

Notice of Modification

Section 75W of the *Environmental Planning and Assessment Act 1979*

I modify the development consent referred to in Schedule 1, subject to the conditions in Schedule 2.

These conditions are required to:

- prevent, minimise, and/or offset adverse environmental impacts;
- set standards and performance measures for acceptable environmental performance;
- require regular monitoring, reporting and independent review; and
- provide for the ongoing environmental management of the development.



The Hon Tony Kelly MLC
Minister for Planning

10 MAR 2010

Sydney

2010

SCHEDULE 1

The development consent (DA 14/98), granted by the Minister for Urban Affairs and Planning for the Cowal Gold Project on 26 February 1999.

SCHEDULE 2

1. Insert the following definitions in Schedule 2 in alphabetical order:

Day - The period from 7am to 6pm on Monday to Saturday, and 8am to 6pm on Sundays and Public Holidays

EA - documentation titled "Cowal Gold Mine E42 Modification Environmental Assessment" dated August 2008 and the Applicant's response to submissions dated November 2008, as modified by documentation titled "Cowal Gold Mine E42 Modification Modified Request" dated October 2009

Evening - The period from 6pm to 10pm

Mining Operations - Includes all ore extraction, processing and transportation activities carried out on site

Night - The period from 10pm to 7am on Monday to Saturday, and 10pm to 8am on Sundays and Public Holidays

Reasonable and Feasible - Reasonable relates to the application of judgement in arriving at a decision, taking into account: mitigation benefits, cost of mitigation versus benefits provided, community views and the nature and extent of potential improvements. Feasible relates to engineering considerations and what is practical to build

2. Delete the word "and" where second occurring in condition 1.1(a)(vii) and (viii) of Schedule 2.

3. Delete all words after "23 June 2009;" in condition 1.1(a)(ix) of Schedule 2 and replace with the following:

- (x) modification application dated 25 March 2008 and supporting EA submitted by Barrick Australia Limited; and
- (xi) conditions of this consent.

4. Delete condition 1.2 (i) of Schedule 2 and replace with the following:

- (i) Mining operations may take place until 30 June 2024.

Note: Under this approval, the Applicant is required to rehabilitate the site and perform additional undertakings to the satisfaction of the Director-General and DII(Minerals). Consequently this approval will continue to apply in all other respects other than the right to conduct mining operations until the site has been properly rehabilitated.

5. In condition 3.2 of Schedule 2, delete the references in column 1 below and insert the references in column 2:

Column 1	Column 2
<ul style="list-style-type: none"> • Landscape management plan (refer condition 3.8) • Bushfire management plan (refer condition 3.9) • Land management plan (refer condition 3.11(i)) • Noise management plan (refer condition 6.4(b)) • Traffic noise management plan (refer condition 6.4(c)) 	<ul style="list-style-type: none"> • Rehabilitation and Offset management plan (refer condition 3.6(d)) • Bushfire management plan (refer condition 3.8) • Land management plan (refer condition 3.10) • Noise management plan (refer condition 6.4(g))

6. Delete condition 3.6 of Schedule 2 and replace with the following:

3.6 Rehabilitation and Offset Management

Rehabilitation and Offsets

- (a) The Applicant shall:
 - (i) progressively rehabilitate the mine site in a manner that is generally consistent with the final landform in the EA (as shown in Appendix 1);
 - (ii) maximise the salvage and beneficial use of resources in areas subject to disturbance; and
 - (iii) implement the biodiversity offset strategy as described in the EA, and summarised in Table 1 (and shown conceptually in Appendix 2), to the satisfaction of the Director-General and DII(Minerals).

Table 1: Offset Strategy

Area	Minimum Size
Offset – Enhancement Area	110 ha
Offset – Revegetation Area	100 ha
Total	210 ha

- (b) By the end of December 2011, the Applicant shall make suitable arrangements to provide appropriate long term security for the offset areas to the satisfaction of the Director-General.
- (c) By the end of December 2010, the Applicant shall demonstrate that appropriate monetary bonds are, or will be, in place with applicable authorities to fully implement the offset strategy, to the satisfaction of the Director-General.

Rehabilitation and Offset Management Plan

- (d) The Applicant shall prepare and implement a Rehabilitation and Offset Management Plan for the development to the satisfaction of DII and the Director-General. This plan must be prepared in

consultation with DECCW, OoW and BSC, and be submitted to the Director-General and DII(Minerals) for approval by the end of July 2010.

This plan must include:

- (i) the rehabilitation objectives for the mine site and offset areas;
- (ii) a description of the short, medium, and long term measures that would be implemented to:
 - rehabilitate the mine site;
 - implement the offset strategy; and
 - manage the remnant vegetation and habitat on the mine site and in the offset areas;
- (iii) detailed performance and completion criteria for the mine site rehabilitation and implementation of the offset strategy;
- (iv) a detailed description of the measures that would be implemented, including the procedures to be implemented for:
 - progressively rehabilitating disturbed areas;
 - implementing revegetation and regeneration within the disturbance areas and offset areas, including establishment of canopy, sub-canopy (if relevant), understorey and ground strata;
 - protecting vegetation and soil outside the disturbance areas;
 - rehabilitating creeks and drainage lines on the site (both inside and outside the disturbance areas);
 - managing salinity;
 - conserving and reusing topsoil;
 - undertaking pre-clearance surveys;
 - managing impacts on terrestrial and aquatic fauna;
 - landscaping the mine site to minimise visual impacts;
 - collecting and propagating seed for rehabilitation works;
 - salvaging and reusing material from the mine site for habitat enhancement;
 - controlling weeds and feral pests, including terrestrial and aquatic species;
 - managing grazing and agriculture on site;
 - controlling access; and
 - bushfire management;
- (v) a program to monitor the effectiveness of these measures, and progress against the performance and completion criteria;
- (vi) a description of the potential risks to successful rehabilitation and/or revegetation, and a description of the contingency measures that would be implemented to mitigate these risks; and
- (vii) details of who would be responsible for monitoring, reviewing, and implementing the plan.

7. Delete conditions 3.7 and 3.7A of Schedule 2 and replace with:

3.7 Deleted

8. Delete condition 5.1 of Schedule 2 and replace with:

5.1 Waste Rock Emplacement and Management

The Applicant shall construct and manage the waste rock emplacement as set out in the documentation listed in condition 1.1(a), and to the satisfaction of DII(Minerals).

9. Insert new condition 6.1 (d) of Schedule 2:

- (d) The Applicant shall ensure that the dust emissions generated by the development do not cause additional exceedances of the air quality impact assessment criteria listed in Tables 2, 3 and 4 at any residence on privately-owned land, or on more than 25 percent of privately-owned land not located within Lake Cowal, as shown in Appendix 3.

Table 2: Long term impact assessment criteria for particulate matter

Pollutant	Averaging period	Criterion
Total suspended particulate (TSP) matter	Annual	90 µg/m ³
Particulate matter < 10 µm (PM ₁₀)	Annual	30 µg/m ³

Table 3: Short term impact assessment criterion for particulate matter

Pollutant	Averaging period	Criterion
Particulate matter < 10 µm (PM ₁₀)	24 hour	50 µg/m ³

Table 4: Long term impact assessment criteria for deposited dust

Pollutant	Averaging period	Maximum increase in deposited dust level	Maximum total deposited dust level
Deposited dust	Annual	2 g/m ² /month	4 g/m ² /month

Note: Deposited dust is assessed as insoluble solids as defined by Standards Australia, AS/NZS 3580.10.1:2003: Methods for Sampling and Analysis of Ambient Air - Determination of Particulate Matter - Deposited Matter - Gravimetric Method.

10. Delete condition 6.3 of Schedule 2 and replace with the following:

6.3 Blasting and Vibration

Blasting Impact Assessment Criteria

- (a) The Applicant shall ensure that blasting at the development does not exceed the criteria in Table 5.

Table 5: Blasting impact assessment criteria

Location	Time of Blasting	Airblast overpressure (dB(Lin Peak))	Ground vibration (mm/s)	Allowable exceedance
Residence on privately owned land	Any time	120	10	0%
	Day	115	5	5% of the total number of blasts over a period of 12 months
	Evening	105	2	
	Night	95	1	
	Sundays and Public holidays (24 hrs)	95	1	

Blast Management Plan

- (b) The Applicant shall prepare and implement a Blast Management Plan for the development in consultation with DECCW and to the satisfaction of the Director-General. This plan must be submitted to the Director-General for approval by the end of July 2010 and include provisions to:
- (i) evaluate blasting impacts on, and demonstrate compliance with the blasting criteria in this approval for privately-owned residences and structures;
 - (ii) implement best blasting practice to:
 - protect the safety of people, property, public infrastructure, and livestock; and
 - minimise disturbance to bird breeding, and
 - (iii) ensure that blast monitoring data is assessed regularly, and that operations are relocated, modified and/or stopped as required to ensure compliance with the relevant blast criteria.

Public Notice

- (c) The Applicant shall advise residents within two (2) kilometres of the active mining area of future blasting events on a monthly basis, and of any changes to monthly programs.
- (d) Upon written request of the owner of any dwellings located within two (2) kilometres of the active mining area, the Applicant shall arrange at its own costs, for the inspection by a technically qualified person agreed to by both parties, to record the material condition of any structure on such property within 14 days of receipt of the request. The Applicant shall supply a copy of any inspection report, certified by the person who undertook the inspection, to the relevant property owner within fourteen (14) days of receipt of the report.

11. Delete condition 6.4 of Schedule 2 and replace with the following:

6.4 Noise

Acquisition Upon Request

- (a) Upon receiving a written request for acquisition from the owner of any land listed in Table 6 following landholder notification in accordance with condition 11.1 of schedule 2, the Applicant shall acquire the land in accordance with the procedures in condition 11 of schedule 2.

Table 6: Land subject to acquisition upon request

Coniston
McLintock
West Lea

Note: To interpret the location referred to Table 6, see Appendix 3.

- (b) If the noise generated by the development exceeds the criteria in Table 7 at any residence on privately-owned land, or on more than 25 percent of privately-owned land not located within Lake Cowal (as shown in Appendix 3), the Applicant shall, upon receiving a written request for acquisition from the landowner, acquire the land in accordance with the procedures in condition 11 of Schedule 2.

Table 7: Land acquisition criteria dB(A) $L_{Aeq}(15min)$

Location	Day/Evening/Night
All privately-owned land excluding the land listed in Table 6	40

Note: Noise generated by the development is to be measured in accordance with the relevant requirements, and exemptions (including certain meteorological conditions), of the NSW Industrial Noise Policy.

Noise Impact Assessment Criteria

- (c) The Applicant shall ensure that the noise generated by the development does not exceed the noise impact assessment criteria in Table 8 at any residence on privately-owned land, or on more than 25 percent of privately-owned land not located within Lake Cowal, as shown in Appendix 3.

Table 8: Noise Impact Assessment Criteria dB(A) $L_{Aeq}(15min)$

Location	Day/Evening/Night
Bungabulla	39
Coniston	44
Cowal North	38
Gumbelah	39
Lake Cowal (non-Barrick)	38
Laurel Park	39
Mattiske	36
McLintock	41
The Glen	38
West Lea	41
All other residences	35

Notes:

- To interpret the locations referred to in Table 8, see Appendix 3.
- Noise generated by the development is to be measured in accordance with the relevant requirements, and exemptions (including certain meteorological conditions), of the NSW Industrial Noise Policy.
- The noise limits do not apply if the Applicant has an agreement with the relevant owner/s of these residences/land to generate higher noise levels, and the Applicant has advised the Department in writing of the terms of this agreement.

Traffic Noise Impact Assessment Criteria

- (d) The Applicant shall take all reasonable and feasible measures to ensure that the traffic noise generated by the development does not exceed the traffic noise impact assessment criteria in Table 9.

Table 9: Traffic noise criteria dB(A) $L_{Aeq}(1 \text{ hour})$

Road	Day/Evening	Night
Ungarie Road	60	55
Wamboyne Road, Blow Clear Road, Carrawandool-Warroo Road, Burcher Road, Condobolin Road, Lake Cowal Road	55	50

Note: Traffic noise generated by the development is to be measured in accordance with the relevant procedures in DECCW's Environmental Criteria for Road Traffic Noise.

- (e) Truck movements for material delivery purposes will be restricted as far as practicable to the day and evening periods.

Additional Noise Mitigation Measures

- (f) Upon receiving a written request from:
- the landowner of the properties in Table 6 (unless the landowner has requested acquisition);
 - the landowner of the properties identified as:
 - Bungabulla;
 - Gumbelah;
 - Laurel Park;
 - The Glen;
 - Cowal North; and
 - Lake Cowal (non-Barrick); or
 - the landowner of privately-owned land where subsequent operational noise monitoring shows the noise generated by the development exceeds the noise limits in Table 8 by more than:
 - 1 dB(A), in the case of the location identified as Mattiske; and
 - 2 dB(A), in the case of all other locations;

the Applicant shall implement additional noise mitigation measures such as double glazing, insulation, and/or air conditioning at any residence on the land in consultation with the landowner.

In the event that other landowners consider that noise at their residence which is located along the mine access road between the Mid-Western Highway and the mine site, is in excess of the relevant criteria in Table 9, and the Director-General, in consultation with the DECCW, is satisfied that an investigation is required, the Applicant shall upon receipt of a written request:

- appoint a qualified independent person to undertake direct discussions with the landowners affected to ascertain their concerns and to plan and implement an investigation to quantify the impact and determine the sources of the effect, and
- where the development is identified as the cause/source bear the cost of the independent investigation and if exceedences are identified implement additional noise mitigation measures such as double glazing, insulation, and/or air conditioning at any residence on the land in consultation with the landowner.

These additional mitigation measures must be reasonable and feasible.

If, within 3 months of receiving this request from the landowner, the Applicant and the landowner cannot agree on the measures to be implemented, or there is a dispute about the implementation of these measures, then either party may refer the matter to the Director-General for resolution.

At least 3 months prior to increasing the mobile equipment fleet as described in the EA, the Applicant shall notify the following landowners that they may be entitled to receive additional noise mitigation measures, to the satisfaction of the Director-General:

- Bungabulla;
- Gumbelah;
- Laurel Park;
- The Glen;
- Cowal North;
- Lake Cowal (non-Barrick);
- Coniston;
- McLintock; and
- West Lea.

Noise Management Plan

- (g) The Applicant shall prepare and implement a Noise Management Plan for the development in consultation with DECCW and to the satisfaction of the Director-General. This plan must be submitted to the Director-General for approval by the end of July 2010 and include provisions to:
- (i) evaluate noise impacts on privately-owned residences;
 - (ii) demonstrate compliance with the noise impact assessment criteria in Table 8;
 - (iii) implement all reasonable and feasible noise mitigation measures;
 - (iv) investigate ways to reduce the noise generated by the development, including:
 - off-site road noise; and
 - noise levels which may result in sleep disturbance and disturbance to bird breeding behaviour; and
 - (v) report on these investigations and the implementation and effectiveness of these measures in the AEMR.

12. Insert new condition 6.5 of Schedule 2:

6.5 Visual Amenity and Lighting

The Applicant shall take all reasonable and feasible measures, in consideration of Australian Standard AS 4282-1997 *Control of the obtrusive effects of outdoor lighting*, to mitigate visual and off-site lighting impacts of the development, to the satisfaction of the Director-General.

13. Delete condition 7.1(i) of Schedule 2 and replace with the following:

- (i) The Applicant shall use its best endeavours to ensure that the preferred mine access road routes as described in the EA are the only routes used by employees and contractors travelling to and from the mine site.

14. In condition 8 of Schedule 2 delete "AMER" and replace with "AEMR"

15. Delete condition 8.4 of Schedule 2 and replace with the following:

8.4 Deleted

16. Delete condition 8.7(ix) of Schedule 2 and replace with the following:

- (ix) At least four years prior to mine closure the Applicant shall, in consultation with the CEMCC, identify and discuss post-mining issues, particularly in relation to reduced employment and consequent impacts on West Wyalong, and develop a mine workforce phaseout plan. This plan shall be reviewed and updated in consultation with the CEMCC at the commencement of the final year of mine operations.

17. Delete condition 11 of Schedule 2 and replace with the following:

11 NOTIFICATION OF LANDOWNERS

- 11.1 At least 3 months prior to increasing the mobile equipment fleet as described in the EA, the Applicant shall notify the landowners of the lands listed in Table 6 in writing that they have the right to require the Applicant to acquire their land at any stage during the development.
- 11.2 If the results of monitoring required in Schedule 2 identify that impacts generated by the development are greater than the relevant impact assessment criteria, except where a negotiated agreement has been entered into in relation to that impact, then the Applicant shall, within 2 weeks of obtaining the monitoring results, notify the Director-General, the affected landowners and tenants (including tenants of mine-owned properties) accordingly, and provide quarterly monitoring results to each of these parties until the results show that the development is complying with the criteria in Schedule 2.

Independent Review

- 11.3 If a landowner of privately-owned land considers the development to be exceeding the impact assessment criteria in Schedule 2, then he/she may ask the Director-General in writing for an independent review of the impacts of the development on his/her land.

If the Director-General is satisfied that an independent review is warranted, the Applicant shall within 2 months of the Director-General's decision:

- (b) consult with the landowner to determine his/her concerns;
 - (c) commission a suitably qualified, experienced and independent person, whose appointment has been approved by the Director-General, to conduct monitoring on the land, to:
 - determine whether the development is complying with the relevant impact assessment criteria in Schedule 2; and
 - identify the source(s) and scale of any impact on the land, and the development's contribution to this impact; and
 - (d) give the Director-General and landowner a copy of the independent review.
- 11.4 If the independent review determines that the development is complying with the relevant impact assessment criteria in Schedule 2, then the Applicant may discontinue the independent review with the approval of the Director-General.
- If the independent review determines that the development is not complying with the relevant impact assessment criteria in Schedule 2, then the Applicant shall:
- (a) implement all reasonable and feasible measures, in consultation with the landowner, to ensure that the development complies with the relevant criteria, and conduct further monitoring to determine whether these measures ensure compliance; or
 - (b) secure a written agreement with the landowner to allow exceedances of the relevant impact assessment criteria,
- to the satisfaction of the Director-General.

If the further monitoring referred to under paragraph (a) above determines that the development is complying with the relevant impact assessment criteria, then the Applicant may discontinue the independent review with the approval of the Director-General.

Land Acquisition

- 11.5 Within 3 months of receiving a written request from a landowner with acquisition rights, the Applicant shall make a binding written offer to the landowner based on:
- (a) the current market value of the landowner's interest in the property at the date of this written request, as if the property was unaffected by the development, having regard to the:
 - existing and permissible use of the land, in accordance with the applicable planning instruments at the date of the written request; and
 - presence of improvements on the property and/or any approved building or structure which has been physically commenced at the date of the landowner's written request, and is due to be completed subsequent to that date, but excluding any improvements that have resulted from the implementation of the 'additional noise mitigation measures' in condition 6.4(f) of Schedule 2;

- (b) the reasonable costs associated with:
 - relocating within the same local government area, or to any other local government area determined by the Director-General;
 - obtaining legal advice and expert advice for determining the acquisition price of the land, and the terms upon which it is to be acquired; and
- (c) reasonable compensation for any disturbance caused by the land acquisition process.

However, if at the end of this period, the Applicant and landowner cannot agree on the acquisition price of the land and/or the terms upon which the land is to be acquired, then either party may refer the matter to the Director-General for resolution.

Upon receiving such a request, the Director-General shall request the President of the NSW Division of the Australian Property Institute to appoint a qualified independent valuer to:

- 1) consider submissions from both parties;
- 2) determine a fair and reasonable acquisition price for the land and/or the terms upon which the land is to be acquired, having regard to the matters referred to in paragraphs (a)-(c) above;
- 3) prepare a detailed report setting out the reasons for any determination; and
- 4) provide a copy of the report to both parties.

Within 14 days of receiving the independent valuer's report, the Applicant shall make a binding written offer to the landowner to purchase the land at a price not less than the independent valuer's determination.

However, if either party disputes the independent valuer's determination, then within 14 days of receiving the independent valuer's report, they may refer the matter to the Director-General for review. Any request for a review must be accompanied by a detailed report setting out the reasons why the party disputes the independent valuer's determination. Following consultation with the independent valuer and both parties, the Director-General shall determine a fair and reasonable acquisition price for the land, having regard to the matters referred to in paragraphs (a)-(c) above and the independent valuer's report. Within 14 days of this determination, the Applicant shall make a binding written offer to the landowner to purchase the land at a price not less than the Director-General's determination.

If the landowner refuses to accept the Applicant's binding written offer under this condition within 6 months of the offer being made, then the Applicant's obligations to acquire the land shall cease, unless the Director-General determines otherwise.

- 11.6 The Applicant shall pay all reasonable costs associated with the land acquisition process described in condition 11.5 above.
- 11.7 If the Applicant and landowner agree that only part of the land shall be acquired, then the Applicant shall also pay all reasonable costs associated with obtaining Council approval for any plan of subdivision (where permissible), and registration of the plan at the Office of the Registrar-General.

- 18. Insert the following appendices after the notes following condition 12 of Schedule 2:

APPENDIX 1 – FINAL LANDFORM

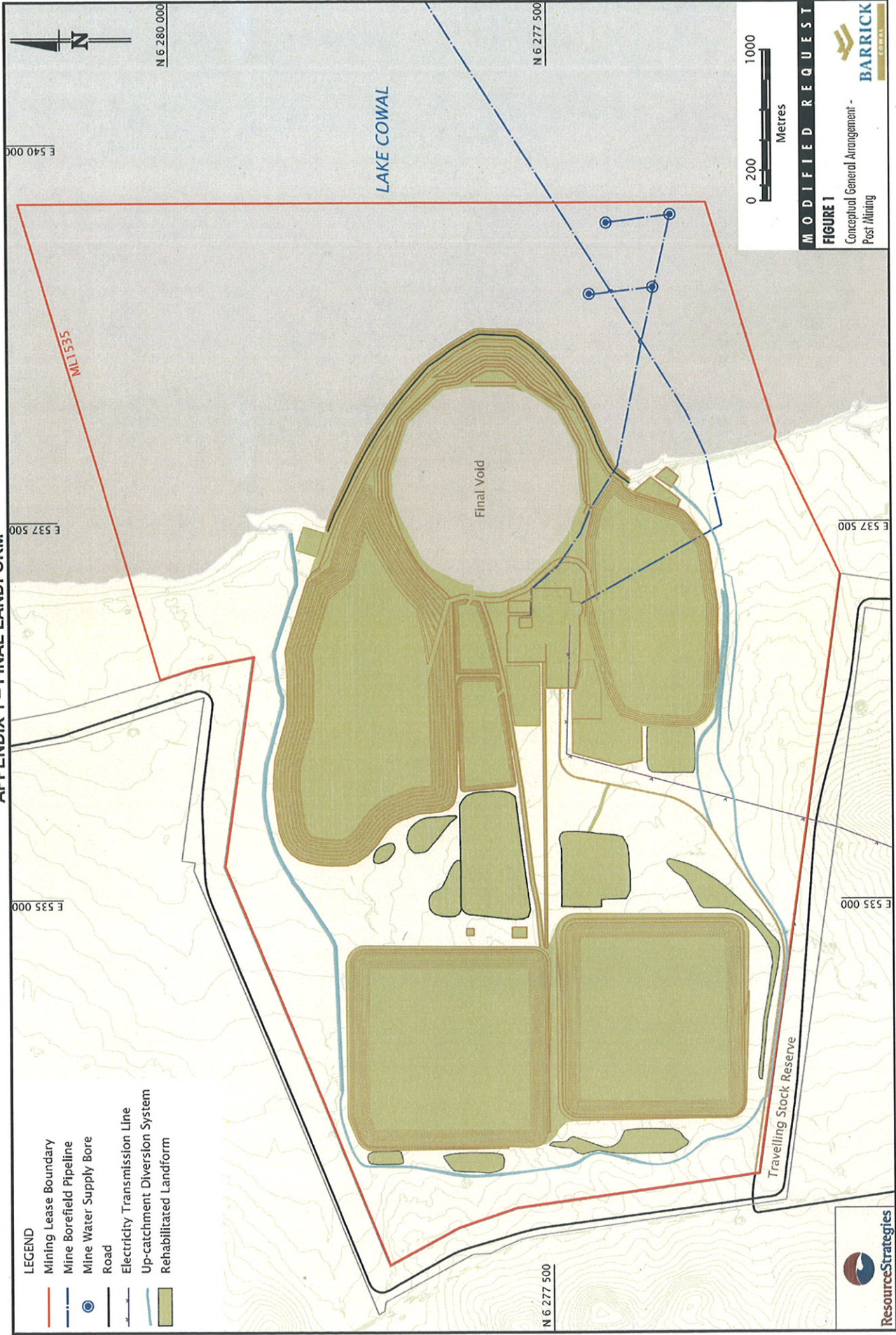


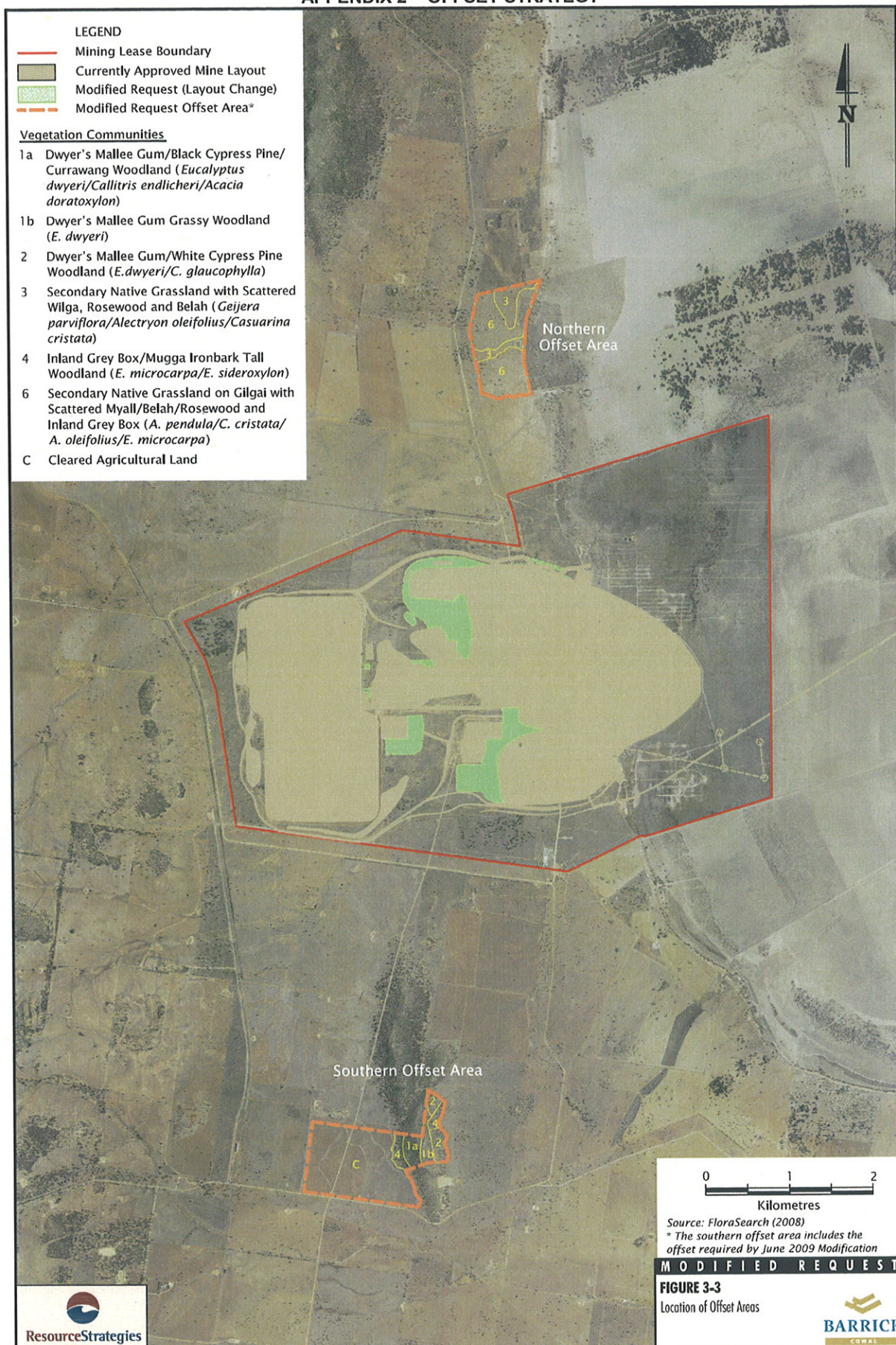
FIGURE 1
 Conceptual General Arrangement -
 Post Mining



MODIFIED REQUEST



APPENDIX 2 – OFFSET STRATEGY



APPENDIX 3 – PROPERTY LOCATIONS

