

Notice of Modification

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

As delegate of the Minister for Planning, I modify the development consent referred to in Schedule 1, as set out in Schedule 2.



Howard Reed
Director
Resource Assessments

Sydney

15 August

2018

SCHEDULE 1

The development consent (SSD 6084) for the Austen Quarry Extension Project, granted by the Executive Director, Resource Assessments and Compliance, as delegate of the Minister for Planning on 15 July 2015.

SCHEDULE 2

1. In the list of definitions delete the terms "DRE", "Incident", "Material harm", "Minister", "NOW", "Stage 2 Extraction Area" and "Secretary", and their definitions, and insert the following in alphabetical order:

AHD	Australian Height Datum
BC Act	<i>Biodiversity Conservation Act 2016</i>
BCT	NSW Biodiversity Conservation Trust
Dol	Department of Industry - Lands and Water
DRG	Division of Resources and Geoscience 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
Material harm	Is harm that: <ul style="list-style-type: none">• involves actual or potential harm to the health or safety of human beings or to the environment that is not trivial, or• results in actual or potential loss or property damage of an amount, or amounts in aggregate, exceeding \$10,000, (such loss includes the reasonable costs and expenses that would be incurred in taking all reasonable and practicable measures to prevent, mitigate or make good harm to the environment)
Minister	This definition excludes "harm" that is authorised under either this consent or any other statutory approval
Morning Shoulder	NSW Minister for Planning or delegate
Secretary	The period between 4 am and 7 am
SEE (Mod 1)	Planning Secretary under the EP&A Act, or nominee
Stage 2 Extraction Area	Statement of Environmental Effects titled <i>Austen Quarry Stage 2 Extensions Project (MOD 1 – SSD 6084) Statement of Environmental Effects</i> , prepared by RW Corkery & Co Pty Limited, dated March 2018; including the Response to Submissions titled <i>Austen Quarry Stage 2 Extension Project (MOD 1 – SSD 6084) Response to Submissions</i> , prepared by RW Corkery & Co Pty Limited, dated June 2018
Weekday	The area within the Extraction Boundary shown in Appendix 2
	Any day from Monday to Friday

2. Delete all references to "shall" and replace with "must" except in conditions 3, 5 and 10 of Schedule 2.
3. Delete all references to "DRE" and replace with "DRG".
4. Delete all references to "NOW" and replace with "Dol".

5. In condition 2 of Schedule 2:
 - a) in paragraph (a) delete the “;” and insert “, SEE (Mod 1); and”;
 - b) in paragraph (b) delete the “; and” replace with a fullstop; and
 - c) delete paragraph (c).
6. After condition 2 of Schedule 2, insert the following:

2A. The Applicant must carry out the development in accordance with the conditions of this consent.
7. In condition 8 of Schedule 2:
 - a) in paragraph (a) delete “1.1”, and replace with “1.6”;
 - b) in paragraph (b) delete “250” and replace with “300” and delete the words “any one day”, and replace with “weekdays and 167 laden trucks from the site on Saturdays”; and
 - c) in paragraph (c) delete “150” and replace with “200” and delete both occurrences of the word “day” and replace with “weekday”.
8. In condition 9 of Schedule 2 delete “104A” and replace with “4.63”.
9. In condition 20 of Schedule 2:
 - a) after the words “Council in accordance with” delete “division” and replace with a “;”;
 - b) in the first bullet point delete “6” and replace with “7.1” and delete “4” and replace with “7”.

10. After condition 20 of Schedule 2, insert the following:

EVIDENCE OF CONSULTATION

21. Where conditions of this consent require consultation with an identified party, the Applicant must;
 - (a) consult with the relevant party prior to submitting the subject document to the Secretary for approval; and
 - (b) provide details of the consultation undertaken including:
 - (i) the outcome of that consultation, matters resolved and unresolved; and
 - (ii) details of any disagreement remaining between the party consulted and the Applicant and how the Applicant has addressed the matters not resolved.

APPLICABILITY OF GUIDELINES

22. References in the conditions of this consent to any guideline, protocol, Australian Standard or policy are to such guidelines, protocols, Standards or policies in the form they are in as the date of this consent.
23. However, consistent with the conditions of this consent and without altering any limits or criteria in this consent, the Secretary may, when issuing directions under this consent in respect of ongoing monitoring and management obligations, require compliance with an updated or revised version of such a guideline, protocol, Standard or policy, or a replacement of them.

COMPLIANCE

24. The Applicant must ensure that all of its employees, contractors (and their sub-contractors) are made aware of, and are instructed to comply with, the conditions of this consent relevant to activities they carry out in respect of the development.
11. In condition 1 of Schedule 3, in the fifth bullet point in the second column of Table 1, delete “5”, and replace with “4”.
12. In condition 3 of Schedule 3:
 - a) in Table 2, to the right of the column titled “Morning Shoulder”, insert the following:

Morning Shoulder (Sleep Disturbance)
<i>LA max</i>
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- b) delete the paragraph beginning with “Noise generated by the development”, and replace with “Noise generated by the development must be measured in accordance with the relevant procedures and exemptions (including certain meteorological conditions) of the *NSW Noise Policy for Industry (EPA, 2017)*.”.
13. In condition 4 of Schedule 3:

- a) in paragraph (b) after "during", insert "noise-enhancing" and delete "when the noise criteria in this consent do not apply (see Appendix 5)"; and
- b) in paragraph (c) after "carry out" insert "attended".

14. In condition 5 of Schedule 3:

- a) delete the words "and implement" from the first sentence;
- b) in the third bullet point of paragraph (c) after "during", insert the words "noise-enhancing" and delete "under which the noise criteria in this consent do not apply (see Appendix 5)"
- c) delete paragraph (e) and replace with the following:

(e) include a monitoring program:

- to be implemented to measure noise from the development against the noise criteria in Table 2;
- that includes annual noise monitoring at R24A, unless otherwise agreed with the Secretary; and
- which evaluates and reports on the effectiveness of the noise management system on site.

d) after paragraph (e), insert the following:

The Applicant must implement the Noise Management Plan as approved by the Secretary.

15. In condition 9 of Schedule 3:

- a) delete "and implement" from the first sentence; and
- b) after paragraph (e), insert the following:

The Applicant must implement the Blast Management Plan as approved by the Secretary.

16. In condition 10 of Schedule 3, delete the table following "Table 4: Air quality criteria", and replace with the following:

Pollutant	Averaging Period	Criterion	
Particulate matter < 10 µm (PM ₁₀)	Annual	a,d 25 µg/m ³	
Particulate matter < 10 µm (PM ₁₀)	24 hour	b 50 µg/m ³	
Particulate matter < 2.5 µm (PM _{2.5})	Annual	a,d 8 µg/m ³	
Particulate matter < 2.5 µm (PM _{2.5})	24 hour	b 25 µg/m ³	
Total suspended particulates (TSP)	Annual	a,d 90 µg/m ³	
^c Deposited dust	Annual	b 2 g/m ² /month	a,d 4 g/m ² /month

17. In condition 12 of Schedule 3:

- a) delete "and implement" from the first sentence; and
- b) after paragraph (d), insert the following:

The Applicant must implement the Air Quality Management Plan as approved by the Secretary.

18. In condition 20 of Schedule 3:

- a) delete "and implement" from the first sentence; and
- b) after paragraph (d), insert the following:

The Applicant must implement the Water Management Plan as approved by the Secretary.

19. In paragraph (d) in condition 22 of Schedule 3, delete "5 am" and replace with "4 am on weekdays and 5 am on Saturday".

20. After condition 22 of Schedule 3, insert the following:

22A. In 2022, and every 2 years thereafter, unless RMS directs otherwise, the Applicant must, in consultation with RMS, undertake monitoring of intersection performance at the Jenolan Caves Road and Great Western Highway intersection. Within 2 months of completing this monitoring, the results must be provided to RMS.

21. In condition 23 of Schedule 3:

- a) delete "and implement" from the first sentence;
- b) in paragraph (b) delete "level of service" and replace with "intersection performance"; and
- c) in paragraph (c) delete all words after "Conduct" and replace with:

that includes:

- details of the safe and quiet driving practices that must be used by drivers travelling to and from the quarry, with a particular focus on the morning shoulder period;
- a map of the primary haulage route;
- safety initiatives for haulage during peak periods and along school bus routes;
- an induction process for vehicle operators and regular toolbox meetings; and
- complaints resolution and disciplinary procedures;

d) after paragraph (d), insert the following:

The Applicant must implement the Transport Management Plan as approved by the Secretary.

22. Delete conditions 25 and 26 of Schedule 3, including the headings, and replace with the following:

Biodiversity Credits Required

25. Within 12 months of the approval of Modification 1, or other timeframe agreed by the Secretary, the Applicant must retire the biodiversity credits specified in Table 4A below.

Table 4A: Biodiversity credits to be retired

Credit Type	Offset Type	Number of Credits
Ecosystem Credit	PCT 1093 – Red Stringybark – Brittle Gum – Inland Scribbly Gum dry open forest of the tablelands, South Eastern Highlands Bioregion	649
Ecosystem Credit	PCT 649 – Apple Box – Broad-leaved Peppermint dry open forest of the South Eastern Highlands Bioregion	131
Ecosystem Credit	PCT 840 – Forest Red Gum – Yellow Box woodland of dry gorge slopes, southern Sydney Basin Bioregion and South-Eastern Highlands Bioregion	60
Species Credit	Silver-leaved Mountain Gum (<i>Eucalyptus pulverulenta</i>)	10,784

The retirement of the credits in Table 4A must be carried out in consultation with OEH and in accordance with the Biodiversity Offsets Scheme of the BC Act, to the satisfaction of the BCT.

Note: The credits in Table 4A were calculated in accordance with Framework for Biodiversity Assessment of the NSW Biodiversity Offset Policy for Major Projects (OEH, 2014) and may need to be converted to reasonably equivalent 'biodiversity credits', within the meaning of the BC Act, to facilitate retirement.

23. In condition 27 of Schedule 3, delete "EIS", and replace with "documents listed in condition 2 of Schedule 2".

24. Delete all references to "the Biodiversity Offset Strategy" and replace with "any land based offset".

25. In condition 29 of Schedule 3:

- a) delete "and implement" from the first sentence;
- b) in paragraph (c) after "any land based offset", insert "(including Conservation Area H, shown in Appendix 6)";
- c) in the first bullet point of paragraph (f) delete "in the enhancement of the offset area or site rehabilitation";
- d) in the third bullet point of paragraph (f) delete "Silver-leafed" and replace with "Silver-leaved"; and
- e) after paragraph (i), insert the following:

The Applicant must implement the Landscape and Rehabilitation Management Plan as approved by the Secretary.

26. In condition 30 of Schedule 3:

- a) in paragraph (a) after "calculating the" insert "full"; and
- b) in the first bullet point of the notes, delete "such as provision of capital and management funding as agreed by OEH as part of a Biobanking Agreement, or transfer to conservation reserve estate".

27. In condition 37 of Schedule 3:

- a) in paragraph (a), delete "and"; and
- b) in paragraph (b), following "vicinity of the site" insert the following:
"; and
(c) prepare a Bush Fire Emergency Evacuation Plan in accordance with the NSW Rural Fire Service document, *Guide for Developing a Bush Fire Emergency Evacuation Plan*, to the satisfaction of the Secretary."

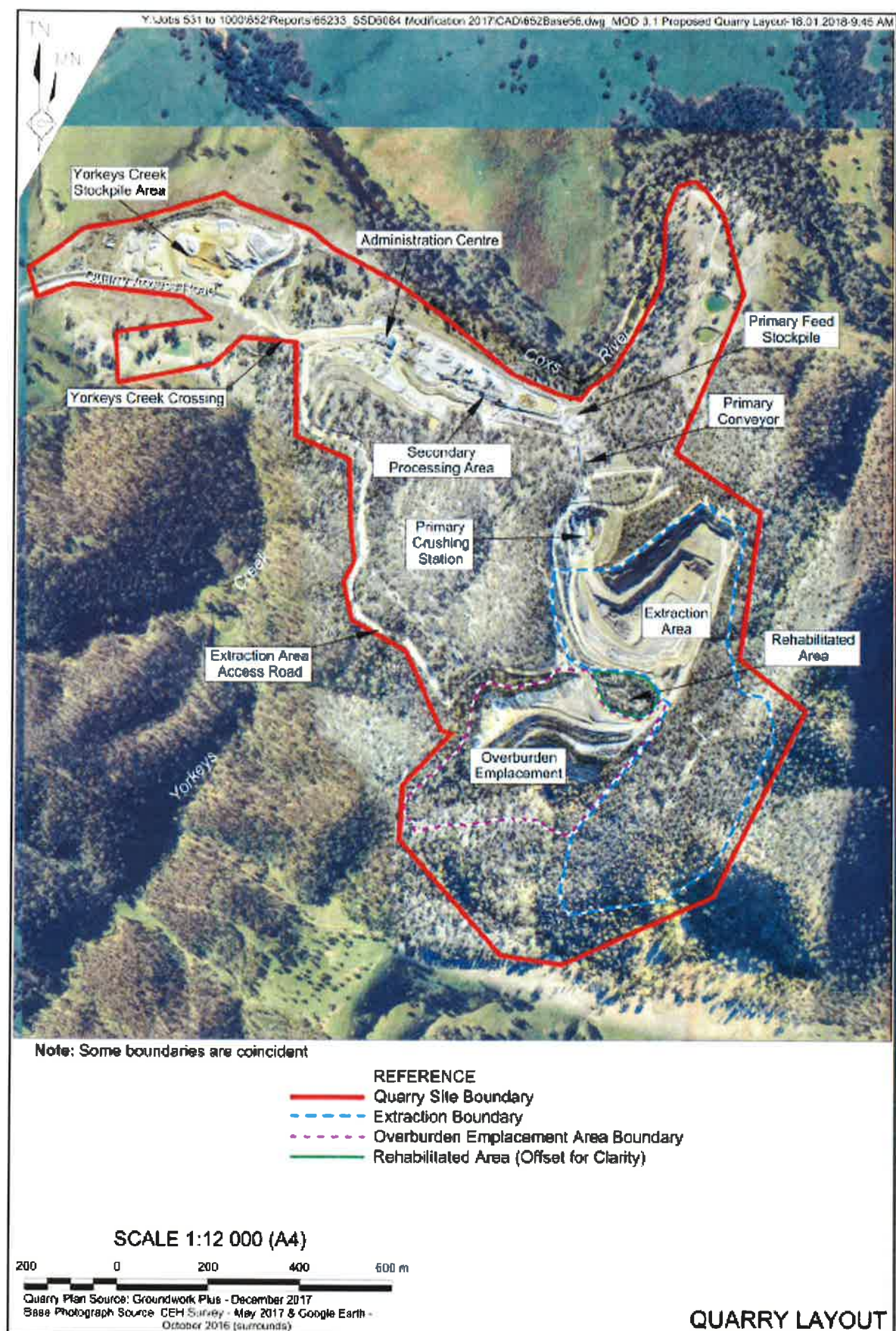
28. In condition 1 of Schedule 5:

- a) delete "and implement" from the first sentence;
- b) in paragraph (d) delete "describe", and replace with "set out";
- c) in paragraph (e) delete "describe", and replace with "set out" and delete "that would" and replace with "to";

- d) in the fourth bullet point of paragraph (e), following "non-compliance", insert "and any incident";
- e) in the first bullet point of paragraph (f), delete "copies of" and replace with "references to"; and
- f) after paragraph (f), insert the following:

The Applicant must implement the Environmental Management Strategy as approved by the Secretary.

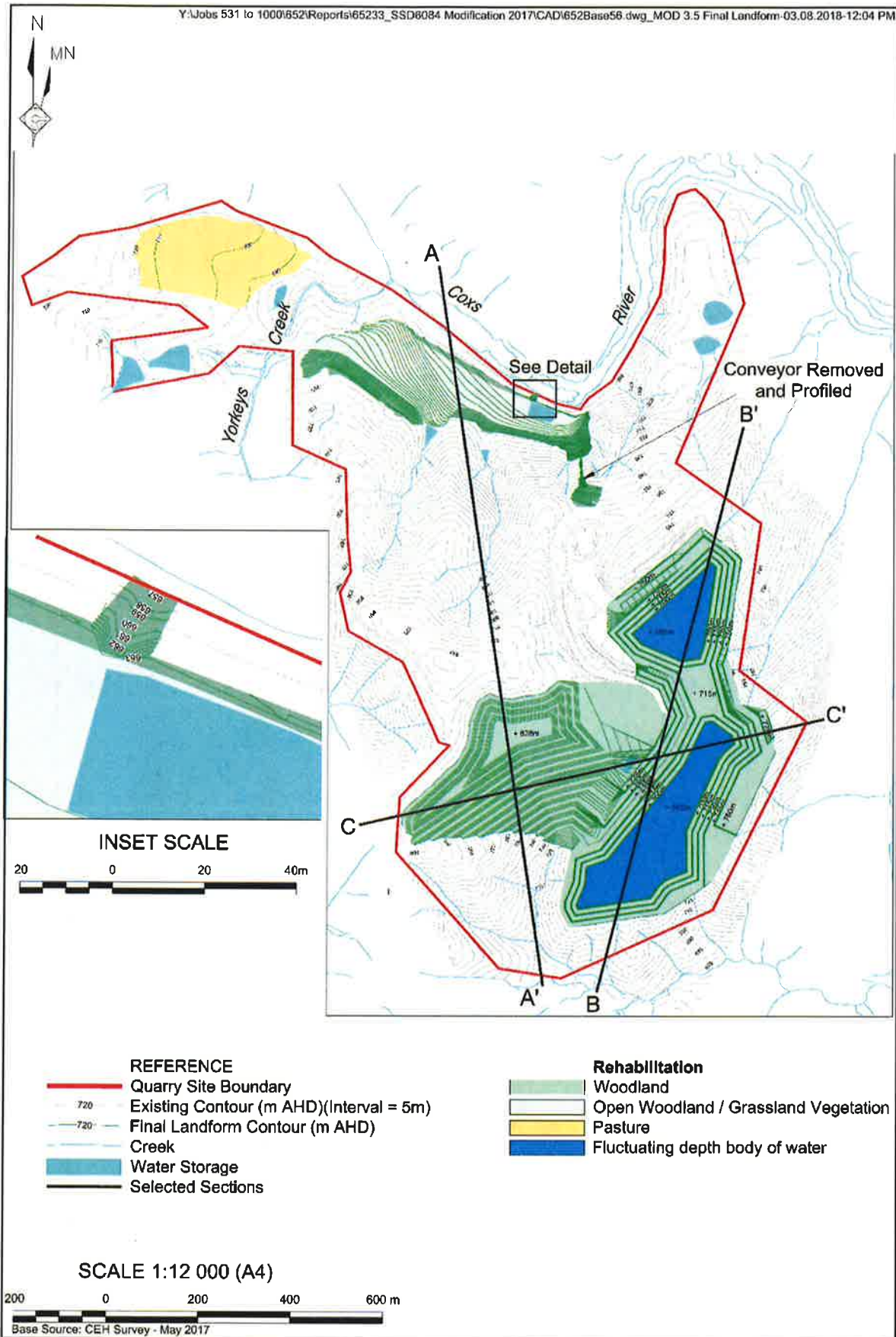
- 29. In paragraph (a) in condition 2 of Schedule 5, delete "detailed baseline date", and replace with "a summary of relevant background or baseline data".
- 30. In condition 4 of Schedule 5:
 - a) in the fourth bullet point of sub-paragraph (b), delete "EIS" and replace with "documents listed in condition 2 of Schedule 2"; and
 - b) in paragraph (c) delete "ensure compliance", and replace with "rectify the non-compliance and avoid reoccurrence".
- 31. In condition 8 of Schedule 5:
 - a) in paragraph (d) delete "and";
 - b) in paragraph (e) delete the fullstop and replace with "; and"; and
 - c) after paragraph (e), insert the following:
 - (f) be conducted and reported to the satisfaction of the Secretary.
- 32. In Appendix 2, delete the figure and replace with the following:

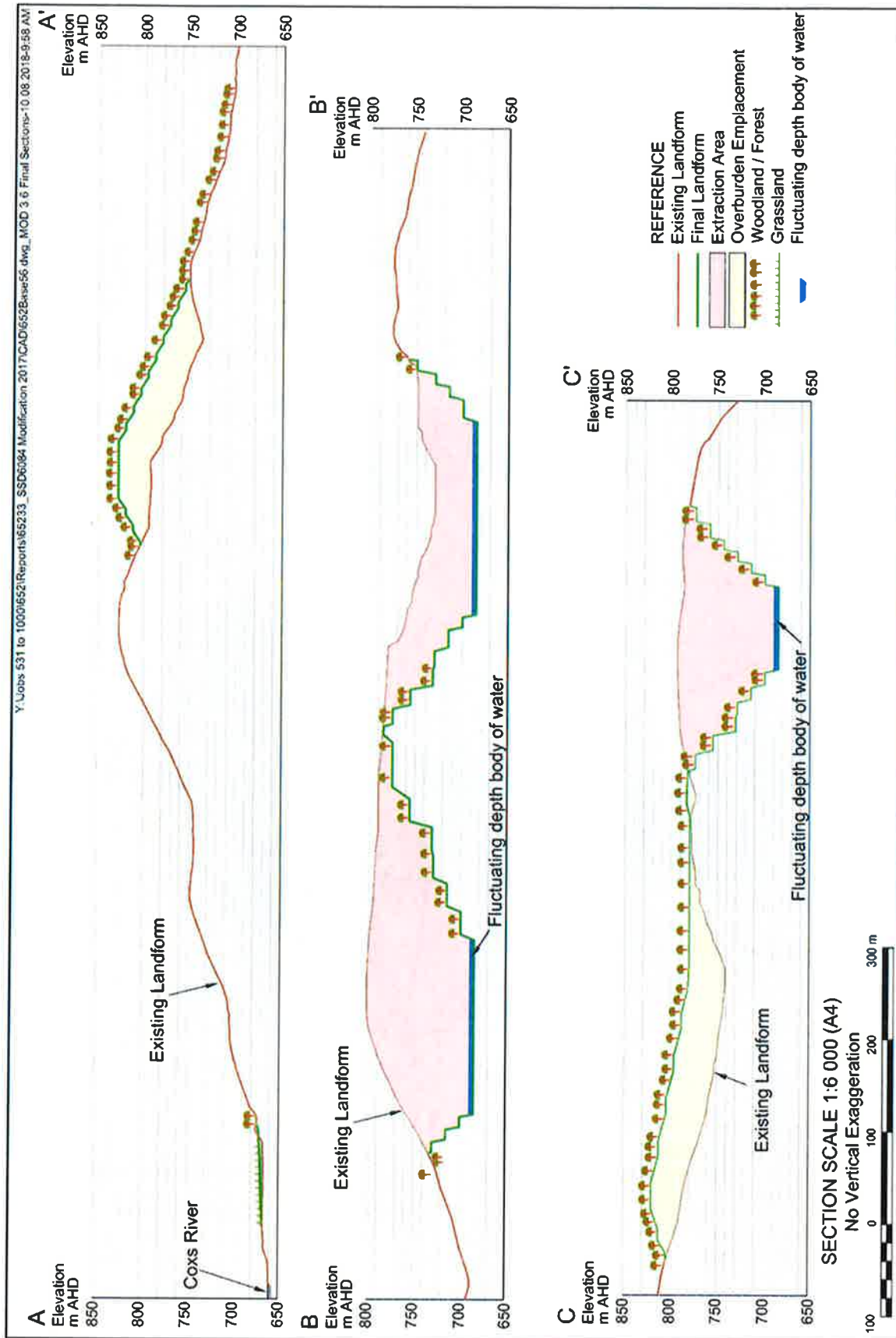


33. In Appendix 3:

- (a) delete "NSW Office of Water" and replace with "Dol"; and
- (b) in the second column of the row beginning "6.1", in paragraph (a) delete "Figure 2.4 of the EIS" and replace with "Figure 3.2 of the SEE (Mod 1)", and delete "Figure 2.6 of the EIS" and replace with "Figure 3.3 of the SEE (Mod 1)".

34. In Appendix 4, delete both figures and replace with the following:





35. Delete Appendix 5.

36. In Appendix 6, delete the heading and figure and replace with the following:

CONSERVATION AREA H



37. Update the Table of Contents to reflect the above changes.

