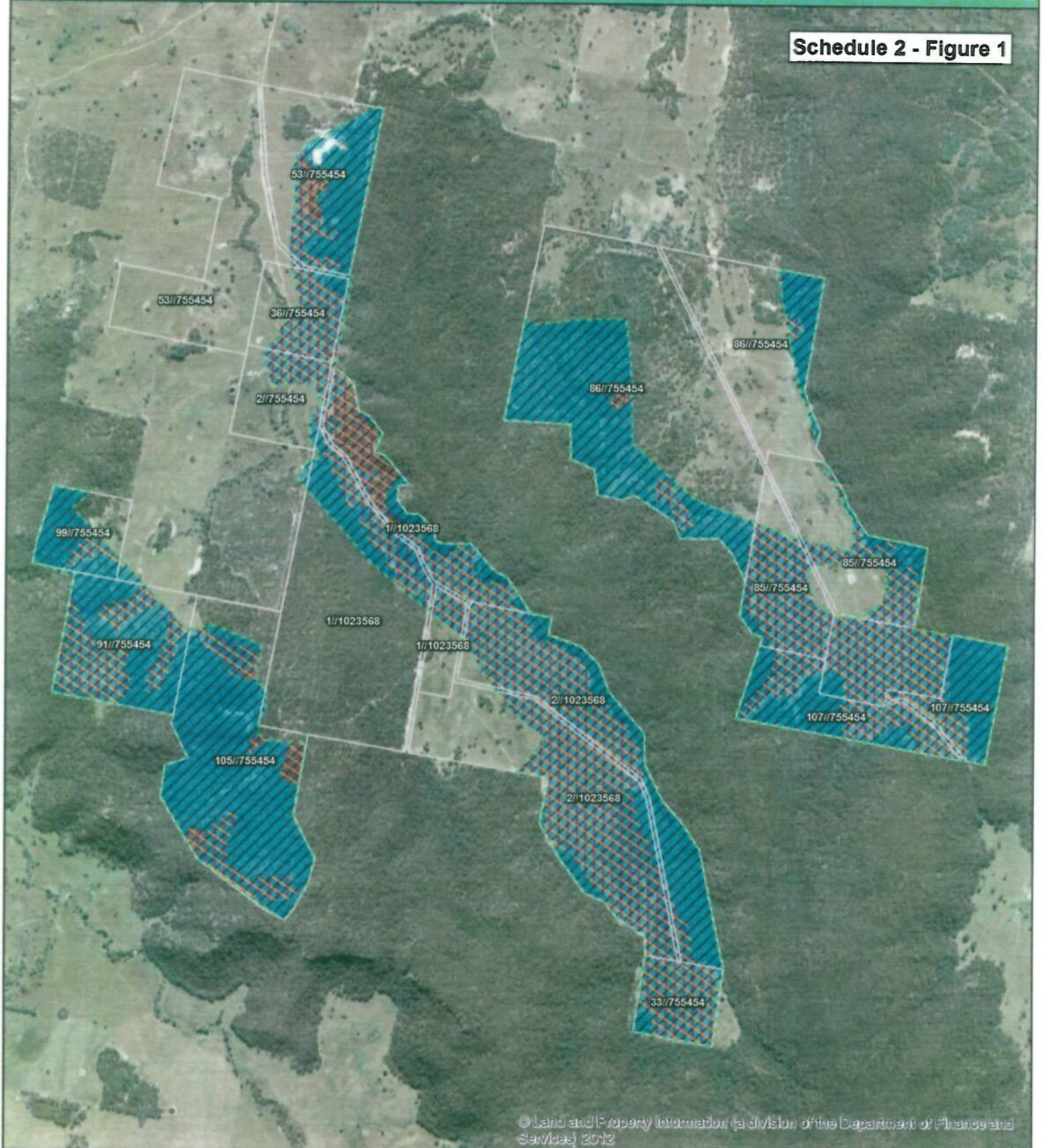
Definitions

- a) **Department**, the Australian Government Department administering the *Environment Protection and Biodiversity Conservation Act 1999*.
- b) **Minister**, the Minister administering the *Environment Protection and Biodiversity Conservation Act 1999* and includes a delegate of the Minister.
- c) **Commencement**, means the earthworks, vegetation removal or construction of any infrastructure, excluding fences and signage, associated with the proposed action. Commencement does not include:
 - minor physical disturbance necessary to undertake pre-clearance surveys or establish monitoring programs or geotechnical investigations; or
 - activities that are critical to commencement that are associated with mobilisation of plant and equipment, materials, machinery and personnel prior to the start of development only if such activities will have no adverse impact on matters of national environmental significance.
- d) **Offset attributes**, means an '.xls' file capturing relevant attributes of the Offset Area, including the EPBC reference ID number, the physical address of the offset site, coordinates of the boundary points in decimal degrees, the EPBC protected matters that the offset compensates for, any additional EPBC protected matters that are benefiting from the offset, and the size of the offset in hectares.
- e) **Shapefiles**, means an ESRI Shapefile containing '.shp', '.shx' and '.dbf' files and other files capturing attributes of the Offset Area, including the shape, EPBC reference ID number and EPBC protected matters present at the relevant site. Attributes should also be captured in '.xls' format.
- f) **Substantially commenced**, means the commencement of earthworks and vegetation removal.
- g) **Approval Holder** means the person to whom the approval is granted or any person acting on their behalf, or to whom the approval is transferred under section 145B of the EPBC Act.

**Moolarben Coal Project Stage 2
Schedule 1**



Schedule 2 - Figure 1



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Legend

Onsite Offset Area
Property Cadastre

EPBC Communities and Species Habitat

White Box - Yellow Box - Blakey's Red Gum Grassy
Woodland and Derived Native Grassland

Regent Honeyeater
Swift Parrot

Large-eared Pied Bat
Long-eared Bat

Spotted-tailed Quoll

0 0.25 0.5 1
Kilometres

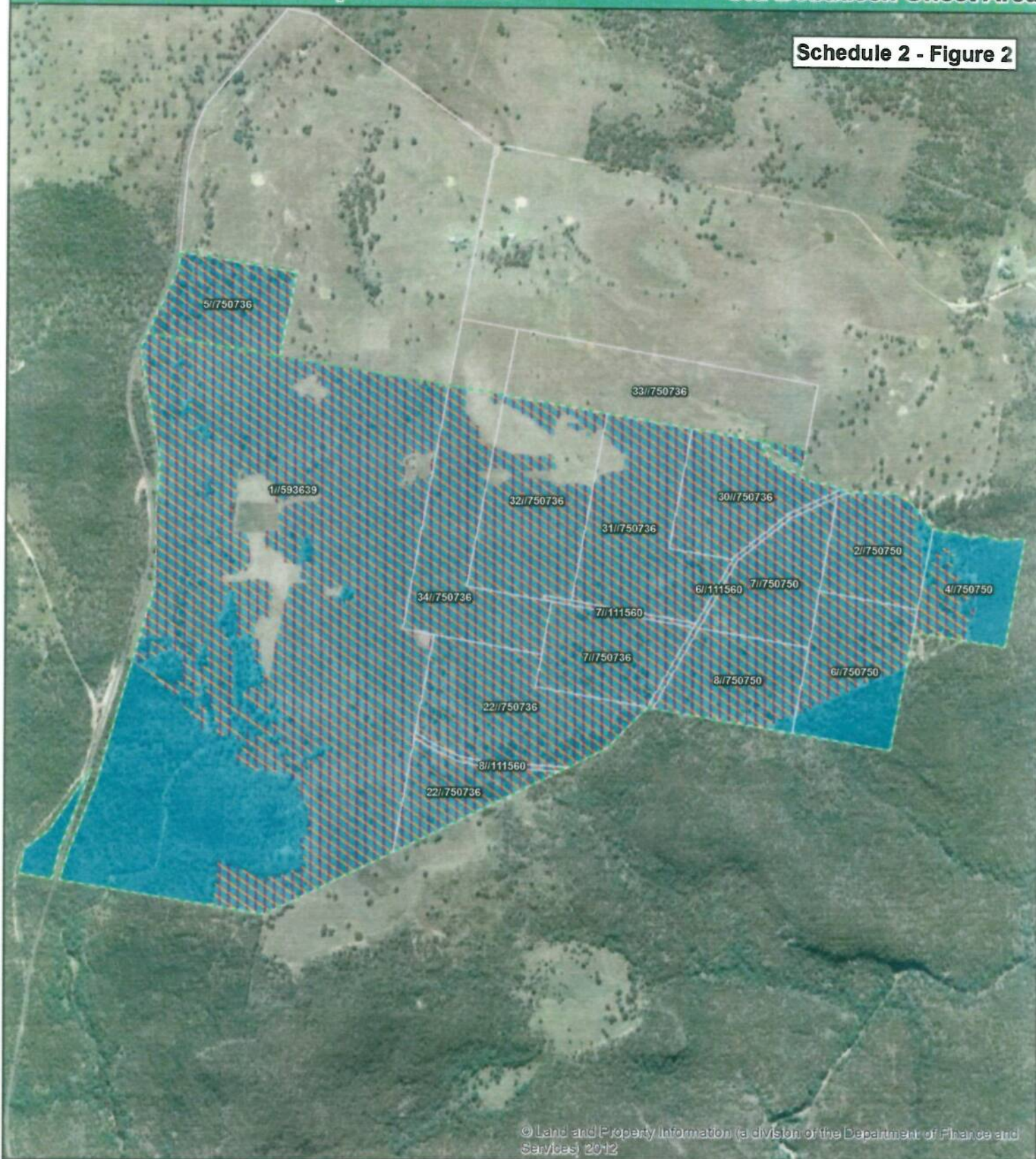
Projection: GDA 1994 MGA Zone 56



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Schedule 2 - Figure 2



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Legend

Old Bobadeen Offset Area
Property Cadastre

EPBC Communities and Species Habitat

White Box - Yellow Box - Blakey's Red Gum Grassy Woodland and Derived Native Grassland

Regent Honeyeater
Swift Parrot

Large-eared Pied Bat

Long-eared Bat

Spotted-tailed Quoll

0 0.2 0.4 0.8
Kilometres

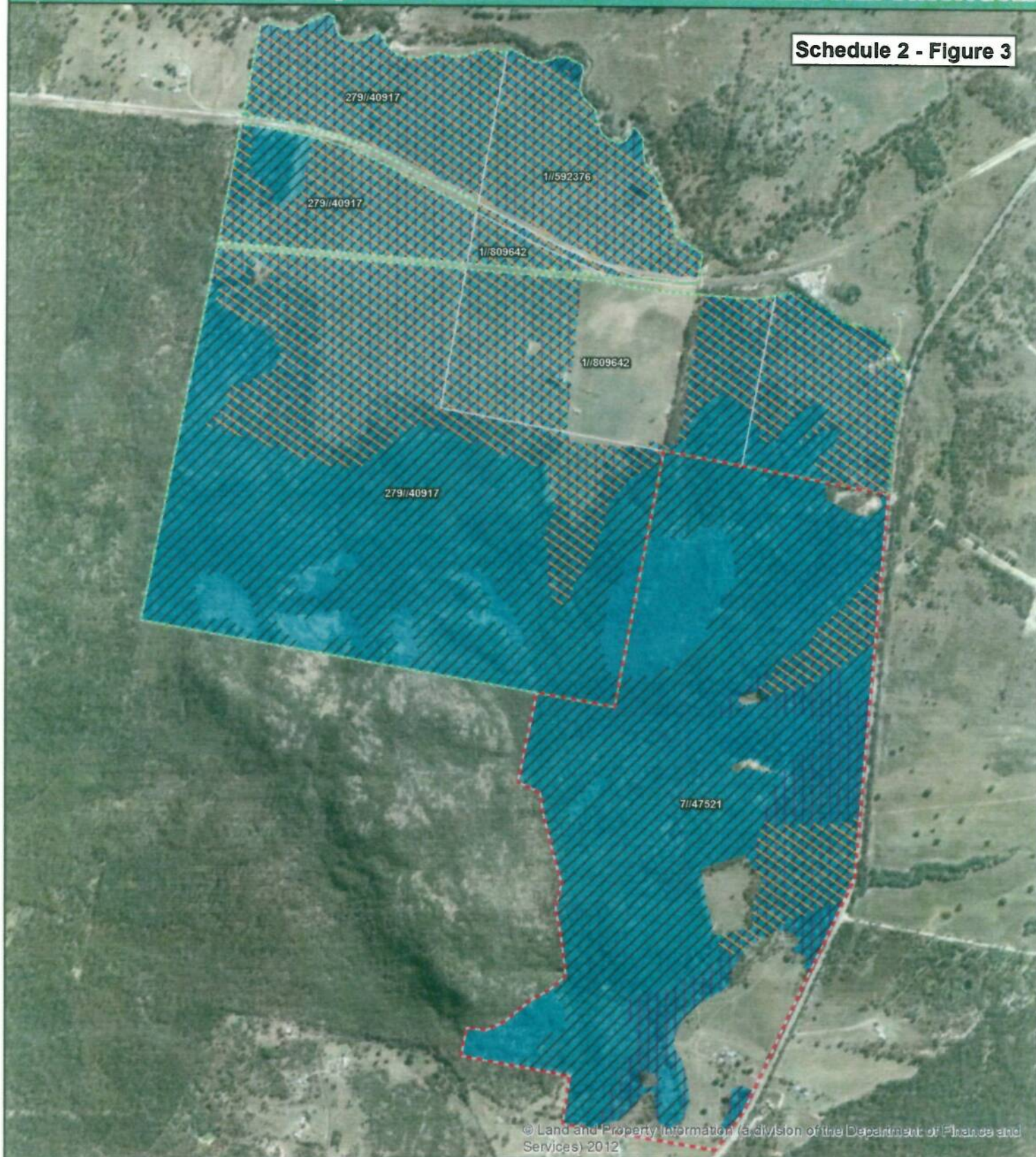
Projection: GDA 1994 MGA Zone 56



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Schedule 2 - Figure 3



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Legend

- Libertus Offset Area
- Ulan Offset Area
- Property Cadastre

EPBC Communities and Species Habitat

- White Box - Yellow Box - Blakey's Red Gum Grassy Woodland and Derived Native Grassland
- Regent Honeyeater
- Swift Parrot
- Large-eared Pied Bat
- Long-eared Bat
- Spotted-tailed Quoll

0 0.15 0.3 0.6
Kilometres
Projection: GDA 1994 MGA Zone 56



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Legend

Avisford 1 Offset Area
Property Cadastre

EPBC Communities and Species Habitat

White Box - Yellow Box - Blakey's Red Gum Grassy
Woodland and Derived Native Grassland

Regent Honeyeater
Swift Parrot

Large-eared Pied Bat

Long-eared Bat

Spotted-tailed Quoll

0 0.15 0.3 0.6
Kilometres

Projection: GDA 1994 MGA Zone 56





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Legend

 Avisford 2 Offset Area
 Property Cadastre

EPBC Species Habitat

 Regent Honeyeater
 Swift Parrot
 Large-eared Pied Bat
 Long-eared Bat
 Spotted-tailed Quoll

0 0.1 0.2 0.4
 Kilometres
 Projection: GDA 1994 MGA Zone 56



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Legend

Dun Dun East Offset Area
Property Cadastre

EPBC Communities and Species Habitat

White Box - Yellow Box - Blakey's Red Gum Grassy Woodland and Derived Native Grassland

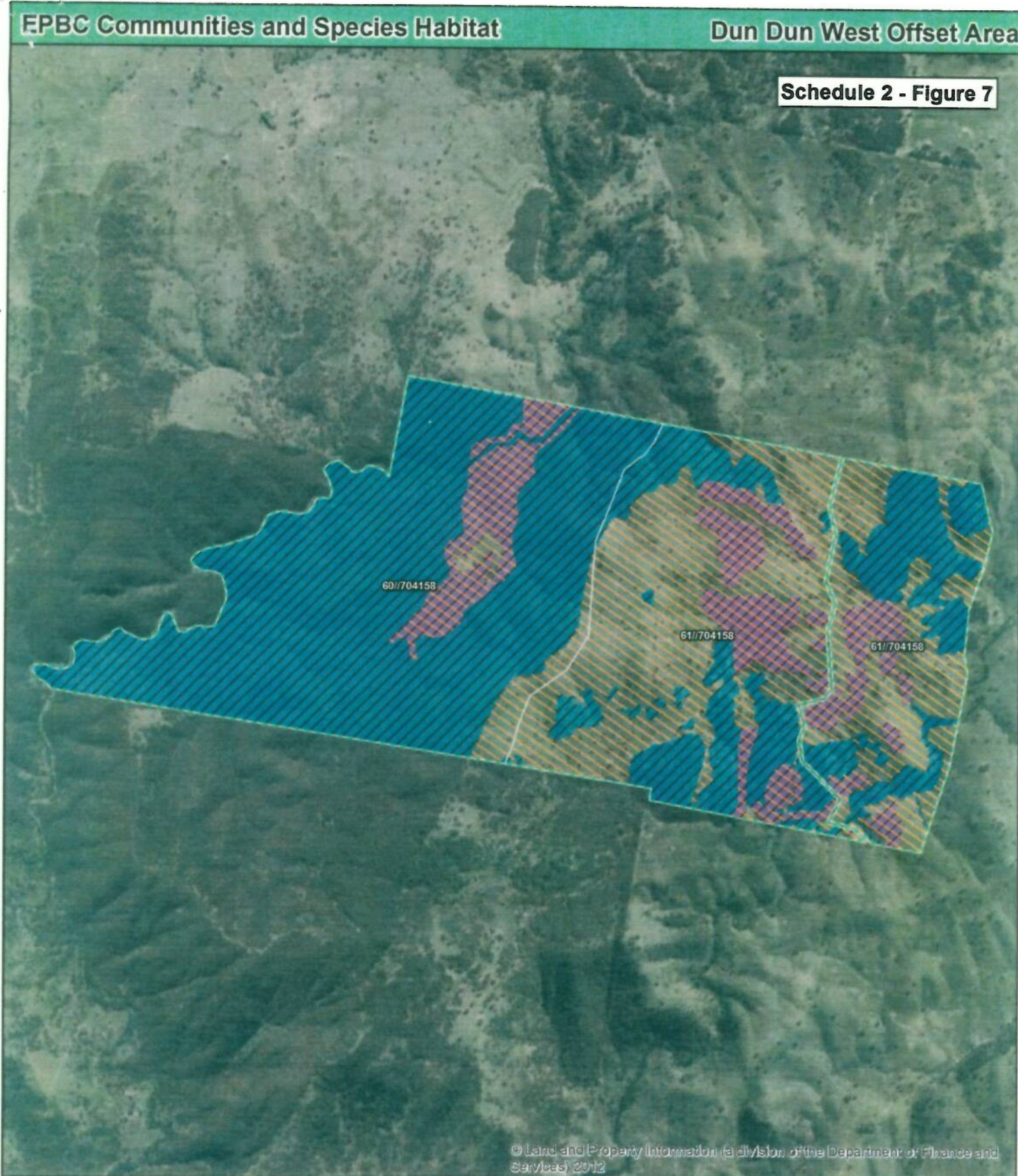
Regent Honeyeater
Swift Parrot

Large-eared Pied Bat
Long-eared Bat
Spotted-tailed Quoll

0 0.25 0.5 1
Kilometres
Projection: GDA 1994 MGA Zone 56



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Legend

Dun Dun West Offset Area
Property Cadastre

EPBC Communities and Species Habitat

White Box - Yellow Box - Blakey's Red Gum Grassy Woodland and Derived Native Grassland

Regent Honeyeater
Swift Parrot

Large-eared Pied Bat
Long-eared Bat

Spotted-tailed Quoll

0 0.25 0.5 1
Kilometres

Projection: GDA 1994 MGA Zone 56



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