

ASSESSMENT REPORT

Hillgrove Minerals Mine

Extension of Mine Life Modification (DA 98/35 Mod 3)

1 BACKGROUND

Hillgrove Mines Pty Ltd (Hillgrove) owns and operates the Hillgrove underground gold and antimony mine, located approximately 30 kilometres east of Armidale in the Armidale Dumaresq local government area (see Figure 1). The mine's surface facilities are located adjacent to the town of Hillgrove.

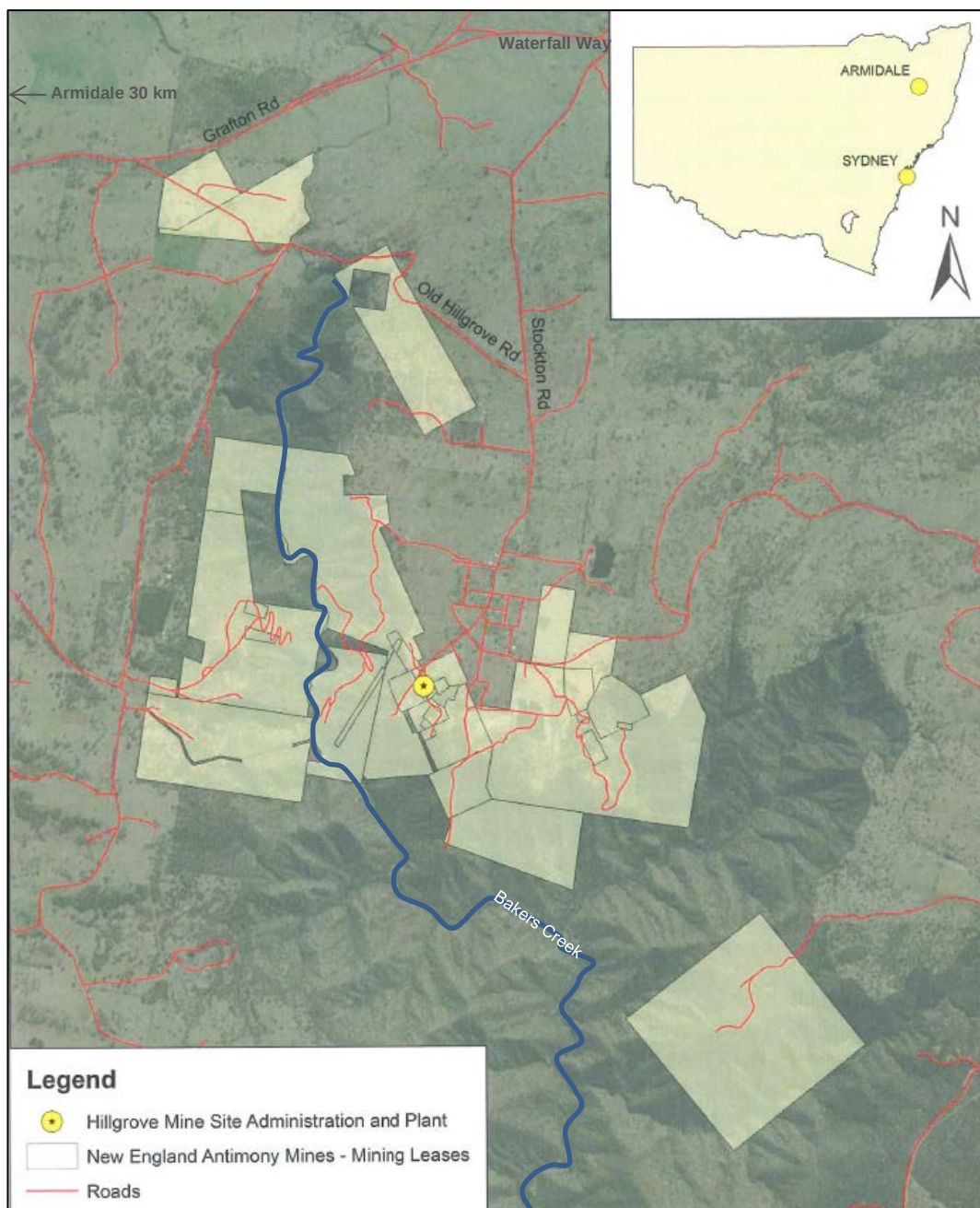


Figure 1: Location of Hillgrove Mine

Mining has occurred in the area since the late 19th century. The Hillgrove mineral field was one of the major goldfields in the State at that time. Modern operations at Hillgrove commenced in 1969 with the construction of an antimony concentrate production facility.

Existing Operations

The mine operates under a Ministerial consent (DA 98/35) granted in November 1998, as well as a number of consents granted by Armidale Dumaresq Council. These consents allow Hillgrove to develop several underground workings and to extract and process up to 250,000 tonnes of ore per annum, to produce antimony and gold concentrates. These concentrates are then transported by road to Armidale. The layout of the existing infrastructure and mining operations is shown in Figure 2.

The Ministerial consent has been modified on two previous occasions and allows for:

- development of the underground Brackins Spur Mine;
- construction and operation of surface facilities including a Tailings Storage Facility (TSF2), Pressure Oxidation Processing Plant, stockpile areas, office and amenity facilities and associated infrastructure; and
- construction of haulage roads that traverse Bakers Creek Gorge to the Brackins Spur and Lower Cooney Mines.

Since the Ministerial consent was granted, the Hillgrove mine has only been operated periodically due to technical issues (relating to the operation of processing facilities) and the poor financial situation of the mine's previous owners. The Department understands that the previous owner commenced mining operations in 2004 and ceased operations in August 2009.

Hillgrove purchased the mine in March 2013, and recommenced operations at the mine in April 2014. Hillgrove is currently extracting ore from the Metz Extraction Area (see Figure 2), which is regulated by a Council consent. Hillgrove has stated in its Mining Operations Plan (MOP) that mining will continue in this area until the end of 2016. Mining has not commenced in the Brackins Spur area.

Hillgrove currently uses an Antimony Trioxide Plant (ATP), which is subject to a Council consent, to process the extracted ore to produce a marketable concentrate. The Pressure Oxidation Plant, approved under the Ministerial consent, is not currently in use.

The mine currently provides employment for approximately 100 people.

Duration of Consent

The 1998 Ministerial consent permitted mining operations at Hillgrove for 12 years following the commencement of construction (allowing mining operations to continue until 2013). However, the Ministerial consent does not clearly articulate the time the consent shall remain in force. The condition relating to the duration of the consent reads:

"This consent shall lapse 12 (twelve) years after the commencement of substantial construction. The Applicant shall provide the Director-General with written advice of the date of commencement of substantial construction, as soon as is practicably possible after that date."

Hillgrove sought legal advice from Ashurst Australia on the matter (refer Appendix C). This advice suggests:

- if the condition were truly directed to the 'lapsing' of the consent, it would likely be beyond statutory power as a consent cannot lapse once development has physically commenced;
- the condition could be interpreted to refer to the 'duration' of the consent given the power to impose conditions relating to the period during which development may be carried out under section 91(3) of the unamended *Environmental Planning and Assessment Act 1979*; and
- if this view is correct, then the Applicant may not carry out the development, but because the consent has not lapsed and has not been revoked, it can still be lawfully modified under Section 75W of the EP&A Act.

The Department sought its own independent legal advice from Eleven Wentworth Chambers (refer Appendix D) on the matter, which reviewed and considered the Ashurst advice. After considering the various arguments, this advice concludes that the better view is that the consent has not lapsed and could be the subject of a further modification.

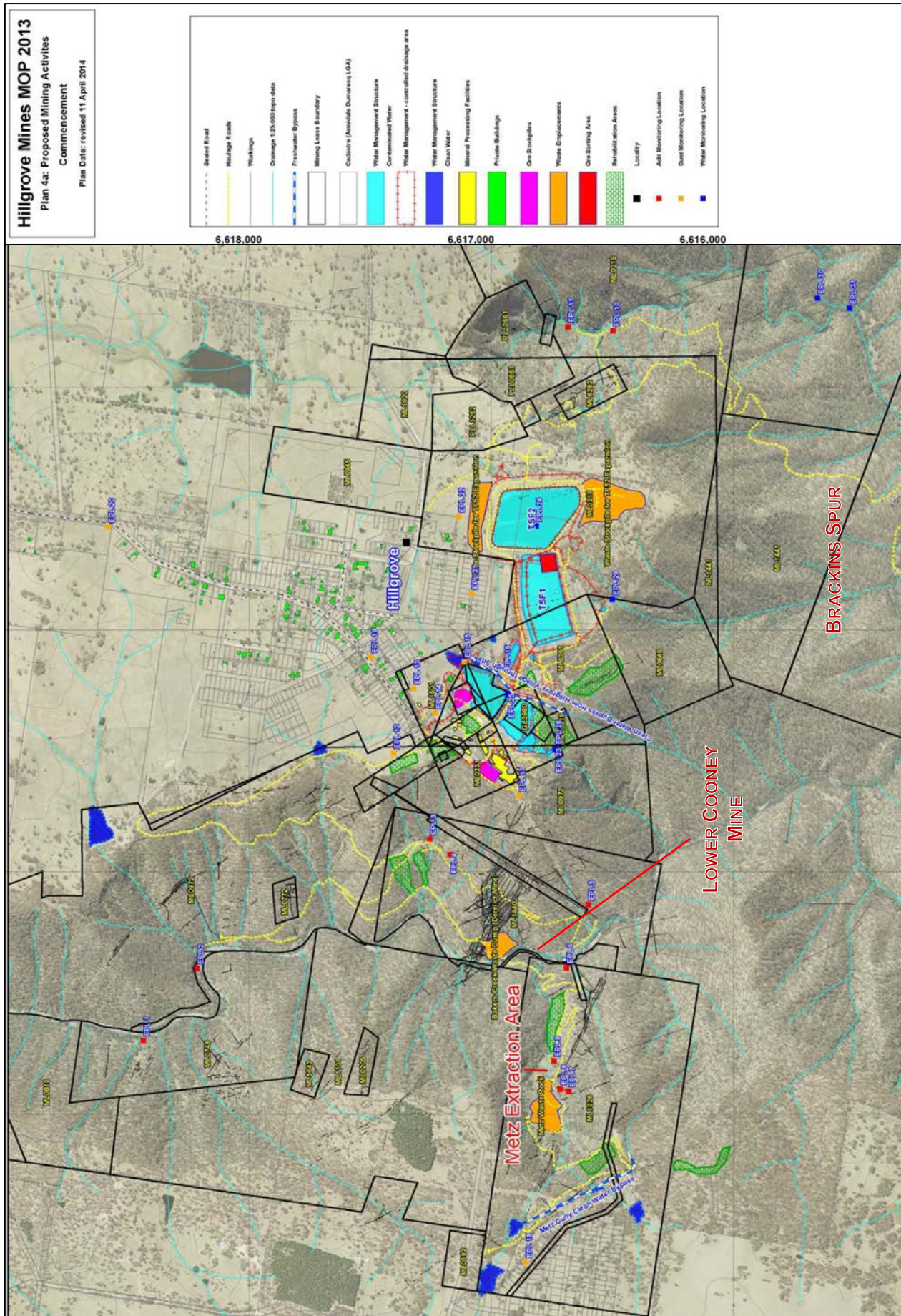


Figure 2: Layout of Hillgrove Mine

2 PROPOSED MODIFICATION

To resolve the uncertainty concerning the duration of the consent, Hillgrove is proposing to modify its Ministerial development consent under Section 75W of the *Environmental Planning and Assessment Act 1979* (EP&A Act) to allow the mine to operate until 31 December 2019¹. In particular, Hillgrove wants enough time to submit a State Significant Development application to expand and intensify operations at the mine, and to allow it to operate under a single contemporary Ministerial development consent.

It is important to note that no extraction activities would take place on land covered by the Ministerial consent over the next five years. Rather the extraction activities would continue to occur in extraction areas regulated by Council consents, namely the Metz Extraction Area.

While Hillgrove has approval to extract material under the Ministerial consent, namely in the Brackens Spur Area, this would require substantial development and capital investment and is highly unlikely to commence before 2019.

3 STATUTORY CONTEXT

Under Clause 8J(8)(c) of the *Environmental Planning and Assessment Regulation 2000*, a development consent relating to State Significant Development which was granted by the Minister under Part 4 of the EP&A Act before 1 August 2005 is taken to be an approval under Part 3A of the Act, for the purpose of modification.

Although Part 3A of the Act was repealed on 1 October 2011, the Hillgrove Mine remains a 'transitional' Part 3A project under Schedule 6A of the Act, and hence any modifications to the development consent are to be made under Section 75W.

The Department's independent legal advice concludes that the conditions of consent are not an impediment to the Minister modifying the development. The Department is therefore satisfied that the development consent can be lawfully modified under Section 75W.

Additionally, the Department is satisfied that the application can be characterised as a modification to the existing approval as the proposal would:

- not alter the approved mining footprint or methods;
- not alter maximum production rates;
- not alter the transportation methods; or
- not significantly increase the environmental impacts of the development.

Under section 75W of the EP&A Act, the Minister for Planning is the approval authority for the modification application. However, under the Minister's delegation of 14 September 2011, the application must be determined by the Planning Assessment Commission (PAC), as Hillgrove made reportable political donations in May 2014.

4 CONSULTATION

The Department exhibited the modification application from 16 January until 23 February 2015 and made the accompanying Environmental Assessment (EA) (see Appendix E), publically available on its website and at the Department's Information Centre, Armidale Dumaresq Shire Council and the Nature Conservation Council.

The Department received submissions from 6 government agencies, none of which objected to the proposed modification. No public submissions were received. Full copies of all submissions are included in Appendix F.

Some of the agencies raised concerns and recommended conditions of approval, which are summarised below.

¹ The consent would continue to operate beyond this timeframe for the purposes of rehabilitation and other environmental management activities.

Division of Resources and Energy supports the proposed modification and recommends a number of rehabilitation conditions consistent with contemporary mining approvals.

Roads and Maritime Services (RMS) does not object to the proposed modification but recommends that the Department consider the requirement for a Traffic Impact Assessment, Traffic Management Plan and a Drivers Code of Conduct. RMS also recommended that the Department confirm the intersection of Stockton Road and Waterfall Way has been upgraded as required by the Ministerial conditions of consent.

The **Office of Environment and Heritage** (OEH) recommends the Department consider the environmental performance of the mine and check compliance against the conditions prior to determining the modification application. OEH also recommended that the Department condition the rehabilitation of the site.

Armidale Dumaresq Shire Council (Council), **Environment Protection Authority** (EPA), and **Department of Primary Industries** (DPI), raised no issues with the proposal.

5 ASSESSMENT

The Department has assessed the merits of the application in accordance with the requirements of the EP&A Act, and summarised the findings of this assessment below.

Traffic and Transport

In considering the potential traffic and transport impacts it is important to note that the proposed modification would not alter the transportation method or the approved traffic volumes from the mine. On this basis, the Department considers that a full traffic impact assessment is not warranted in this instance.

Notwithstanding this position, the Department notes that the proposed modification would extend the current impacts on the public road network by 5 years (i.e. well beyond the timeframe originally anticipated). On this basis, the Department notes the potential for some ongoing impacts on the intersection of Waterfall Way and Stockton Road, given that it forms the primary access for material haulage and light traffic to and from the mine.

The existing conditions of consent require Hillgrove to provide a right hand turning lane for east bound traffic on Waterfall Way, at its intersection with Stockton Road. Hillgrove has indicated that Waterfall Way has been widened at some stage by the mine's previous owners, but is unable to provide written evidence to confirm this is the case.

To address the potential impacts of the proposed modification and uncertainty surrounding upgrades to the Stockton Road and Waterfall Way intersection, the Department has recommended a condition requiring an independent traffic audit. The audit would assess the suitability of the intersection and recommend measures to reduce or mitigate any adverse or potentially adverse impacts in the event that the road network is not performing satisfactorily. The Department has also recommended that Hillgrove implement the recommendations from the audit to the satisfaction of the relevant road authority.

To ensure that potential impacts are further minimised, the Department has recommended that a code of conduct is developed for heavy vehicles transporting materials to and from the site, consistent with the recommendations from RMS. The Department is satisfied that these measures would adequately mitigate and manage the potential traffic impacts from the proposed modification.

Environmental Management and Performance

OEH recommended the Department consider the environmental performance of the mine and compliance with the conditions of approval prior to determining the proposed modification. The Department notes that there are numerous environmental legacy issues on the site from historical mining activities.

Notwithstanding, Hillgrove has undertaken a number of measures to improve environmental performance under its current ownership. In particular, Hillgrove utilises a portable micro-filtration / reverse osmosis (MF/RO) plant as part of pollution reduction program regulated by the EPA through its Environmental Protection Licence (EPL). This MF/RO plant is used to treat water from the closed water management system, to ensure any water that is needed to be discharged meets the relevant criteria in the EPL.

The Department notes that mining operations have not been audited for some time. Consequently, the Department considers that an audit is warranted and will be undertaking an inspection of the site in the near

future to assess whether Hillgrove is complying with its conditions of consent. The conditions allow the Secretary of the Department to direct Hillgrove to commission an Independent Environmental Audit. The Department will consider imposing this requirement in conjunction with its own audit of the mine. These processes will be undertaken separate to the assessment of this application.

The Department has also recommended that Hillgrove review and update all management plans for the development by December 2015.

Rehabilitation

Hillgrove has rehabilitated several areas that were impacted by past mining operations. In particular, a former arsenic pond and waste disposal area have shown a good level of rehabilitation and revegetation. Areas under rehabilitation are shown in a green hatching on Figure 2.

Hillgrove would not be undertaking significant rehabilitation works over the life of the proposed modification, given that large portions of the site remain undeveloped. However, it would continue to progressively rehabilitate decommissioned infrastructure areas over the next 5 years. These include stockpile areas, laydown areas and a processing area from historic mining operations.

Both OEH and DRE recommended the preparation of a rehabilitation management plan for the development. The Department agrees and has recommended a number of conditions concerning the rehabilitation of the site including rehabilitation objectives, the requirement for progressive rehabilitation and the preparation of a Rehabilitation Management Plan. These recommendations are largely consistent with DRE's general recommendations and reflect current best practice for mining projects in NSW.

Other Impacts

The proposal would have significant social and economic benefits for the local community including continued employment for approximately 100 people and would also provide more certainty for the community and Hillgrove by clarifying the date in which mining operations at the site would cease or when a new application would be required for continued operations on the site.

Other issues associated with the proposed modification are considered to be minor issues, components of the issues discussed above, or of minor environmental impact and can be appropriately managed under the existing consent.

6 RECOMMENDED CONDITIONS

The Department has drafted a recommended Notice of Modification (see Appendix A) and consolidated consent (Appendix B). These conditions would allow the Hillgrove mine to continue to operate until the end of December 2019.

The recommended conditions also require Hillgrove to:

- commission an independent traffic audit of the intersection of Waterfall Way and Stockton Road;
- prepare a code of conduct for heavy vehicle drivers; and
- comply with rehabilitation objectives and requirements for progressive rehabilitation of the site and the preparation of a Rehabilitation Management Plan.

The Department has also recommended a number of administrative changes to the consent including:

- updating the description of land to which the consent applies, to reflect the granting of mining leases for the mine;
- conditions to ensure the potential impacts and mitigation measures resulting from the modification are appropriately incorporated into the management plans for the mine;
- conditions to ensure management plans are updated over time; and
- updating the definitions to reflect name recent changes to government agencies.

Hillgrove does not object to the recommended conditions.

7 CONCLUSION

The Department has assessed the modification application and supporting information, in accordance with the relevant requirements of the EP&A Act.

The Department notes that the proposed modification would not increase the disturbance area of the approved mine, or the scale of existing environmental impacts. Essentially, the proposal would extend the duration of existing operations by a further 5 years.

As the proposed modification would facilitate the economic benefits of the mine for another 5 years (including the employment of up to 100 people) without any material increase in the approved impacts, the Department believes the proposal is in the public interest and should be approved, subject to conditions.

6 RECOMMENDATION

It is RECOMMENDED that the Planning Assessment Commission, as delegate of the Minister:

- **consider** the findings and recommendations of this report;
- **determine** that the proposed modification falls within the scope of section 75W of the EP&A Act;
- **approve** the application under section 75W, subject to conditions; and
- **sign** the notice of modification in Appendix A.

 06/07/2015

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Resource Assessments

 6.7.15.
Mike Young
Director
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**APPENDIX A
NOTICE OF MODIFICATION**

APPENDIX B
RECOMMENDED CONSOLIDATED CONSENT

APPENDIX C
ASHURST AUSTRALIA LEGAL ADVICE

APPENDIX D
ELEVEN WENTWORTH CHAMBERS LEGAL ADVICE

APPENDIX E ENVIRONMENTAL ASSESSMENT

APPENDIX F SUBMISSIONS