

Notice of Modification

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

As delegate of the Minister for Planning and Public Spaces, I modify the project approval referred to in Schedule 1, subject to the conditions in Schedule 2.



Steve O'Donoghue
Director
Resource Assessments

Sydney _____ 05 May 2021

SCHEDULE 1

The Project Approval 09_0155 for the Tomingley Gold Project, granted by the Deputy Director-General, Development Assessment and Systems Performance, under delegation from the Minister for Planning and Infrastructure on 24 July 2012.

SCHEDULE 2

1. Table of Contents have been updated to reflect the revised section names and page numbers.
2. In the list of definitions, delete the definitions for "BCD", "Incident" and "Secretary" and insert the following in alphabetical order:

BCS	Biodiversity, Conservation and Science Directorate within the Department
Incident	An occurrence or set of circumstances that causes or threatens to cause material harm and which may or may not be or cause a non-compliance
Secretary	Planning Secretary under the EP&A Act, or nominee
3. In the list of definitions, insert the following definitions for "Project Site", "RSF1", and "RSF2" in alphabetical order:

Project Site	As listed in Appendix 1 and shown in Appendix 2
RSF1	Residue Storage Facility 1 as depicted in Appendix 2
RSF2	Residue Storage Facility 2 as depicted in Appendix 2
4. In the list of definitions, in the definition of "EA" after "dated March 2020" delete ".", and insert:

“; and
Tomingley Gold Project: Modification Report – Modification 5, dated December 2020, associated Submissions Report, dated March 2021, and additional information provided by the Proponent to support the modification application and included in Appendix D of the Department’s assessment report on Modification 5.”
5. In Schedule 2,
 - condition 2, after “approval”, delete “.” and insert:

“; and

(d) written directions of the Secretary.”

- condition 5, delete “31 December 2022” and replace with “31 December 2025”; and
- condition 14, delete “30 November 2016” and replace with “31 October 2021”.

6. In Schedule 2, after condition 6, insert the following:

“6A. The Proponent may only construct the RSF2 using the centreline lift construction methodology, unless otherwise agreed by the Secretary.”

7. In Schedule 3, delete all references to “BCD” and replace with “BCS”.

8. In Schedule 3, condition 7:

- delete Table 4 and insert:

Table 4: *Blasting Criteria*

Location	Airblast Overpressure (dB(Lin Peak))	Ground Vibration (mm/s)	Allowable Exceedance
Residence on privately-owned land	120	10	0%
	115	5	5% of total blasts over any 12 month period
All public infrastructure	-	50, or alternatively, a specific limit determined to the satisfaction of the Secretary by the structural design methodology in AS 2187.2-2006, or its latest version	0%
RSF1 and RSF 2 embankments		49	0%

- after “However,”, insert “apart from the limit on the RSF1 and RSF2 embankments”.

9. In Schedule 3, Table 8:

- delete “residue storage facility”, after “Ensure that the capacity of the”, and insert “residue storage facilities (RSF1 and RSF2);
- delete “is” after “collection pond” and insert “are”;
- delete “*Environmental Guidelines – Management of Tailing Storage Facilities* (Vic DPI, 2004) and replace with “*Australian National Committee on Large Dams’ Guidelines on Tailings Dams – Planning, Design and Construction, Operation and Closure* (July 2019)”; and
- after “1 x 10⁻⁹ m/s”, insert “and 1 metre depth (or equivalent permeability performance)”; and
- after “in the residue storage”, delete “facility” and insert “facilities (RSF1 and RSF2)”.

10. In Schedule 3, condition 32:

- delete “and implement a”;
- delete all references to “residue storage facility” and replace with “residue storage facilities (RSF1 and RSF2)”;
- delete “the RSF” and replace with “RSF1 and RSF2”; and
- after “design rainfall events”, delete “; and” and insert “, and a quality assurance/ quality control plan to ensure the RSF2 liner meets the permeability requirements in Table 8;”.

11. In Schedule 3, after condition 32, insert:

- “32A. The Proponent must prepare a revised Water Management Plan to the satisfaction of the Secretary prior to commencement of construction of RSF2.
- 32B. The Proponent must implement the approved Water Management Plan.
- 32C. The Proponent must notify Dams Safety NSW of its intention to construct RSF2 prior to commencing construction of RSF2.”

12. In Schedule 3, after condition 34, insert:

“Biodiversity Offsets for RSF2

- 34A. Within two years of commencing construction of RSF2, unless otherwise agreed by the Secretary, the Proponent must retire the biodiversity credits specified in Table 9a below. The retirement of credits must be carried out in accordance with the NSW Biodiversity Offsets Scheme of the BC Act.

Table 9a: Ecosystem Credit Requirements

Vegetation Type	Credits Required
PCT 82 <i>Western Grey Box - Poplar Box – White Cypress</i>	103
Pine tall woodland on red loams mainly of the eastern Cobar Peneplain Bioregion	
PCT 201 <i>Fuzzy Box Woodland</i> on alluvial brown loam soils mainly in the NSW South Western Slopes Bioregion	49

13. In Schedule 3, condition 37, after “or rehabilitation area”, insert “, including maximising salvage of suitable coarse woody vegetation within the RSF2 footprint as fauna habitat within biodiversity offset areas”.

14. In Schedule 3, condition 53:

- delete “be submitted within 3 months of any modification to the conditions of this approval to the RR, unless the Secretary agrees otherwise” and replace with “deleted”; and
- following “Caloma Two void”, insert “and minimising the size and depth of the Wyoming One and Caloma pits as far as is reasonable and feasible. Where voids are to remain, include measures that will be implemented to ensure that there is a negligible stability risk in the long term”.

15. In Schedule 5, delete sections “Annual Review” and “Revision of Strategies, Plans and Programs” and all conditions under these sections and replace with the following:

“Annual Review

- 4. By the end of March in each year after the commencement of the project, or other timeframe agreed by the Secretary, a report must be submitted to the Department reviewing the environmental performance of the project, to the satisfaction of the Secretary. This review must:
 - (a) describe the project (including any rehabilitation) that was carried out in the previous calendar year, and the project that is proposed to be carried out over the current calendar year;
 - (b) include a comprehensive review of the monitoring results and complaints records of the project over the previous calendar year, including a comparison of these results against the:
 - (i) relevant statutory requirements, limits or performance measures/criteria;
 - (ii) requirements of any plan or program required under this approval;
 - (iii) monitoring results of previous years; and
 - (iv) relevant predictions in the EA;
 - (c) identify any non-compliance or incident which occurred in the previous calendar year, and describe what actions were (or are being) taken to rectify the non-compliance and avoid reoccurrence;
 - (d) evaluate and report on compliance with the performance measures, criteria and operating conditions of this consent;
 - (e) identify any trends in the monitoring data over the life of the project and provide any raw monitoring data as requested by the Secretary;
 - (f) identify any discrepancies between the predicted and actual impacts of the project, and analyse the potential cause of any significant discrepancies; and
 - (g) describe what measures will be implemented over the next year to improve the environmental performance of the project.
- 4A. Copies of the Annual Review must be submitted to Council and relevant agencies and made available to the CCC and any interested person upon request.

Revision of Strategies, Plans and Programs

5. Within three months, unless the Secretary agrees otherwise, of:
 - (a) the submission of an annual review under condition 4 above;
 - (b) the submission of an incident report under conditions 7 or 7A below;
 - (c) the submission of an audit report under conditions 8 to 9A below; and
 - (d) the approval of any modification to the conditions of this approval; or
 - (e) a direction of the Secretary under condition 2 of Schedule 2;

the Proponent must review and, if necessary, revise the studies, strategies or plans required under the conditions of approval to the satisfaction of the Secretary.

Where this review leads to revisions in any such document, then within 4 weeks of the review the revised document must be submitted to the Secretary for approval, unless otherwise agreed with the Secretary.

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

16. In Schedule 5, delete all sections and conditions after "COMPLIANCE" and replace with the following:

"Incident Notification, Reporting and Response

7. The Secretary must be notified in writing via the Major Projects website immediately after the Proponent becomes aware of an incident. The notification must identify the development (including the application number and the name of the development if it has one) and set out the location and nature of the incident. Subsequent notification requirements must be given, and reports submitted in accordance with the requirements set out in Appendix 9.

Non-Compliance Notification

- 7A. The Secretary must be notified in writing via the Major Projects website within seven days after the Proponent becomes aware of any non-compliance. A non-compliance notification must identify the development and the application number for it, set out the condition of approval that the development is non-compliant with, the way in which 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 non-compliance.

INDEPENDENT ENVIRONMENTAL AUDIT

8. Independent Audits of the development must be conducted and carried out in accordance with the *Independent Audit Post Approval Requirements (2020)*.
- 8A. Proposed independent auditors must be agreed to in writing by the Secretary prior to the commencement of an Independent Audit.
- 8B. The Secretary may require the initial and subsequent Independent Audits to be undertaken at different times to those specified in the Compliance Reporting Post Approval Requirements (2020), upon giving at least 4 weeks' notice (or timing) to the Proponent of the date upon which the audit must be commenced.
- 8C. In accordance with the specific requirements in the Independent Audit Post Approval Requirements (2020) (or as amended from time to time), the Proponent must:
 - (a) review and respond to each Independent Audit Report prepared under condition 8 of this approval, or condition 8B where notice is given by the Secretary;
 - (b) submit the response to the Secretary; and
 - (c) make each Independent Audit Report, and response to it, publicly available within 60 days of submission to the Secretary, unless otherwise agreed by the Secretary.
9. Independent Audit Reports and the Proponent's response to audit findings must be submitted to the Secretary within 2 months of undertaking the independent audit site inspection, as outlined in the *Independent Audit Post Approvals Requirements (2020)* (or as amended from time to time) unless otherwise agreed by the Secretary.

- 9A. Notwithstanding the requirements of the *Independent Audit Post Approvals Requirements (2020)*, the Secretary may approve a request for ongoing independent operational audits to be ceased, where it has been demonstrated to the Secretary's satisfaction that independent operational audits have demonstrated operational compliance.

Note: A reference to *Independent Audit Post Approval Requirements (2020)* in this development consent also includes future amendments to this document.

ACCESS TO INFORMATION

10. Before the commencement of construction until the completion of all rehabilitation required under this approval, the Proponent must:
- (a) make the following information and documents (as they are obtained, approved or as otherwise stipulated within the conditions of this approval) publicly available on its website:
 - (i) the EA;
 - (ii) all current statutory approvals for the development;
 - (iii) all approved strategies, plans and programs required under the conditions of this approval;
 - (iv) the proposed staging plans for the development if the construction, operation or decommissioning of the development is to be staged;
 - (v) regular reporting on the environmental performance of the development in accordance with the reporting requirements in any plans or programs approved under the conditions of this approval;
 - (vi) a comprehensive summary of the monitoring results of the development, reported in accordance with the specifications in any conditions of this approval, or any approved plans and programs;
 - (vii) a summary of the current phase and progress of the development;
 - (viii) contact details to enquire about the development or to make a complaint;
 - (ix) a complaints register, updated monthly;
 - (x) the Annual Reviews of the development;
 - (xi) audit reports prepared as part of any Independent Environmental Audit of the development and the Proponent's response to the recommendations in any audit report;
 - (xii) any other matter required by the Secretary; and
 - (b) keep such information up to date, to the satisfaction of the Secretary.

UPDATING AND STAGING OF STUDIES, STRATEGIES AND PLANS

11. To ensure the studies, strategies and plans for the project are updated on a regular basis and incorporate any required measures to improve the environmental performance of the project, the Proponent may submit revised studies, strategies or plans required for the development under the conditions of approval at any time. With the agreement of the Secretary, the Proponent may also submit any study, strategy or plan required under the conditions of this approval on a staged basis.
12. The Secretary may approve a revised strategy or plan required under the conditions of approval, or the stage submission of these documents, at any time. With the approval of the Secretary, the Proponent may prepare the revised or staged strategy or plan without undertaking consultation with all parties nominated under the applicable condition in this approval.

Notes:

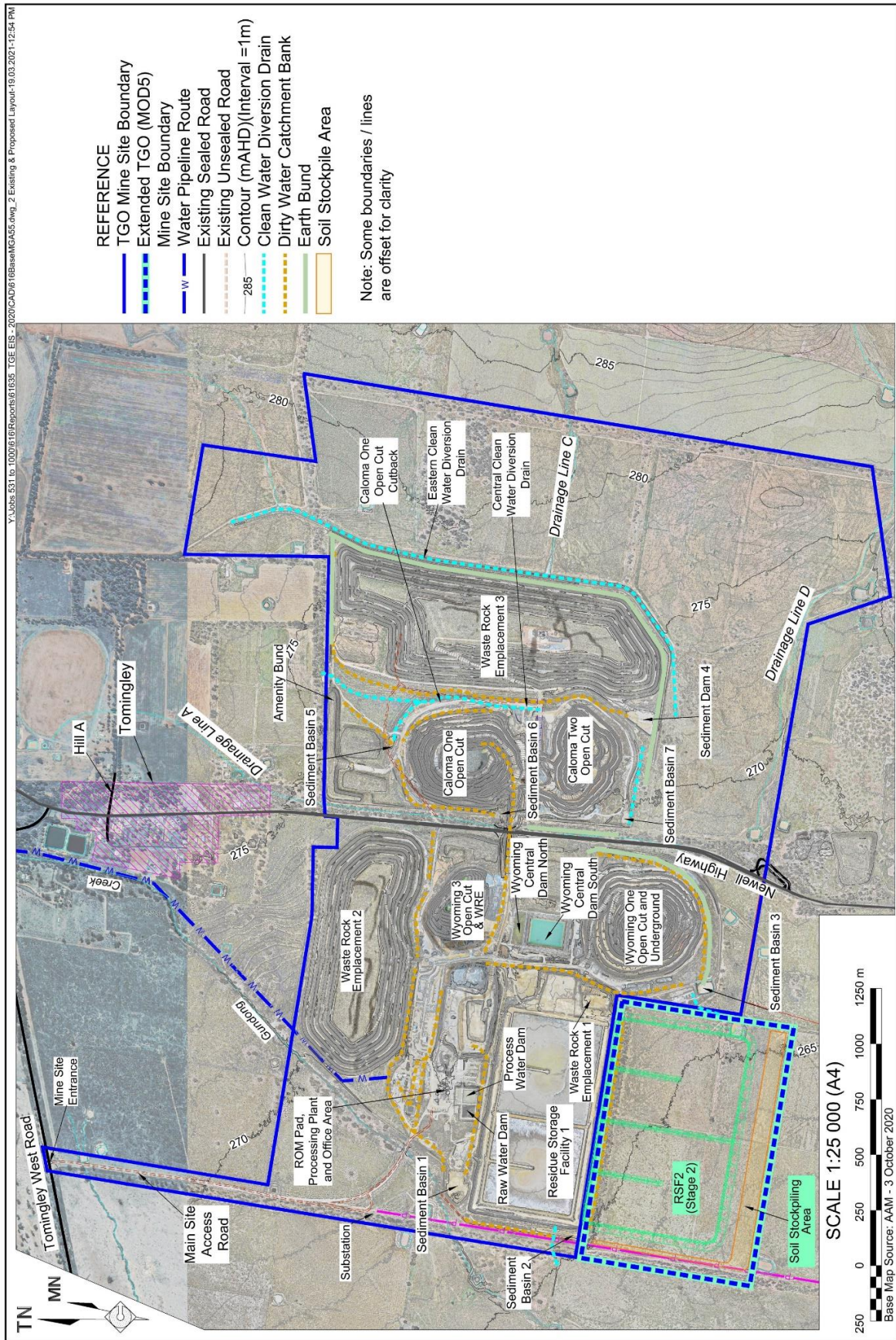
- *While any study, strategy or plan may be submitted on a progressive basis, the Proponent must ensure that the existing operations on site are covered by suitable studies, strategies or plans at all times.*
- *If the submission of any study, strategy or plan is to be staged, then the relevant study, strategy or plan must clearly describe the specific stage to which the study, strategy or plan applies, the relationship of this stage to any future stages, and the trigger for updating the study, strategy or plan."*

17. Delete Appendix 1 and replace with the following:

APPENDIX 1: SCHEDULE OF LAND

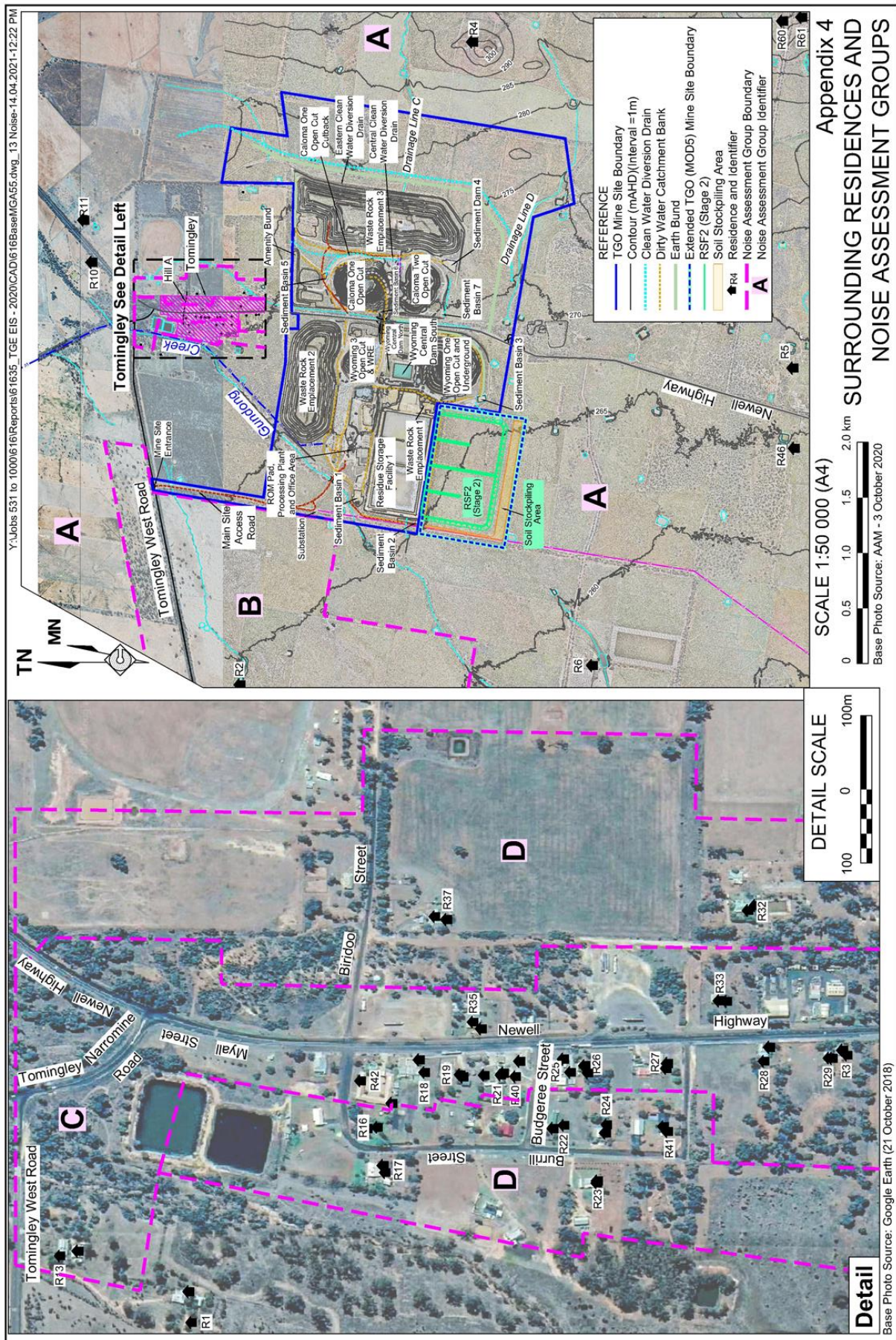
Project Site	
Lot	DP
1 (Part)	254193
94	755110
95	
103	
104	
105	
111 (Part)	
112	
122 (Part)	
160	
161	
162	
163	
1621	1178801
1623	
1	1151198
2 (Part)	
3 (Part)	
156	7755093
Road reserve associated with the Newell Highway	
Water Pipeline Route	
185	43458
A	380855
70	755110
73	
74	
81	
104	
111	
18	755119
Road reserves associated with the Mitchell Highway, Webb's Siding Road, Dappo Road, Bootles Road, Pinedene Road, Narromine-Tomingley Road and Tomingley West Road	
Easement for the Main Western Railway	
Crown roads (unnamed)	

18. Replace the first Figure in Appendix 2 with the following:

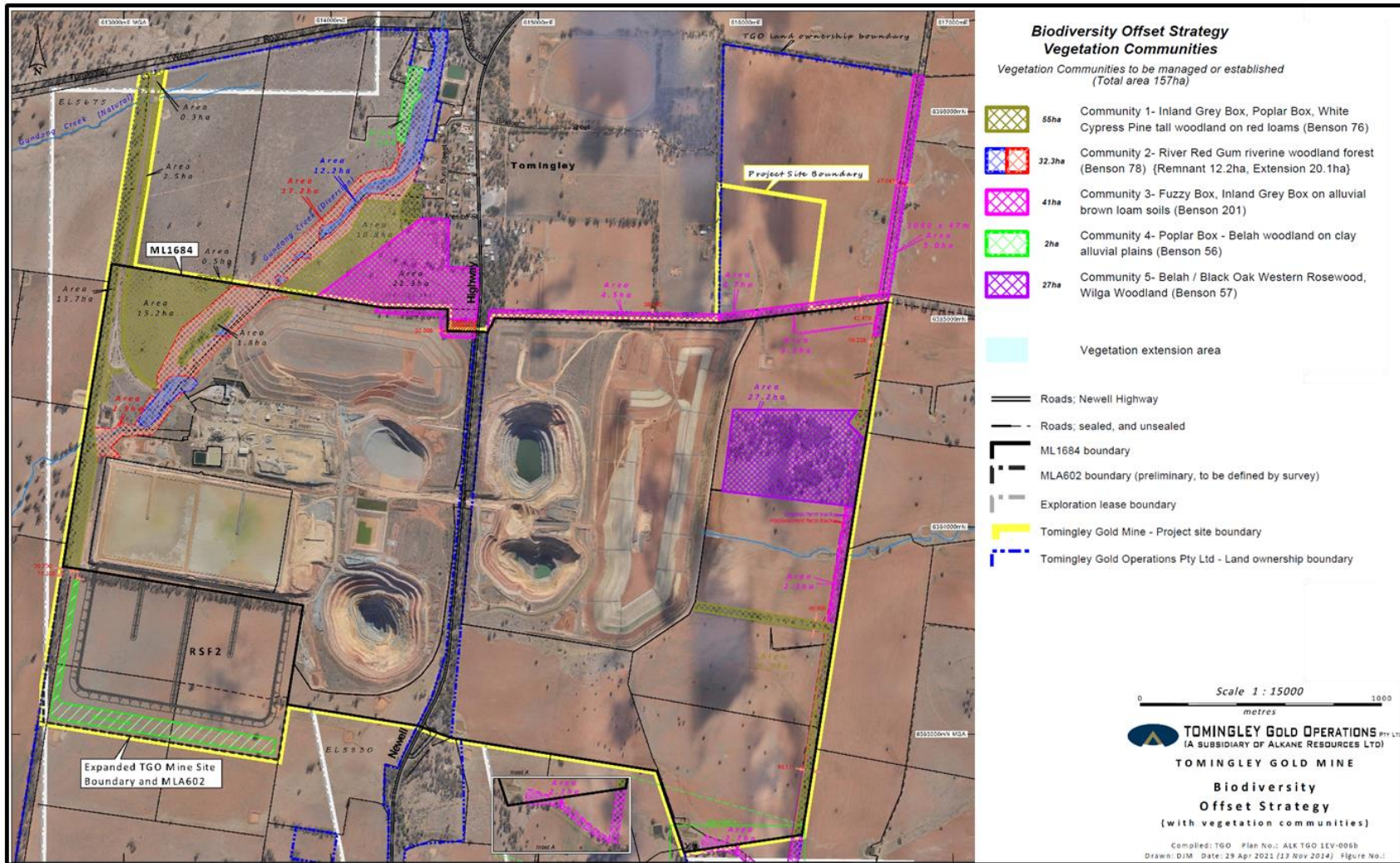


19. In Appendix 3, delete "31 December 2022" and replace with "31 December 2025".

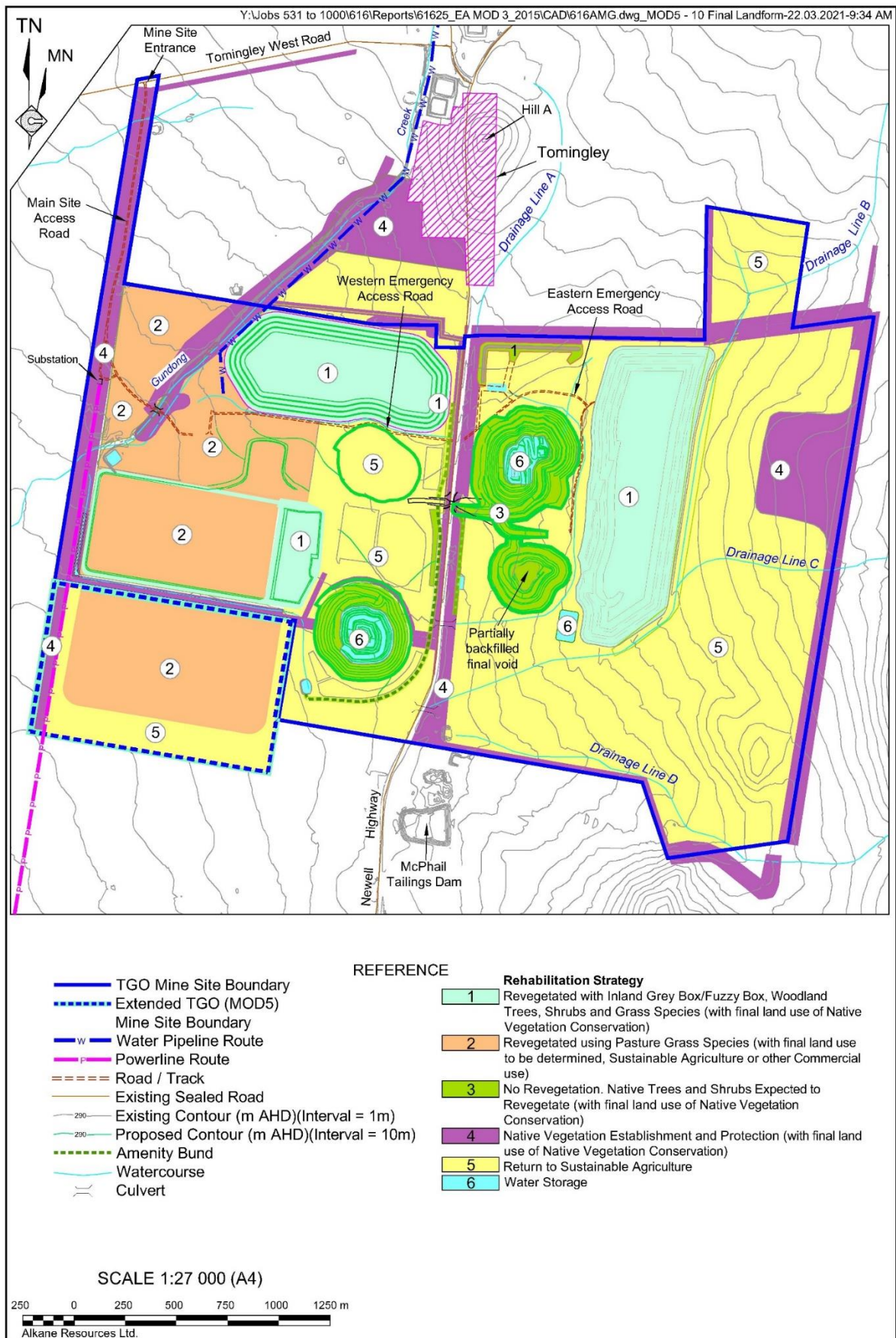
20. Replace the Figure in Appendix 4 with the following:



21. Replace the Figure in Appendix 5 with the following:



22. Replace the Figure in Appendix 6 with the following:



23. At the end of the conditions, insert:

“APPENDIX 9: INCIDENT NOTIFICATION AND REPORTING REQUIREMENTS

WRITTEN INCIDENT NOTIFICATION REQUIREMENTS

1. A written incident notification addressing the requirements set out below must be submitted to the Secretary via the Major Projects website within seven days after the Proponent becomes aware of an incident.
2. Written notification of an incident must:
 - (a) identify the development and application number;
 - (b) provide details of the incident (date, time, location, a brief description of what occurred and why it is classified as an incident);
 - (c) identify how the incident was detected;
 - (d) identify when the Proponent became aware of the incident;
 - (e) identify any actual or potential non-compliance with conditions of approval;
 - (f) describe what immediate steps were taken in relation to the incident;
 - (g) identify further action(s) that will be taken in relation to the incident; and
 - (h) identify a project contact for further communication regarding the incident.
3. Within 30 days of the date on which the incident occurred or as otherwise agreed to by the Secretary, the Proponent must provide the Secretary and any relevant public authorities (as determined by the Secretary) with a detailed report on the incident addressing all requirements below, and such further reports as may be requested.
4. The Incident Report must include:
 - (a) a summary of the incident;
 - (b) outcomes of an incident investigation, including identification of the cause of the incident;
 - (c) details of the corrective and preventative actions that have been, or will be, implemented to address the incident and prevent recurrence; and
 - (d) details of any communication with other stakeholders regarding the incident.”