

Notice of Modification

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

As delegate of the Minister for Planning, the Planning Assessment Commission modifies the project approval referred to in Schedule 1, as set out in Schedule 2.

Member of the Commission

Member of the Commission

Sydney

2014

SCHEDULE 1

The development consent (DA 200_5_2003) granted by the Minister for Infrastructure and Planning for the Cullen Valley mine on 16 December 2004.

SCHEDULE 2

1. Delete Schedules 2-6 and all appendices, and replace with the following:

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SCHEDULE 2 DEFINITIONS

Annual review	The review required by condition 4 of schedule 6
Applicant	Lithgow Coal Company Pty Ltd, or any person who seeks to carry out the development under this consent
BCA	Building Code of Australia
Biodiversity Offset Strategy	The conservation and enhancement strategy summarised in Table 9, depicted conceptually in the figures in Appendix 2 & 7, and described in: <ul style="list-style-type: none"> the Applicant's correspondence to the Department dated 20 May 2004 (see Appendix 2); and the document titled <i>Environmental Assessment Modifications to PA 07_127 and DA 200-5-2003</i>, prepared by Hansen Bailey and dated March 2014, and associated response to submissions dated June 2014
Blast misfire	The failure of one or more holes in a blast pattern to initiate
CCC	Community Consultative Committee
Coal Processing	Crushing, screening and processing of coal
Conditions of this consent	Conditions contained in schedules 1 to 6 inclusive
Council	Lithgow City Council
Day	The period from 7am to 6pm on Monday to Saturday, and 8am to 6pm on Sundays and public holidays
Department	Department of Planning and Environment
Development	The development described in the EIS
DRE	Division of Resources and Energy within the Department of Trade and Investment, Regional Infrastructure and Services
EIS	The environmental impact statement titled <i>Feldmast Coal Project Cullen Bullen</i> , dated February 1997, and prepared by International Environmental Consultants Pty Ltd, as modified by the: <ul style="list-style-type: none"> the environmental impact statement titled <i>Cullen Valley Mine Lease Extension Project</i>, dated April 2003, and prepared by International Environmental Consultants Pty Ltd, and the correspondence from the Applicant dated 20 May 2004 (see Appendix 2); and the document titled <i>Environmental Assessment Modifications to PA 07_127 and DA 200-5-2003</i>, prepared by Hansen Bailey and dated March 2014, and associated response to submissions dated June 2014
EPA	Environment Protection Authority
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EP&A Regulation	<i>Environmental Planning and Assessment Regulation 2000</i>
EPL	Environment Protection Licence issued under the POEO Act
Evening	The period from 6pm to 10pm
Feasible	Feasible relates to engineering considerations and what is practical to build or implement
Geodiversity features	The features within the yellow line on the figure in Appendix 4
Highwall mining	Mining operations conducted with the use of in-seam auger mining equipment from either an access bench or open cut highwall
Incident	A set of circumstances that: <ul style="list-style-type: none"> causes or threatens to cause material harm to the environment; and/or; breaches or exceeds the limits or performance measures/criteria in this consent
Land	As defined in the EP&A Act, except for where the term is used in the noise and air quality conditions in Schedule 4 of this consent where it is defined to mean the whole of a lot, or contiguous lots owned by the same landowner, in a current plan registered at the Land Titles Office at the date of this consent
Material harm to the environment	Actual or potential harm to the health or safety of human beings or to ecosystems that is not trivial
Mine water	Water that accumulates within, or drains from, active mining and infrastructure areas and any other areas where run-off may have come into contact with coal or carbonaceous material (synonymous with 'dirty water')
Minimise	Reduce adverse impacts of the development to the smallest extent practicable by implementing all reasonable and feasible mitigation measures
Mining operations	Includes the removal and emplacement of overburden and the extraction, processing, handling, storage and transport of coal on site
Minister	Minister for Planning, or delegate
Mitigation	Activities associated with reducing the impacts of the development
Negligible	Small and unimportant, such as to be not worth considering

Night	The period from 10pm to 7am on Monday to Saturday, and 10pm and 8am on Sundays and Public Holidays
NOW	NSW Office of Water within the Department of Primary Industries
NP&W Act	<i>National Parks & Wildlife Act 1974</i>
OEH	Office of Environment and Heritage
POEO Act	<i>Protection of the Environment Operations Act 1997</i>
Privately-owned land	Land that is not owned by a public agency or a mining company (or its subsidiary)
Public infrastructure	Linear and related infrastructure and the like that provides services to the general public, such as roads, railways, water supply, drainage, sewerage, gas supply, electricity, telephone, telecommunications, etc
Reasonable	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
Rehabilitation	The restoration of land disturbed by the development to a good condition to ensure it is safe, stable and non-polluting
RFS	Rural Fire Service
ROM	Run-of-mine
RMS	Roads and Maritime Service
Secretary	Secretary of the Department, or nominee
Site	The land defined in schedule 1
Statement of Commitments	The Applicant's commitments in Appendix 2

SCHEDULE 3 ADMINISTRATIVE CONDITIONS

OBLIGATION TO MINIMISE HARM TO THE ENVIRONMENT

1. In addition to meeting the specific performance criteria established under this consent, the Applicant shall implement all reasonable and feasible measures to prevent and/or minimise any harm to the material environment that may result from the construction, operation, or rehabilitation of the development.

TERMS OF APPROVAL

2. The Applicant shall carry out the development generally in accordance with the:
 - (a) DA-200-5-2003;
 - (b) EIS;
 - (c) statement of commitments; and
 - (d) conditions of this consent.

Note: The general layout of the development is shown in the figures in Appendix 3 and the statement of commitments is reproduced in Appendix 2.

3. If there is any inconsistency between the above documents, the more recent document shall prevail to the extent of the inconsistency. However, the conditions of this consent shall prevail to the extent of any inconsistency.
4. The Applicant shall comply with any reasonable requirements of the Secretary arising from the Department's assessment of:
 - (a) any strategies, plans, programs, reviews, audits or correspondence that are submitted in accordance with the conditions of this consent;
 - (b) any reviews, reports or audits commissioned by the Department regarding compliance with this consent; and
 - (c) the implementation of any actions or measures contained in these documents.

LIMITS ON APPROVAL

Mining Operations

5. The Applicant may carry out mining operations on the site until the end of December 2025.

Note: Under this consent, the Applicant is required to rehabilitate the site and carry out additional undertakings to the satisfaction of the Secretary and DRE. Consequently this consent will continue to apply in all other respects other than the right to conduct mining operations until the site has been rehabilitated and the additional undertakings have been carried out to a satisfactory standard.

Coal Extraction & Transport

6. The Applicant shall not extract or transport more than 1 million tonnes of product coal per calendar year from the site.
7. The Applicant is permitted to transport up to 250,000 tonnes of coal per calendar year by road to domestic destinations other than the Mount Piper Power Station.

Hours of Operation

8. The Applicant:
 - (a) shall only undertake mining operations to the east of the Wallerawang-Gwabegar railway line, excluding the activities referred to in (b) below, during the day; and
 - (b) shall only transport coal from the site between 7 am and 5:30 pm Monday to Friday, between 7.00 am and 5.00 pm Saturdays for no more than 30 days annually, and at no time on Sundays or public holidays.

Open Cut Setbacks From Geodiversity Features

9. The Applicant shall not carry out any open cut mining within 100 metres of the mapped geodiversity features on site (see the figure in Appendix 4).

Pagoda Formations, Cliff Lines and Escarpments

10. The Applicant shall ensure that the development causes negligible impact to the pagoda formations, cliff lines and escarpments surrounding the open cut mining areas.

Prohibition on Concurrent Open Cut Mining Operations

11. The Applicant shall not carry out open cut mining operations to the east and west of the Wallerawang-Gwabegar railway line concurrently.

Prohibition on Highwall Mining

12. The Applicant shall not carry out any highwall mining within 20 metres of the identified Aboriginal rock art feature to the east of the open cut mining operations.

Note: The distance referenced to in this condition is to be measured horizontally.

STRUCTURAL ADEQUACY

13. The Applicant shall ensure that all new buildings and structures, and any alterations or additions to existing buildings and structures, are constructed in accordance with the relevant requirements of the BCA.

Notes:

- Under Part 4A of the EP&A Act, the Applicant is required to obtain construction and occupation certificates for the proposed building works.
- Part 8 of the EP&A Regulation sets out the detailed requirements for the certification of development.

DEMOLITION

14. The Applicant shall ensure that all demolition work is carried out in accordance with *Australian Standard AS 2601-2001: The Demolition of Structures*, or its latest version.

OPERATION OF PLANT AND EQUIPMENT

15. The Applicant shall ensure that all plant and equipment used on site, or used off site to monitor the environmental performance of the development, is:
- (a) maintained in a proper and efficient condition; and
 - (b) operated in a proper and efficient manner.

PROTECTION OF PUBLIC INFRASTRUCTURE

16. Unless the Applicant and the applicable authority agree otherwise, the Applicant shall:
- (a) repair, or pay the full costs associated with repairing, any public infrastructure that is damaged by the development; and
 - (b) relocate, or pay the full costs associated with relocating, any public infrastructure that needs to be relocated as a result of the development.

Note: This condition does not apply to any damage to roads caused as a result of general road usage.

UPDATING & STAGING STRATEGIES, PLANS OR PROGRAMS

17. To ensure the strategies, plans or programs under the conditions of this consent are updated on a regular basis, and that they include appropriate measures to improve the environmental performance of the development, the Applicant may at any time submit revised strategies, plans or programs to the Secretary for approval. With the approval of the Secretary, the Applicant may submit any strategies, plans or programs required by this consent on a progressive basis.

With the agreement of the Secretary, the Applicant may prepare any revised strategy, plan or program without undertaking consultation with all parties under the applicable condition of this consent.

With the agreement of the Secretary, the Applicant may combine the strategies, plans or programs required under the project approval for the Invincible Colliery (07_0127) with those required under the conditions of this consent.

Notes:

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

COMMUNITY ENHANCEMENT

18. By the end of March 2015, unless the Secretary agrees otherwise, the Applicant shall enter into a Voluntary Planning Agreement (VPA) with Council in accordance with:
- a) Division 6 of Part 4 of the EP&A Act; and
 - b) the terms of the Applicant's offer in Appendix 10.

Note: The VPA offer in Appendix 10 applies to both the Cullen Valley Mine and the Invincible Colliery (PA 07_0127). For clarity, if both the Invincible Colliery and Cullen Valley proceed then the Applicant would be required to pay Council \$30,000 plus 7 cents per tonne of coal sold from both sites, in accordance with the terms of the VPA offer in Appendix 10. However, if the Invincible Colliery does not proceed, the initial payment of \$30,000 shall be reduced to \$15,000., but the Applicant would still be required to pay Council 7 cents per tonne of coal sold from the Cullen Valley Mine, in accordance with the terms of the VPA offer in Appendix 10.

SCHEDULE 4 SPECIFIC ENVIRONMENTAL CONDITIONS

NOISE

Noise Criteria

- The Applicant shall ensure that the noise generated by the development does not exceed the criteria in Table 1 at any residence on privately-owned land.

Table 1: Noise Criteria dB(A)

<i>Day</i>	<i>Evening</i>	<i>Night</i>	<i>Night</i>	<i>Land</i>
<i>L_{Aeq}(15 minute)</i>			<i>L_{A1}(1 minute)</i>	
40	40	38	45	Forest Lodge
43	38	35	45	<ul style="list-style-type: none"> • 209 (Ryan) • 210 (Tesoriero) • 211 (Fitzgerald) • 198- 199 (Tilley) • 205¹ (Red Springs) • 179¹ (Hillcroft) • 343 (AG & RL Williams) • 344 (Dobson) • 345 (Northey)
37	35	35	45	• 205 ² Red Springs
35	35	35	45	<ul style="list-style-type: none"> • 179² (Hillcroft) and all other land (including vacant land); • All other privately-owned residences

Note: For a map of the privately-owned land in the vicinity of the site, see Appendix 5.

- ¹ during mining to the west of the railway line
- ² during mining to the east of the railway line

Noise generated by the development is to be measured in accordance with the relevant requirements of the *NSW Industrial Noise Policy* (as may be revised from time to time). Appendix 6 sets out the meteorological conditions under which these criteria apply, and the requirements for evaluating compliance with these criteria.

However, these criteria do not apply if the Applicant has a written agreement with the relevant landowner to exceed the noise criteria, and the Applicant has advised the Department in writing of the terms of this agreement.

Additional Noise Mitigation

- Upon receiving a written request from the owner of any residence on the property 139 (Forest Lodge) (see the map in Appendix 5), the Applicant shall implement additional noise mitigation measures (such as double-glazing, insulation and/or air conditioning) at the residence in consultation with the owner. These measures must be reasonable and feasible, and directed towards reducing the noise impacts of the development on the residence.

If within 3 months of receiving this request from the owner, the Applicant and the owner 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 Secretary for resolution.

Operating Conditions

3. The Applicant shall:
- implement all reasonable and feasible measures to minimise the construction, operational, and road noise of the development;
 - minimise the noise impacts of the development during meteorological conditions when the noise criteria in this consent do not apply (see Appendix 6);
 - co-ordinate noise management on site with that at any nearby mines, in particular the Invincible and Baal Bone mines, to minimise any cumulative noise impacts;
 - monitor and report on compliance with the relevant conditions in this consent, to the satisfaction of the Secretary.

Noise Management Plan

4. The Applicant shall prepare and implement a Noise Management Plan for the development to the satisfaction of the Secretary. This plan must:
- be prepared in consultation with the EPA, and submitted to the Secretary for approval prior to recommencing mining operations following the mine being put into care and maintenance in 2013, unless the Secretary agrees otherwise;
 - describe the measures that would be implemented to ensure compliance with the relevant noise conditions in this consent;
 - describe the proposed noise management system on site; and
 - include a noise monitoring program that:
 - evaluates and reports on:
 - the effectiveness of the noise management system;
 - compliance against the noise criteria in this consent; and
 - compliance against the noise operating conditions; and
 - defines what constitutes a noise incident, for reporting purposes.

BLASTING

Blasting Criteria

5. The Applicant shall ensure that blasting on the site does not cause exceedances of the criteria in Table 2.

Table 2: *Blasting criteria*

Location	Airblast overpressure (dB(Lin Peak))	Ground vibration (mm/s)	Allowable exceedance
	120	10	0%
Residence on privately owned land	115	5	5% of the total number of blasts over a period of 12 months

However, these criteria do not apply if the Applicant has a written agreement with the relevant owner, and has advised the Department in writing of the terms of this agreement.

Blasting Hours

6. The Applicant shall only carry out blasting on the site between 9 am and 3 pm Monday to Saturday. No blasting is allowed on Sundays or public holidays.

Blasting Frequency

7. The Applicant shall not carry out more than:
- 1 blast a day; and
 - 5 blasts a week, on the site.

Property Inspections

8. If the Applicant receives a written request from the owner of any privately-owned land within 2 kilometres of the approved open cut mining pit/s on site for a property inspection to establish the baseline condition of any buildings and/or structures on his/her land, or to have a previous property inspection updated, then within 2 months of receiving this request the Applicant shall:
- (a) commission a suitably qualified, experienced and independent person, whose appointment is acceptable to both parties to:
 - establish the baseline condition of any buildings and other structures on the land, or update the previous property inspection report; and
 - identify measures that should be implemented to minimise the potential blasting impacts of the development on these buildings and/or structures; and
 - (b) give the landowner a copy of the new or updated property inspection report.

Property Investigations

9. If the owner of any privately-owned land claims that buildings and/or structures on his/her land have been damaged as a result of blasting on the site, then within 2 months of receiving this claim the Applicant shall:
- (a) commission a suitably qualified, experienced and independent person, whose appointment is acceptable to both parties to investigate the claim; and
 - (b) give the landowner a copy of the property investigation report.

If this independent property investigation confirms the landowner's claim, and both parties agree with these findings, then the Applicant shall repair the damage to the satisfaction of the Secretary.

If there is a dispute over the selection of the suitably qualified, experienced and independent person, or the Applicant or the landowner disagrees with the findings of the independent property investigation, then either party may refer the matter to the Secretary for resolution.

Operating Conditions

10. During mining operations on site, the Applicant shall:
- (a) implement best management practice to:
 - protect the safety of people and livestock in the surrounding area;
 - protect public and/or private infrastructure/property both on the site and in the surrounding area from any damage;
 - protect the pagodas, cliff lines and escarpments in the area surrounding the open cut mining operations on site; and
 - minimise the dust and fume emissions of any blasting;
 - (b) ensure that blasting on site has negligible impact on:
 - the sandstone overhang/rock shelter site 45-1-2580 (see the figure in Appendix 8);
 - the Aboriginal art rock shelter to the east of the open cut mining operations;
 - other AHIMS registered heritage sites outside the approved disturbance area;
 - (c) minimise the frequency and duration of any road/rail closures, and avoid road/rail closures for blasting during peak traffic periods;
 - (d) operate a suitable system to enable the public to get up-to-date information on the proposed blasting schedule on site and associated road closures;
 - (e) co-ordinate the timing of blasting on site with the timing of blasting at the Invincible mine to minimise any cumulative blasting impacts;
 - (f) monitor and report on compliance with the relevant blasting conditions in this consent, to the satisfaction of the Secretary.
11. The Applicant shall not undertake blasting on site within 500 metres of:
- (a) any public road or railway; or
 - (b) any land outside the site that is not owned by the Applicant
- unless:
- the Applicant has a written agreement with the applicable roads/rail authority or landowner to allow blasting to be carried out closer to the public road/railway or land, and the Applicant has advised the Department in writing of the terms of this agreement; or
 - the Applicant has:
 - demonstrated to the satisfaction of the Secretary that the blasting can be carried out closer to the road or land without compromising the safety of people or livestock, or damaging buildings and/or structures; and
 - updated the Blast Management Plan to include the specific measures that would be implemented while blasting is being carried out within 500 metres of the road or land outside the site that is not owned by the Applicant.

Blast Management Plan

12. The Applicant shall prepare and implement a Blast Management Plan for the development to the satisfaction of the Secretary. This plan must:
- be prepared in consultation with the EPA, and submitted to the Secretary for approval prior to recommencing mining operations following the mine being put into care and maintenance in 2013, unless the Secretary agrees otherwise;
 - describe the measures that would be implemented to ensure compliance with the blasting criteria and operating conditions of this consent; and
 - monitor and report on compliance with the blasting criteria and operating conditions.

AIR QUALITY

Air Quality Criteria

13. The Applicant shall ensure that all reasonable and feasible avoidance and mitigation measures are employed so that the particulate emissions generated by the development do not exceed the criteria listed in Tables 3, 4 and 5 at any residence on privately-owned land.

Table 3: Long term criteria for particulate matter

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

Table 4: Short term criterion for particulate matter

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

Table 5: Long term criteria for deposited dust

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

Notes for Tables 3 to 5:

- ^a Total impact (i.e. incremental increase in concentrations due to the development plus background concentrations due to other sources);
- ^b Incremental impact (i.e. incremental increase in concentrations due to the development on its own);
- ^c Deposited dust is to be 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; and
- ^d Excludes extraordinary events such as bushfires, prescribed burning, dust storms, sea fog, fire incidents, illegal activities or any other activity agreed to by the Secretary.

Mine-owned Land

14. The Applicant shall ensure that all reasonable and feasible avoidance and mitigation measures are employed so that particulate matter emissions generated by the development do not cause exceedances of the criteria in Tables 3-5 at any occupied residence on mine-owned land (including land owned by another mining company) unless:
- the tenant or landowner (if the residence is owned by another mining company) has been notified of any health risks associated with such exceedances in accordance with the notification requirements in schedule 4 of this consent;
 - the tenant of any land owned by the Applicant can terminate their tenancy agreement without penalty at any time, subject to giving reasonable notice;
 - air quality monitoring is regularly undertaken to inform the tenant or landowner (if the residence is owned by another mining company) of the actual particulate emissions at the residence; and
 - data from this monitoring is presented to the tenant or landowner (if the residence is owned by another mining company) in an appropriate format for a medical practitioner to assist the tenant or landowner in making informed decisions on the health risks associated with occupying the residence,

to the satisfaction of the Secretary.

Air Quality Acquisition Criteria

15. If particulate matter emissions generated by the development exceed the criteria, or contribute to the exceedance of the relevant cumulative criteria, in Tables 6-8 at any residence/sensitive receiver on privately-owned land, then upon receiving a written request for acquisition from the landowner, the Applicant shall acquire the land in accordance with the procedures in conditions 5 – 6 of schedule 4.

Table 6: Long term land acquisition criteria for particulate matter

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

Table 7: Short term land acquisition criteria for particulate matter

Pollutant	Averaging period	^d Criterion
Particulate matter < 10 µm (PM ₁₀)	24 hour	^a 150 µg/m ³
Particulate matter < 10 µm (PM ₁₀)	24 hour	^b 50 µg/m ³

Table 8: Long term land acquisition criterion for deposited dust

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

Notes to Tables 6-8:

^a Total impact (i.e. incremental increase in concentrations due to the development plus background concentrations due to all other sources);

^b Incremental impact (i.e. incremental increase in concentrations due to the development on its own);

^c Deposited dust is to be 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; and

^d Excludes extraordinary events such as bushfires, prescribed burning, dust storms, fire incidents or any other activity agreed by the Secretary.

Operating Conditions

16. The Applicant shall:
- implement all reasonable and feasible measures to minimise the:
 - odour, fume and dust emissions of the development, including any emissions from the sub-surface heating on site; and
 - release of greenhouse gas emissions from the site;
 - minimise any visible off-site air pollution generated by the development;
 - minimise the surface disturbance of the site;
 - ensure that all loaded trucks leaving the site are covered at all times;
 - minimise the air quality impacts of the development during adverse meteorological conditions and extraordinary events (see note d to Tables 3-5 above),
 - co-ordinate the air quality management on site with the air quality management at the Invincible mine to minimise any cumulative air quality impacts; and
 - monitor and report on compliance with the relevant air quality conditions in this consent, to the satisfaction of the Secretary.

Air Quality Management Plan

17. The Applicant shall prepare and implement a detailed Air Quality Management Plan for the development to the satisfaction of the Secretary. This plan must:
- be prepared in consultation with the EPA, and submitted to the Secretary for approval prior to recommencing mining operations following the mine being put into care and maintenance in 2013, unless the Secretary agrees otherwise;

- (b) describe the measures that would be implemented to ensure compliance with air quality criteria and operating conditions of this consent;
- (c) describe the proposed air quality management system; and
- (d) include an air quality monitoring program that:
 - evaluates and reports on:
 - the effectiveness of the air quality management system; and
 - compliance with the air quality operating conditions; and
 - defines what constitutes an air quality incident, and includes a protocol for identifying and notifying the Department and relevant stakeholders of any air quality incidents

METEOROLOGICAL MONITORING

18. During the life of the development, the Applicant shall ensure that there is a suitable meteorological station operating in the vicinity of the site that:
- (a) complies with the requirements in the *Approved Methods for Sampling of Air Pollutants in New South Wales* guideline; and
 - (b) is capable of continuous real-time measurement of temperature lapse rate in accordance with the *NSW Industrial Noise Policy*, unless a suitable alternative is approved by the Secretary following consultation with the EPA.

SUBSIDENCE

Highwall Mining

19. The Applicant shall ensure that all highwall mining carried out on site under this consent:
- (a) is long term safe and stable;
 - (b) does not result in any measurable subsidence at the surface (i.e. less than 20 mm of subsidence), to the satisfaction of DRE.

Underground Mining

20. The Applicant shall prepare and implement an Extraction Plan for all underground mining operations on site, including the first and second workings, to the satisfaction of the Secretary. Each plan must:
- (a) be prepared by suitably qualified and experienced persons whose appointment has been endorsed by the Secretary;
 - (b) be approved by the Secretary before the Applicant carries out any of the underground workings covered by the plan;
 - (c) include detailed plans of existing and proposed first and second workings and any associated surface development;
 - (d) include detailed performance measures for any impacts on surface and built features;
 - (e) provide revised predictions of the potential subsidence effects, subsidence impacts and environmental consequences of the proposed underground workings, incorporating any relevant information obtained since this consent;
 - (f) describe the measures that would be implemented to ensure compliance with the detailed performance measures, and manage or remediate any impacts and/or environmental consequences;
 - (g) include a Built Features Management Plan, which has been prepared in consultation with DRE, private landowners, and the owners of affected public infrastructure to manage the potential subsidence impacts and/or environmental consequences of the proposed second workings, and which:
 - addresses in appropriate detail all items of key public infrastructure and other public infrastructure and all classes of other built features;
 - has been prepared following appropriate consultation with the owner/s of potentially affected feature/s;
 - recommends appropriate remedial measures and includes commitments to mitigate, repair, replace or compensate all predicted impacts on potentially affected built features in a timely manner; and
 - in the case of all key public infrastructure, and other public infrastructure except roads, trails and associated structures, reports external auditing for compliance with ISO 31000 (or alternative standard agreed with the infrastructure owner) and provides for annual auditing of compliance and effectiveness during extraction of longwalls which may impact the infrastructure;
 - (h) include a Water Management Plan, which has been prepared in consultation with EPA and NOW, which provides for the management of the potential impacts and/or environmental consequences of the proposed second workings on watercourses and aquifers, including:
 - surface and groundwater impact assessment criteria, including trigger levels for investigating any potentially adverse impacts on water resources or water quality;

- a program to monitor and report stream flows, assess any changes resulting from subsidence impacts and remediate and improve stream stability;
 - a program to monitor and report groundwater inflows to underground workings;
 - a program to predict, manage and monitor impacts on groundwater bores on privately-owned land; and
- (i) include a Biodiversity Management Plan, which has been prepared in consultation with OEH, which provides for the management of the potential impacts and/or environmental consequences of the proposed second workings on aquatic and terrestrial flora and fauna, with a specific focus on threatened species, populations and their habitats; endangered ecological communities; and water dependent ecosystems;
- (j) include a Land Management Plan, which has been prepared in consultation with any affected public authorities, to manage the potential impacts and/or environmental consequences of the proposed second workings on land in general;
- (k) include a Heritage Management Plan, which has been prepared in consultation with OEH and relevant stakeholders for both Aboriginal and historic heritage, to manage the potential environmental consequences of the proposed second workings on both Aboriginal and non-Aboriginal heritage items;
- (l) include a Public Safety Management Plan, which has been prepared in consultation with DRE, to ensure public safety in the mining area;
- (m) include a subsidence monitoring program, which has been prepared in consultation with DRE, to:
- provide data to assist with the management of the risks associated with subsidence;
 - validate the subsidence predictions;
 - analyse the relationship between the predicted and resulting subsidence effects and predicted and resulting impacts under the plan and any ensuing environmental consequences; and
 - inform the contingency plan and adaptive management process;
- (n) include a contingency plan that expressly provides for adaptive management where subsequent monitoring indicates that there has been an exceedance of the approved performance measures; and
- (o) include a program to collect sufficient baseline data for future Extraction Plans.

Note: To identify the longwall mining domains referred to in this condition, see Appendix 2.

21. The Applicant shall ensure that the management plans required under condition 20 above include:
- (a) an assessment of the potential environmental consequences of the Extraction Plan, incorporating any relevant information that has been obtained since this consent; and
 - (b) a detailed description of the measures that would be implemented to remediate predicted impacts.
22. The Applicant shall pay all reasonable costs incurred by the department to engage suitably qualified, experienced and independent experts to review the adequacy of any aspect of an Extraction Plan.

BIODIVERSITY

Biodiversity Offset Strategy

23. The Applicant shall implement the biodiversity offset strategy for the development, which is summarised in Table 9:

Table 9: Biodiversity Offset Strategy

Offset Area	Minimum Size
Compensatory Habitat Area	50 ha
Hillview/Billabong Offset Area	83 ha
Gulf Mountain Offset Area	1,288 ha
Additional Offset Areas	30 ha
Total	1,451 ha

Notes:

- The offset areas referred to in Table 9 are shown conceptually in the figures in Appendix 2 & 7.
- The Gulf Mountain, Hillview/Billabong and Additional Offset Areas are combined offsets for clearing of vegetation associated with the Cullen Valley modification application DA 200-5-2003 (MOD 2) and the Invincible Colliery modification application (07_127 MOD 4). Consequently, these areas may be reduced proportionately if the Invincible Colliery modification application does not proceed, in consultation with OEH, and to the satisfaction of the Secretary.
- Any additional Biobanking credits generated by the Gulf Mountain Offset Area following the completion of a Biobanking Agreement for the development may be retained by the Applicant.

Threatened Species

24. The Applicant shall ensure that the biodiversity offset strategy and/or rehabilitation strategy for the development focus on the re-establishment of:
- flora species that are associated with ecological communities with higher conservation significance, including the:
 - Tableland Gully Ribbon Gum Blackwood Apple Box Forest;
 - Tableland Gully Mountain Gum- Broad-leaved Peppermint Grassy Forest; and
 - Tableslopes Brittle Gum – Broad-leaved Peppermint Grassy Forest;
 - threatened flora species, including the:
 - Capertee Stringybark species; and
 - habitat for threatened fauna species that were either recorded on site or have the potential to occur on site.

Long Term Security Of Offsets

25. By the end of December 2015, unless the Secretary agrees otherwise, the Applicant must make suitable arrangements to provide appropriate long-term security for the land within the Biodiversity Offset Strategy identified in Table 9, to the satisfaction of the Secretary.

Biodiversity Management Plan

26. The Applicant shall prepare and implement a Biodiversity Management Plan for the development to the satisfaction of the Secretary. This plan must:
- be prepared in consultation with OEH, and be submitted to the Secretary for approval prior to recommencing mining operations following the mine being put into care and maintenance in 2013, unless the Secretary agrees otherwise;
 - describe how the implementation of the biodiversity offset strategy would be integrated with the overall rehabilitation of the site;
 - establish baseline data for the existing habitat in the offsite biodiversity offset area and on the site;
 - describe the short, medium, and long term measures that would be implemented to:
 - manage the impacts of clearing vegetation, including pre-clearance surveys;
 - manage the remnant vegetation and habitat on the site; and
 - implement the biodiversity offset strategy;
 - include detailed performance and completion criteria for evaluating the performance of the biodiversity offset strategy, and triggering remedial action (if necessary);
 - include a detailed description of the measures that would be implemented over the next 3 years, including the procedures to be implemented for:
 - enhancing the quality of existing vegetation and fauna habitat;
 - restoring native vegetation and fauna habitat on the biodiversity areas and rehabilitation area through focusing on assisted natural regeneration, targeted vegetation establishment and the introduction of naturally scarce fauna habitat features (where necessary);
 - landscaping the site and along public roads to minimise the visual and lighting impacts of the development;
 - maximising the salvage of resources within the approved disturbance area - including vegetative, soil and cultural heritage resources – for beneficial reuse in the enhancement of the biodiversity areas or rehabilitation area;
 - collecting and propagating seed;
 - minimising the impacts on fauna on site, including undertaking pre-clearance surveys;
 - managing any potential conflicts between the proposed restoration works in the biodiversity areas and any Aboriginal heritage values (both cultural and archaeological);
 - managing salinity;
 - controlling weeds and feral pests;
 - controlling erosion;
 - managing grazing and agriculture on site;
 - controlling access; and
 - bushfire management;
 - include a seasonally-based program to monitor and report on the effectiveness of these measures, and progress against the detailed performance and completion criteria;
 - identify the potential risks to the successful implementation of the biodiversity offset strategy, and include a description of the contingency measures that would be implemented to mitigate these risks; and
 - include details of who would be responsible for monitoring, reviewing, and implementing the plan.

Note: The Biodiversity Management Plan and Rehabilitation Management Plan need to be substantially integrated for achieving rehabilitation objectives for the rehabilitated mine-site.

Conservation Bond

27. Within 6 months of the approval of the Biodiversity Management Plan, the Applicant shall lodge a conservation bond with the Department to ensure that the biodiversity offset strategy is implemented in accordance with the performance and completion criteria described in the Biodiversity Management Plan.

The sum of the bond shall be determined by:

- (a) calculating the full cost of implementing the offset strategy (other than land acquisition costs); and
- (b) employing a suitably qualified and experienced person, whose appointment has been endorsed by the Secretary, to verify the calculated costs.

If the offset strategy is completed generally in accordance with the completion criteria in the Biodiversity Management Plan to the satisfaction of the Secretary, the Secretary will release the bond.

If the offset strategy is not completed generally in accordance with the completion criteria in the Biodiversity Management Plan, the Secretary will call in all or part of the conservation bond, and arrange for the satisfactory completion of the relevant works.

Note: Alternative funding arrangements for long term management of the biodiversity offset strategy, such as provision of capital and management funding as agreed by OEH as part of a Biobanking Agreement or transfer to conservation reserve estate can be used to reduce the liability of the conservation and biodiversity bond. The sum of the bond may be reviewed in conjunction with any revision to the biodiversity offset strategy.

HERITAGE

Site CB-OS-1

28. The Applicant shall:
- (a) protect the open campsite-stone artifact scatter site CB-OS-1 (see the figure in Appendix 8) and the associated Potential Archaeological Deposit during the development, in consultation with local Aboriginal groups to the satisfaction of the Secretary; and
 - (b) ensure that a protective buffer zone of at least 50 metres (radius) is maintained around the site CB-OS-1 (see the figure in Appendix 8), and that the site is not impacted by mining operations or surface activities to the satisfaction of the Secretary.

Aboriginal Heritage Management Plan

29. The Applicant shall prepare and implement an Aboriginal Heritage Management Plan for the development to the satisfaction of the Secretary. The plan must:
- (a) be prepared in consultation with OEH and the Aboriginal community;
 - (b) be submitted to the Secretary for approval prior to recommencing mining operations following the mine being put into care and maintenance in 2013, unless the Secretary agree otherwise; and
 - (c) include a:
 - program for the recording, salvage and surface collection of any Aboriginal objects/sites that may be encountered within the approved disturbance area;
 - description of the measures that would be implemented:
 - to protect the AHIMS registered Aboriginal heritage sites on site that are outside the approved disturbance area;
 - if any Aboriginal skeletal remains are discovered during the development; and
 - protocol for the ongoing consultation and involvement of the Aboriginal community in the conservation and management of the Aboriginal heritage of the objects/sites on the site.

WATER

Water Supply

30. The Applicant shall ensure that it has sufficient water for all stages of the development, and if necessary, adjust the scale of operations on site to match its available water supply.

Note: Under the Water Act 1912 and/or the Water Management Act 2000, the Applicant is required to obtain all necessary water licences for the development.

Compensatory Water Supply

31. The Applicant shall provide a compensatory water supply to any landowner of privately-owned land whose water supply is adversely and directly impacted (other than an impact that is negligible) as a result of the development, in consultation with NOW, and to the satisfaction of the Secretary.

The compensatory water supply measures must provide an alternative long term supply of water that is equivalent to the loss attributed to the development. Equivalent water supply should be provided (at least on an interim basis) within 24 hours of the loss being identified.

If 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 Secretary for resolution.

If the Applicant is unable to provide an alternative long-term supply of water, then the Applicant shall provide alternative compensation to the satisfaction of the Secretary.

Water Pollution

32. Except as may be expressly provided by an EPL, the Applicant shall comply with section 120 of the *Protection of the Environment Operations Act 1997* during the carrying out of the development.

Water Management Performance Measures

33. The Applicant shall comply with the performance measures in Table 10 to the satisfaction of the Secretary.

Table 10: Water Management Performance Measures

Feature	Performance Measure
Water Management - General	<ul style="list-style-type: none">• Minimise the use of clean water on site• Maximise water sharing with the other mines in the region
Construction and operation of linear infrastructure	<ul style="list-style-type: none">• Design, install and maintain erosion and sediment controls generally in accordance with the series <i>Managing Urban Stormwater: Soils and Construction</i> including <i>Volume 1</i>, <i>Volume 2A – Installation of Services</i> and <i>Volume 2C – Unsealed Roads</i>• Design, install and maintain the infrastructure within 40 m of watercourses generally in accordance with the <i>Guidelines for Controlled Activities on Waterfront Land (DPI 2007)</i>, or its latest version• Design, installation and maintenance of creek crossings generally in accordance with the <i>Policy and Guidelines for Fish Friendly Waterway Crossings</i> (NSW Fisheries, 2003) and <i>Why Do Fish Need To Cross The Road? Fish Passage Requirements for Waterway Crossings</i> (NSW Fisheries 2003), or their latest versions
Clean water diversion & storage infrastructure	<ul style="list-style-type: none">• Design, install and maintain the clean water diversion system generally in accordance with the requirements in the <i>Managing Urban Stormwater: Soils and Construction – Volume 1 and Volume 2E Mines and Quarries</i> series• Maximise as far as reasonable and feasible the diversion of clean water around the disturbed areas on site
Mine water storages	<ul style="list-style-type: none">• Mine water storage infrastructure is designed to store a 50 year ARI 72 hour storm event• On-site storages (mine infrastructure dams, groundwater storage and treatment dams) are suitably designed, installed and maintained to minimise permeability
Chemical and hydrocarbon storage	<ul style="list-style-type: none">• Chemical and hydrocarbon products to be stored in bunded areas in accordance with the relevant Australian Standard

Water Management Plan

34. The Applicant shall prepare and implement a Water Management Plan for the development to the satisfaction of the Secretary. This plan must:
- (a) be prepared in consultation with NOW and the EPA, by suitably qualified and experienced persons whose appointment has been approved by the Secretary;
 - (b) be submitted to the Secretary for approval prior to recommencing mining operations following the mine being put into care and maintenance in 2013, unless the Secretary agrees otherwise;
 - (c) in addition to the standard requirements for management plans (see Condition 3 of schedule 6), this plan must include a:
 - (i) Site Water Balance that:
 - includes details of:
 - sources and security of water supply, including contingency planning for future reporting periods;
 - water use and management on site, including details of water sharing between neighbouring mining operations;
 - reporting procedures, including the preparation of a site water balance for each calendar year;
 - describes the measures that would be implemented to:
 - minimise clean water use on site;
 - maximise water sharing with the other mines in the region;
 - (ii) Surface Water Management Plan, that includes:
 - detailed baseline data on water flows and quality in the waterbodies that could be affected by the development;
 - a detailed description of the water management system on site;
 - detailed performance criteria for the following, including trigger levels for investigating any potentially adverse impacts associated with the development:
 - the water management system; and
 - downstream surface water quality;
 - a program to monitor and report on:
 - the effectiveness of the water management system; and
 - surface water flows and quality in the watercourses that could be affected by the development;
 - reporting procedures for the results of the monitoring program; and
 - a plan to respond to any exceedances of the performance criteria, and mitigate any adverse surface water impacts of the development;
 - (iii) Groundwater Management Plan, that includes:
 - detailed baseline data on groundwater levels, yield and quality in the region and privately-owned groundwater bores that could be affected by the development;
 - groundwater assessment criteria, including trigger levels for investigating any potentially adverse groundwater impacts;
 - suitable management measures consistent with the Subsurface Heating Management Plan approved by DRE;
 - a program to monitor and report on:
 - groundwater inflows to the underground and open cut mining operations;
 - the seepage/leachate from water storages, emplacements, and backfilled voids;
 - background changes in groundwater yield/quality against mine-induced changes;
 - impacts of the development on:
 - regional and local (including alluvial) aquifers;
 - groundwater supply of potentially affected landowners; and
 - groundwater dependent ecosystems and riparian vegetation;
 - a program to validate the groundwater model for the development, and compare the monitoring results with modelled predictions; and
 - a plan to respond to any exceedances of the groundwater assessment criteria.
 - (iv) a protocol that has been prepared in consultation with the owner of the Invincible mine to:
 - minimise cumulative water quality impacts;
 - review opportunities for increased water sharing; and
 - co-ordinate water quality monitoring programs as far as practicable.

TRANSPORT

Coal Haulage

35. The Applicant shall ensure that all coal haulage from the development within the Lithgow local government area is conveyed only on the Castlereagh Highway, the Great Western Highway and Boulder Road, except with the approval of the Secretary.

Haul Road – Western Mining Operations

36. The Applicant shall prepare and implement detailed plans for the proposed haul road between the mining operations on both sides of the Wallerawang-Gwabegar railway line to the satisfaction of the Secretary. These plans must be prepared in consultation with Council and the relevant rail authority, and be submitted to the Secretary prior to the proposed construction of the haul road. No construction shall commence on the haul road before the detailed plans have been approved by the Secretary.

Operating Conditions

37. The Applicant shall:
- (a) implement all reasonable and feasible mitigation measures to minimise the traffic impacts of the development on public roads;
 - (b) ensure that all laden vehicles leaving the site are covered;
 - (c) ensure that all trucks leaving the site pass through an effective and operating wheel cleaning facility to minimise any dust/debris on public roads;
 - (d) ensure that the use of the haul road does not restrict access to the Speedway and sports ground;
 - (e) ensure that access to haul road is restricted when it is not in use, in accordance with the terms of the Cullen Bullen Recreational Trust agreement.
 - (f) keep records of the amount of coal transported from the mine site and number of daily coal truck movements and publish these records annually on the Applicant's website for the development, to the satisfaction of the Secretary.

Transport Management Plan

38. The Applicant shall revise the existing Transport Management Plan for the development to satisfaction of the Secretary. This plan must:
- (a) be revised in consultation with the RMS and Council, and submitted to the Secretary for approval prior to recommencing mining operations following the mine being put into care and maintenance in 2013, unless the Secretary agrees otherwise;
 - (b) include a driver's code of conduct for the development;
 - (c) describe the measures that would be implemented to ensure:
 - drivers are aware of potential safety issues along the haulage route;
 - drivers of project-related vehicles comply with the driver's code of conduct;
 - compliance with the relevant conditions of this consent; and
 - (d) include a program to monitor and report on the effectiveness of the implementation of these measures.

VISUAL

Northern Bund

39. The Applicant shall:
- (a) implement all reasonable and feasible measures to minimise the visual impact of the Northern Bund;
 - (b) ensure the bund incorporates micro-relief, and mimics other landforms in the surrounding area;
 - (c) ensure that the bund is vegetated as soon as practicable once the bund is constructed; and
 - (d) maintain the vegetation on the bund once it is established, to the satisfaction of the Secretary.
40. The Applicant shall prepare and implement detailed plans for the establishment of the Northern Bund to the satisfaction of the Secretary. These plans must be prepared in consultation with Council and the private landowners whose property is adjacent to the proposed bund, and demonstrate compliance with the performance measures in condition 39 above.

Additional Visual Mitigation

41. Upon receiving a written request from the owner of the properties 179 (Hillcroft), 205 (Red Springs), and/or 139 (Forest Lodge) (see the figure in Appendix 5), the Applicant shall implement additional visual impact mitigation measures (such as landscaping treatments or vegetation screens) to reduce the visibility of mining operations and infrastructure from the residences on these properties.

These mitigation measures must be reasonable and feasible, and must be implemented within a reasonable timeframe.

If within 3 months of receiving this request, the Applicant and the owner 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 Secretary for resolution.

Notes:

- *The additional visual impact mitigation measures must be aimed at reducing the visibility of the mining operations on site or its associated infrastructure from affected residences, and do not need to be directed at reducing the visibility from other locations on the affected properties.*
- *The additional visual impact mitigation measures do not necessarily have to include the implementation of measures outside the affected property itself.*

Operating Conditions

42. The Applicant shall:
- (a) implement all reasonable and feasible measures to minimise the visual and off site lighting impacts of the development, including:
 - placing and maintaining visual screens around the development;
 - revegetating the proposed noise bund along the western boundary of the development as soon as practicable following each stage of its progressive construction;
 - (b) ensure no fixed outdoor lights shine above the horizontal or above the building line or any illuminated structure;
 - (c) ensure no in-pit lighting rigs shine directly above the pit wall and other mobile lighting does not shine above the horizontal;
 - (d) ensure that all external lighting associated with the development complies with *Australian Standard AS4282 (INT) 1995 – Control of Obtrusive Effects of Outdoor Lighting*, or its latest version; to the satisfaction of the Secretary.

WASTE

43. The Applicant shall:
- (a) implement all reasonable and feasible measures to minimise the waste generated by the development (including coal rejects and tailings);
 - (b) ensure that the waste generated by the development is appropriately stored, handled and disposed of;
 - (c) not cause, permit or allow any waste generated off site to be received at the mine for storage, treatment, processing, reprocessing or disposal, or any waste generated at the mine to be disposed of at the mine, except this is expressly permitted by an EPL;
 - (d) manage on-site sewage treatment and disposal in accordance with the requirements of Council; and
 - (e) monitor and report on effectiveness of the waste minimisation and management measures annually on the Applicant's website for the development, to the satisfaction of the Secretary.

BUSHFIRE MANAGEMENT

44. The Applicant shall:
- (a) ensure that the development is suitably equipped to respond to any fires on site; and
 - (b) assist the RFS and emergency services as much as practicable if there is a fire in the vicinity of the site.

REHABILITATION

Rehabilitation Objectives

45. The Applicant shall rehabilitate the site to the satisfaction of the DRE. This rehabilitation must be consistent with the final landform depicted in the figures in Appendix 7, and comply with the objectives in Table 11.

Table 11: Rehabilitation Objectives

Feature	Objective
Mine site (as a whole)	<ul style="list-style-type: none"> • Safe, stable and non-polluting • Final landforms designed to minimise visual impacts as far as is reasonable and feasible, incorporate micro-relief and integrate with surrounding landforms • No final landforms (apart from those constructed prior to 2014) to have slopes greater than 18° • Free draining • Constructed landforms to drain to the natural environment via natural drainage lines
Sub-surface heating	<ul style="list-style-type: none"> • As far as reasonable and feasible, extinguish all sub-surface heating • Cap the identified heating zones in the backfilled voids with suitable material • Minimise the risks of further sub-surface heating occurring
Final Voids	<ul style="list-style-type: none"> • No final voids on the site
Rehabilitated areas	<ul style="list-style-type: none"> • Restore self-sustaining woodland ecosystems on the site that comprise flora species from the following ecological communities: <ul style="list-style-type: none"> - Tableland Gully Ribbon Gum Blackwood Apple Box Forest; - Tableland Gully Mountain Gum- Broad-leaved Peppermint Grassy Forest; and - Tableslopes Brittle Gum – Broad-leaved Peppermint Grassy Forest; • Establish areas of self-sustaining habitat for threatened flora and fauna species.
Surface infrastructure	<ul style="list-style-type: none"> • To be decommissioned and removed, unless the Executive Director, Mineral Resources in DRE agrees otherwise
Community	<ul style="list-style-type: none"> • Ensure public safety • Minimise the adverse socio-economic effects associated with mine closure

Progressive Rehabilitation

46. The Applicant shall carry out the rehabilitation of the site progressively, that is, as soon as reasonably practicable following disturbance. All reasonable and feasible measures must be taken to minimise the total area exposed for dust generation at any time. Interim rehabilitation strategies shall be employed when areas prone to dust generation cannot yet be permanently rehabilitated.

Note: It is accepted that some parts of the site that are progressively rehabilitated may be subject to further disturbance at some later stage of the development.

Rehabilitation Management Plan

47. The Applicant shall prepare and implement a Rehabilitation Management Plan for the development to the satisfaction of DRE. This plan must:
- be prepared in consultation with the Department, NOW, OEH and Council;
 - be submitted to DRE for approval prior to recommencing mining operations following the mine being put into care and maintenance in 2013, unless DRE agrees otherwise;
 - be prepared in accordance with any relevant DRE guideline and be consistent with the rehabilitation objectives in the EIS and in Table 11;
 - describe how the rehabilitation of the site would be integrated with the implementation of the biodiversity offset strategy;
 - include detailed performance and completion criteria for evaluating the performance of the rehabilitation of the site, and triggering remedial action (if necessary);
 - describe the measures that would be implemented to ensure compliance with the relevant conditions of this consent, and address all aspects of rehabilitation including mine closure, final landform, and final land use;

- (g) provide for detailed mine closure planning, including measures to minimise socio-economic effects due to mine closure, to be conducted prior to the site being placed on care and maintenance;
- (h) include interim rehabilitation where necessary to minimise the area exposed for dust generation;
- (i) include a program to monitor, independently audit and report on the effectiveness of the measures, and progress against the detailed performance and completion criteria; and
- (j) be integrated with the other management plans required under this consent.

Note: The Biodiversity Management Plan and Rehabilitation Management Plan need to be substantially integrated for achieving biodiversity objectives for the rehabilitated mine-site.

SCHEDULE 5 ADDITIONAL PROCEDURES

NOTIFICATION OF LANDOWNERS/TENANTS

1. Within 1 month of the date of this consent, the Applicant shall:
 - (a) notify in writing the owners of:
 - any residence on properties 179 (Hillcroft), 205 (Red Springs), and/or 139 (Forest Lodge) (see Appendix 5) that they have the right to ask the Applicant to install additional noise mitigation measures at their residence at any stage during the development;
 - any residence on properties 179 (Hillcroft), 205 (Red Springs), and/or 139 (Forest Lodge) (see Appendix 5) that they have the right to ask the Applicant to install additional visual mitigation measures at their residence at any stage during the development; and
 - any privately-owned land within 2 kilometres of the approved open cut mining pit/s that they are entitled to ask for an inspection to establish the baseline condition of any buildings or structures on their land, or to have a previous property inspection report updated;
 - (b) notify the tenants of any mine-owned land of their rights under this consent; and
 - (c) send a copy of the NSW Health fact sheet entitled "Mine Dust and You" (as may be updated from time to time) to the owners and/or existing tenants of any land (including mine-owned land) where the predictions in the EIS identify that dust emissions generated by the development are likely to be greater than the relevant air quality criteria in schedule 3 at any time during the life of the development.
2. Prior to entering into any tenancy agreement for any land owned by the Applicant that is predicted to experience exceedances of the recommended dust and/or noise criteria the Applicant shall:
 - (a) advise the prospective tenants of the potential health and amenity impacts associated with living on the land, and give them a copy of the NSW Health fact sheet entitled "Mine Dust and You" (as may be updated from time to time); and
 - (b) advise the prospective tenants of the rights they would have under this consent.
3. As soon as practicable after obtaining monitoring results showing:
 - (a) an exceedance of any relevant criteria in Schedule 3, the Applicant shall notify affected landowners in writing of the exceedance, and provide regular monitoring results to each affected landowner until the development is again complying with the relevant criteria; and
 - (b) an exceedance of any relevant air quality criteria in Schedule 3, the Applicant shall send a copy of the NSW Health fact sheet entitled "Mine Dust and You" (as may be updated from time to time) to the affected landowners and/or existing tenants of the land (including the tenants of any mine-owned land).

INDEPENDENT REVIEW

4. If an owner of privately-owned land considers the development to be exceeding the relevant criteria in schedule 3, then he/she may ask the Secretary in writing for an independent review of the impacts of the development on his/her land.

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

- (a) commission a suitably qualified, experienced and independent person, whose appointment has been approved by the Secretary to:
 - consult with the landowner to determine his/her concerns;
 - conduct monitoring to determine whether the development is complying with the relevant criteria in schedule 3; and
 - if the development is not complying with these criteria then identify the measures that could be implemented to ensure compliance with the relevant criteria; and
- (b) give the Secretary and landowner a copy of the independent review.

LAND ACQUISITION

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 land at the date of this written request, as if the land 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 land 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 and/or air quality mitigation measures in condition 2 of schedule 3;

- (b) the reasonable costs associated with:
 - relocating within the Lithgow local government area, or to any other local government area determined by the Secretary; and
 - 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 Secretary for resolution.

Upon receiving such a request, the Secretary will request the President of the NSW Division of the Australian Property Institute to appoint a qualified independent valuer to:

- consider submissions from both parties;
- 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;
- prepare a detailed report setting out the reasons for any determination; and
- 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 Secretary 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 Secretary will determine a fair and reasonable acquisition price for the land, having regard to the matters referred to in paragraphs (a)-(c) above, the independent valuer's report, the detailed report of the party that disputes the independent valuer's determination and any other relevant submissions.

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 Secretary'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 Secretary determines otherwise.

6. The Applicant shall pay all reasonable costs associated with the land acquisition process described in condition 5 above, including the costs associated with obtaining Council approval for any plan of subdivision (where permissible), and registration of this plan at the Office of the Registrar-General.

SCHEDULE 6 ENVIRONMENTAL MANAGEMENT, REPORTING AND AUDITING

ENVIRONMENTAL MANAGEMENT

Environmental Management Strategy

1. The Applicant shall prepare and implement an Environmental Management Strategy for the development to the satisfaction of the Secretary. This strategy must:
 - (a) provide for the strategic framework for the environmental management of the development;
 - (b) identify the statutory approvals that apply to the development;
 - (c) describe the role, responsibility, authority and accountability of all key personnel involved in the environmental management of the development
 - (d) describe the procedures that would be implemented to:
 - keep the local community and relevant agencies informed about the operation and environmental performance of the development;
 - receive, handle, respond to, and record complaints;
 - resolve any disputes that may arise during the course of the development;
 - respond to any non-compliance;
 - manage cumulative impacts; and
 - respond to emergencies; and
 - (e) include:
 - copies of any strategies, plans and programs approved under the conditions of this consent; and
 - a clear plan depicting all the monitoring to be carried out in relation to the development.

Adaptive Management

2. The Applicant shall assess and manage development-related risks to ensure that there are no exceedances of the criteria and/or performance measures in Schedule 4. Any exceedance of these criteria and/or performance measures constitutes a breach of this consent and may be subject to penalty or offence provisions under the EP&A Act or EP&A Regulation.

Where any exceedance of these criteria and/or performance measures has occurred, the Applicant must, at the earliest opportunity:

- (a) take all reasonable and feasible steps to ensure that the exceedance ceases and does not recur;
- (b) consider all reasonable and feasible options for remediation (where relevant) and submit a report to the Department describing those options and any preferred remediation measures or other course of action; and
- (c) implement remediation measures as directed by the Secretary.

Management Plan Requirements

3. The Applicant shall ensure that the management plans required under this consent are prepared in accordance with any relevant guidelines, and include:
 - (a) detailed baseline data;
 - (b) a description of:
 - the relevant statutory requirements (including any relevant approval, licence or lease conditions);
 - any relevant limits or performance measures/criteria;
 - the specific performance indicators that are proposed to be used to judge the performance of, or guide the implementation of, the development or any management measures;
 - (c) a description of the measures that would be implemented to comply with the relevant statutory requirements, limits, or performance measures/criteria;
 - (d) a program to monitor and report on the:
 - impacts and environmental performance of the development;
 - effectiveness of any management measures (see c above);
 - (e) a contingency plan to manage any unpredicted impacts and their consequences and to ensure that ongoing impacts reduce to levels below relevant impact assessment criteria as quickly as possible;
 - (f) a program to investigate and implement ways to improve the environmental performance of the development over time;
 - (g) a protocol for managing and reporting any:
 - incidents;
 - complaints;
 - non-compliances with statutory requirements; and
 - exceedances of the impact assessment criteria and/or performance criteria; and
 - (h) a protocol for periodic review of the plan.

Note: The Secretary may waive some of these requirements if they are unnecessary or unwarranted for particular management plans.

Annual Review

4. By the end of March each year, or other timing as may be agreed by the Secretary, the Applicant shall review the environmental performance of the development to the satisfaction of the Secretary. This review must:
 - (a) describe the development (including any rehabilitation) that was carried out in the past financial year, and the development that is proposed to be carried out over the next year;
 - (b) include a comprehensive review of the monitoring results and complaints records of the development over the past financial year, which includes a comparison of these results against the:
 - relevant statutory requirements, limits or performance measures/criteria;
 - requirements of any plan or program required under this consent;
 - monitoring results of previous years; and
 - relevant predictions in the EIS;
 - (c) identify any non-compliance over the past financial year, and describe what actions were (or are being) taken to ensure compliance;
 - (d) identify any trends in the monitoring data over the life of the development;
 - (e) identify any discrepancies between the predicted and actual impacts of the development, and analyse the potential cause of any significant discrepancies; and
 - (f) describe what measures will be implemented over the current financial year to improve the environmental performance of the development.

Revision of Strategies, Plans and Programs

5. Within 3 months of:
 - the submission of an annual review under condition 4 above;
 - the submission of an incident report under condition 7 below;
 - the submission of an audit report under condition 9 below; or
 - any modification to the conditions of this consent, (unless the conditions require otherwise),the Applicant shall review, and if necessary revise, the strategies, plans, and programs required under this consent to the satisfaction of the Secretary. Where this review leads to revisions in any such document, then within 4 weeks of the review, unless the Secretary agrees otherwise, the revised document must be submitted to the Secretary for approval.

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.

Community Consultative Committee

6. The Applicant shall operate a Community Consultative Committee (CCC) for the development to the satisfaction of the Secretary. This CCC must be operated in general accordance with the *Guidelines for Establishing and Operating Community Consultative Committees for Mining Projects* (Department of Planning, 2007, or its latest version).

Within the agreement of the Secretary, the operation of this CCC may be combined with the operation of the CCC for the Invincible mine.

Notes:

- *The CCC is an advisory committee. The Department and other relevant agencies are responsible for ensuring that the Applicant complies with this consent.*
- *In accordance with the guideline, the Committee should be comprised of an independent chair and appropriate representation from the Applicant, Council, and the local community.*

REPORTING

Incident Reporting

7. The Applicant shall immediately notify the Secretary and any other relevant agencies of any incident. Within 7 days of the date of the incident, the Applicant shall provide the Secretary and any relevant agencies with a detailed report on the incident, and such further reports as may be requested.

Regular Reporting

8. The Applicant shall provide regular reporting on the environmental performance of the development on its website, in accordance with the reporting arrangements in any plans or programs approved under the conditions of this consent.

AUDITING

9. By the end of December 2015, and every 3 years thereafter, unless the Secretary directs otherwise, the Applicant shall commission and pay the full cost of an Independent Environmental Audit of the development. This audit must:
 - (a) be conducted by a suitably qualified, experienced and independent team of experts whose appointment has been endorsed by the Secretary;
 - (b) include consultation with the relevant agencies;
 - (c) assess the environmental performance of the development and assess whether it is complying with the requirements in this consent and any relevant EPL or Mining Lease (including any assessment, plan or program required under these consents);
 - (d) review the adequacy of strategies, plans or programs required under the abovementioned approvals; and
 - (e) recommend appropriate measures or actions to improve the environmental performance of the development, and/or any assessment, plan or program required under the abovementioned approvals.

Note: This audit team must be led by a suitably qualified auditor and include an expert in mine rehabilitation and any other experts specified by the Secretary.

10. Within 3 months of commissioning this audit, or as otherwise agreed by the Secretary, the Applicant shall submit a copy of the audit report to the Secretary, together with its response to any recommendations contained in the audit report, and a timetable for the implementation of these recommendations.

ACCESS TO INFORMATION

11. The Applicant shall:
 - (a) make copies of the following publicly available on its website:
 - the documents referred to in condition 2 of schedule 3;
 - all current statutory approvals for the development;
 - all approved strategies, plans and programs required under the conditions of this consent;
 - a comprehensive summary of the monitoring results of the development, reported in accordance with the specifications in any conditions of this consent, or any approved plans and programs;
 - a complaints register, updated monthly;
 - minutes of CCC meetings;
 - the annual reviews of the development;
 - any independent environmental audit of the development, and the Applicant's response to the recommendations in any audit;
 - any other matter required by the Secretary; and
 - (b) keep this information up-to-date, to the satisfaction of the Secretary.

**APPENDIX 1
SCHEDULE OF LAND**

Lots 2, 3, 4, 5, 6 and 14 DP 249955 Parish of Cullen Bullen, County of Roxburgh

Lot 1 DP 171665 Parish of Cullen Bullen, County of Roxburgh

Lots 1, 3 and 125 DP 220269, Portions 3, 37, 41, 42, 49, 61, 62, 85 Parish of Cullen Bullen, County of Roxburgh

Crown Land Portions 36, 332, 331

Lot 1 DP 160808 Parish of Cullen Bullen, County of Roxburgh

Lot 333 DP 41170 Parish of Cullen Bullen, County of Roxburgh

Lot 345 DP 720602; Portions 3, 17, 57, 59, 63, 74 and 164 Parish of Cullen Bullen, County of Roxburgh

Part Ben Bullen State Forest No. 434

Cullen Bullen Cemetery

Vacant Crown land identified as Portion ML54

Lot 1 DP1025909, Parish of Cullen Bullen, County of Roxburgh

**APPENDIX 2
STATEMENT OF COMMITMENTS**

Cullen Valley Mine Statement of Commitments

Ref	Description	Section
1.	Coal mining and processing activities will be undertaken at Cullen Valley Mine during the day and evening periods. Coal transportation will be undertaken during the day period only. Cullen Valley Mine will not conduct any activities during the night period.	6.4
2.	Open cut and highwall mining operations will be undertaken within the areas as discussed in Section 3, with the conceptual final landform shown on Figure 8 to be reinstated at the conclusion of the Modification.	3.4.1 and 6.17
3.	A Highwall Mining Management Plan will be prepared to the satisfaction of DRE prior to the commencement of highwall mining operations, detailing highwall design, monitoring and management measures.	6.7.4
4.	Coalpac will prepare an Extraction Plan in consultation with DRE and to the satisfaction of DP&I prior to the commencement of highwall mining in each distinct mining area.	6.7.4, Error! Reference source not found.
5.	Coalpac will review and submit an updated EMP and EMS to DP&I for approval, which will include a consideration of the activities described in the Cullen Valley Mine Modification.	2.2
6.	EPL 10341 will be amended to include the transfer of water between Cullen Valley Mine and Invincible Colliery, if required.	4.3.2
7.	Coalpac will increase the watering rate for unsealed roads from Level 1 to Level 2, as defined in ' <i>National Pollutant Inventory: Emission Estimation Technique for Manual for Mining</i> ' (SEWPaC, 2012).	6.1.4
8.	Coalpac will implement the additional blast monitoring and management procedures described in Section 6.5.4.	6.5.4
9.	Coalpac will implement the revised Biodiversity Offset Strategy as described in the Modifications EA and this RTS.	6.6.4, Error! Reference source not found.
10.	Coalpac will implement the visual impact treatments as described in Section 6.14.4, including the construction of the bund located to the north of the proposed open cut mining area.	6.14.4

APPENDIX 3 DEVELOPMENT LAYOUT

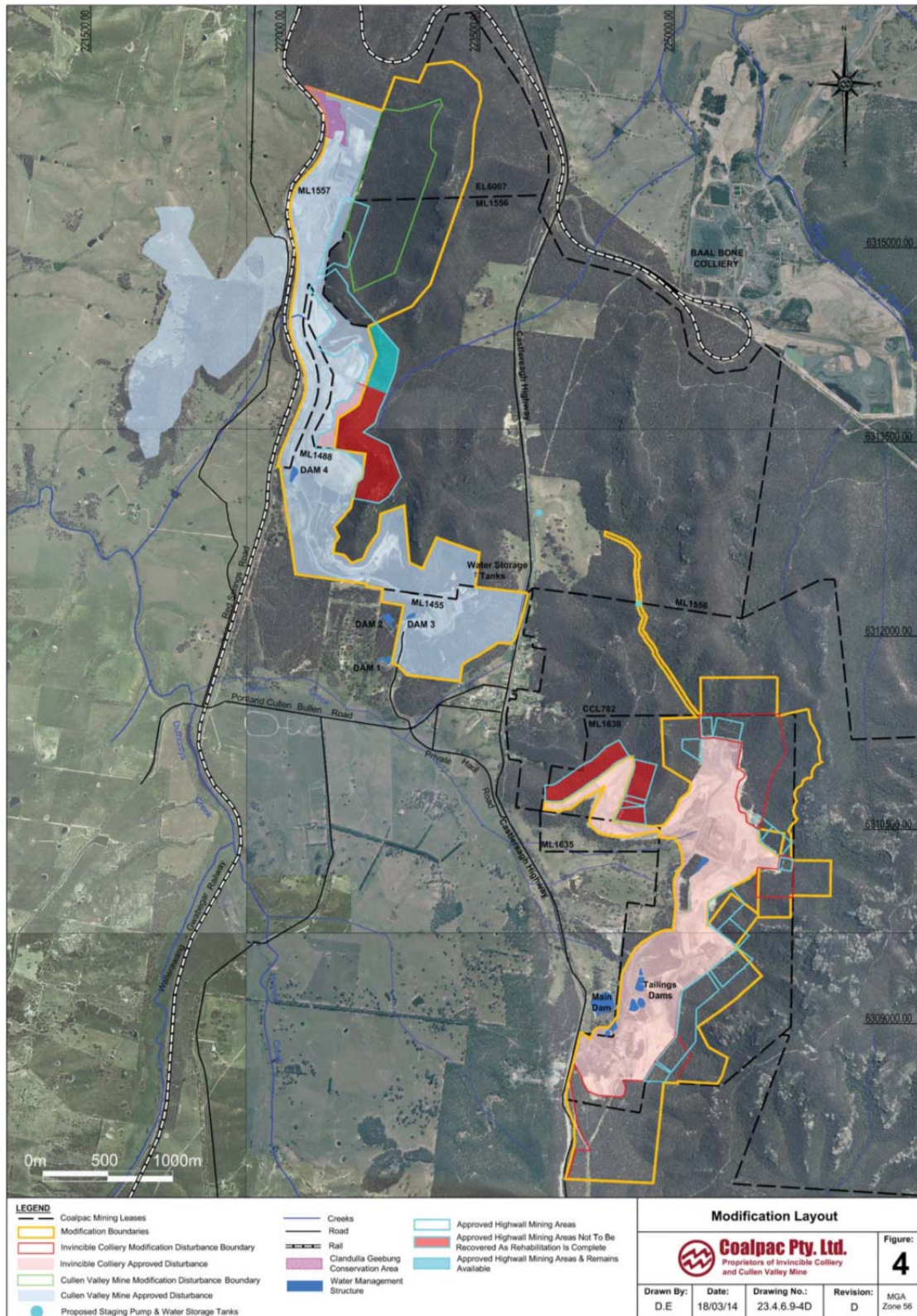


Figure 1: Cullen Valley Mine Layout

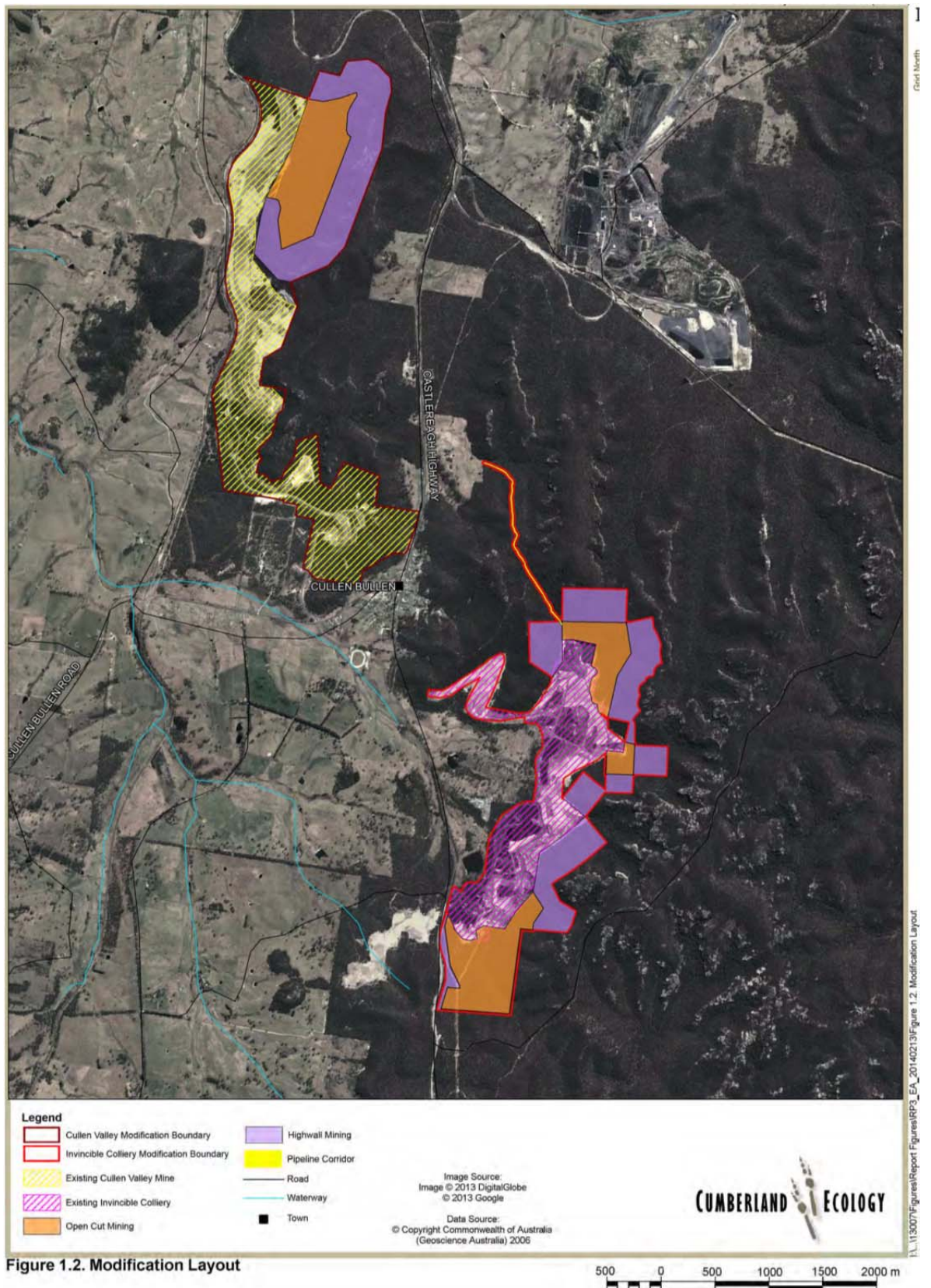


Figure 2: Cullen Valley Mine Layout with Highwall Mining

APPENDIX 4 GEODIVERSITY FEATURES

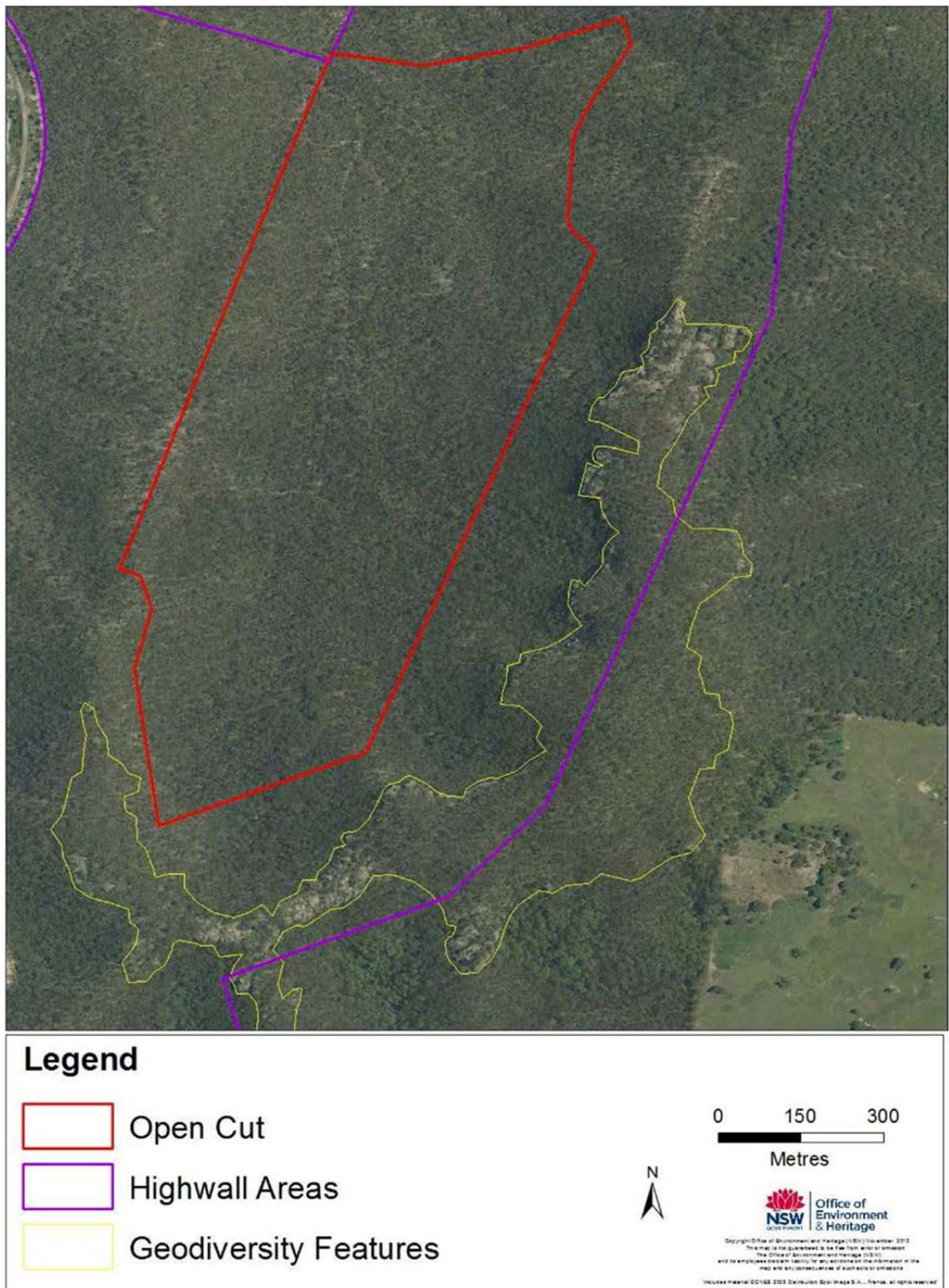


Figure 1: Mapped Geodiversity Features – Cullen Valley

APPENDIX 5 LAND OWNERSHIP

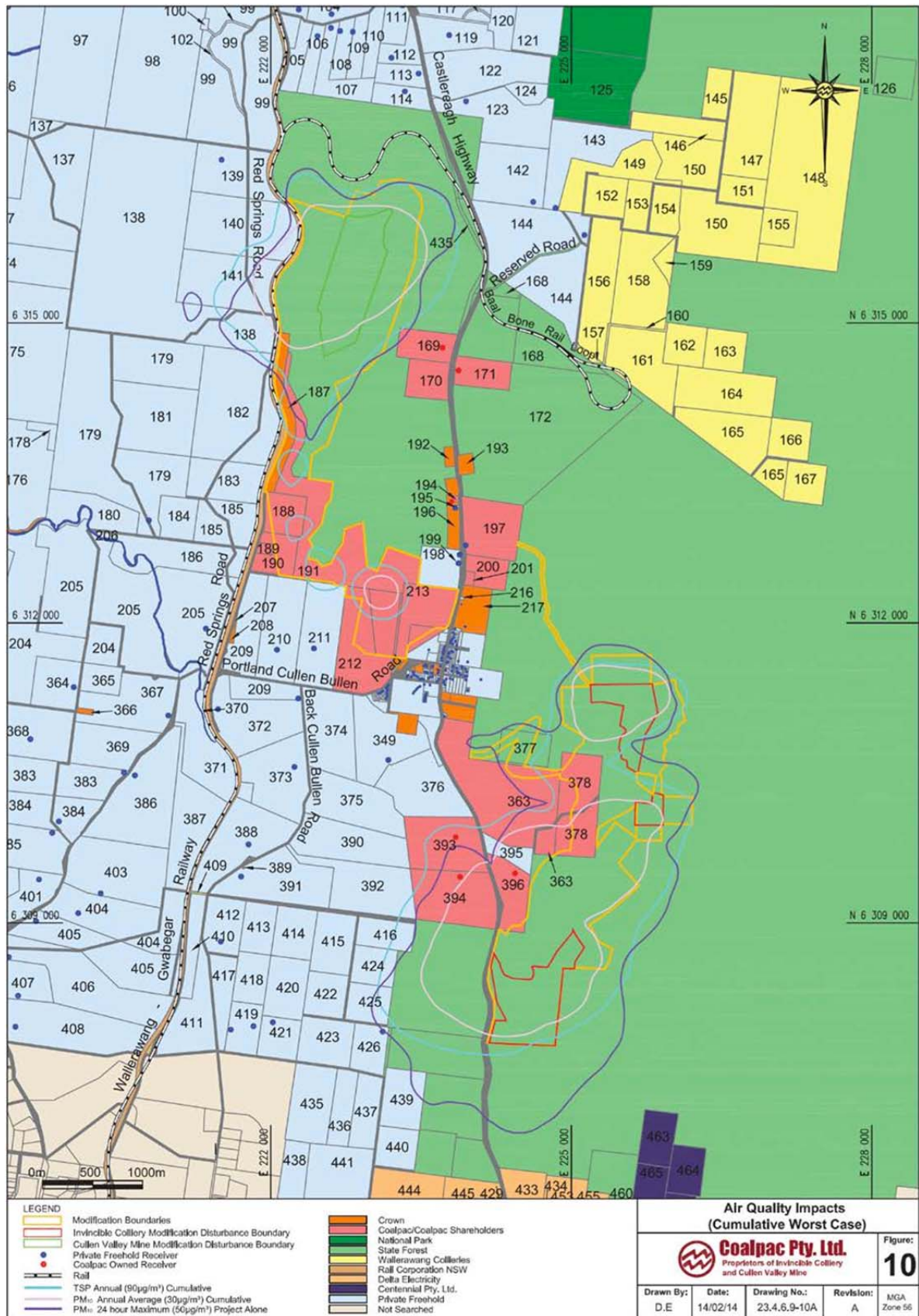


Figure 1: Land Ownership

APPENDIX 6 NOISE COMPLIANCE ASSESSMENT

Applicable Meteorological Conditions

1. The noise criteria in Table 1 of schedule 3 are to apply under all meteorological conditions except the following:
 - (a) during periods of rain or hail;
 - (b) average wind speed at microphone height exceeds 5 m/s;
 - (c) wind speeds greater than 3 m/s measured at 10 m above ground level; or
 - (d) temperature inversion conditions greater than 3°C/100 m.

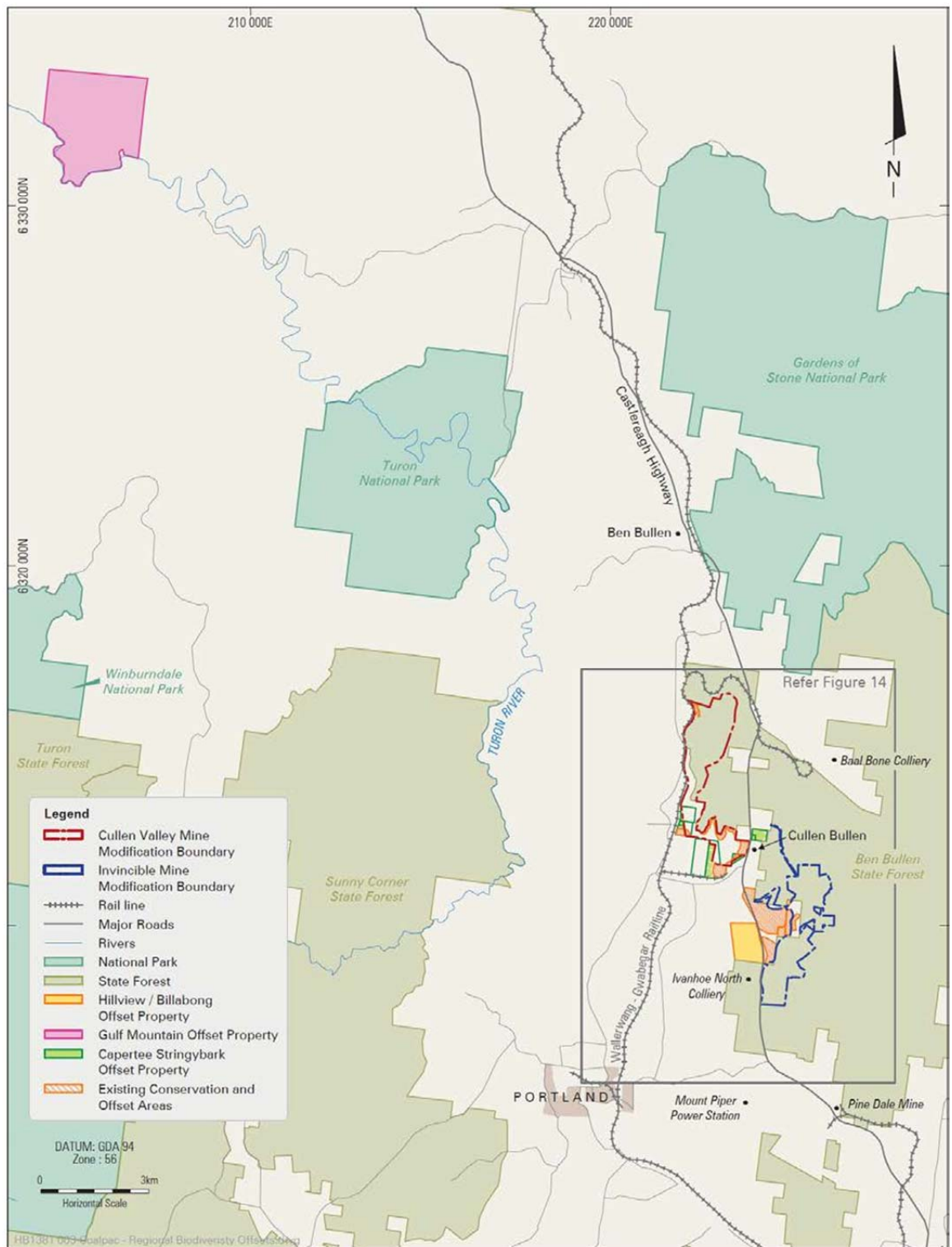
Determination of Meteorological Conditions

2. Except for wind speed at microphone height, the data to be used for determining meteorological conditions shall be that recorded by the meteorological station located on the site.

Compliance Monitoring

3. Attended monitoring is to be used to evaluate compliance with the relevant conditions of this consent.
4. This monitoring must be carried out every two months unless the Secretary directs otherwise.
5. Unless otherwise agreed with the Secretary, this monitoring is to be carried out in accordance with the relevant requirements for reviewing performance set out in the *NSW Industrial Noise Policy* (as amended from time to time), in particular the requirements relating to:
 - (a) monitoring locations for the collection of representative noise data;
 - (b) meteorological conditions during which collection of noise data is not appropriate;
 - (c) equipment used to collect noise data, and conformity with Australian Standards relevant to such equipment; and
 - (d) modifications to noise data collected, including for the exclusion of extraneous noise and/or penalties for modifying factors apart from adjustments for duration.

APPENDIX 7 BIODIVERSITY OFFSET STRATEGY



COALPAC MODIFICATIONS



Biodiversity Offsets in Regional Setting

Figure 1: Onsite and Offsite Biodiversity Offset Areas

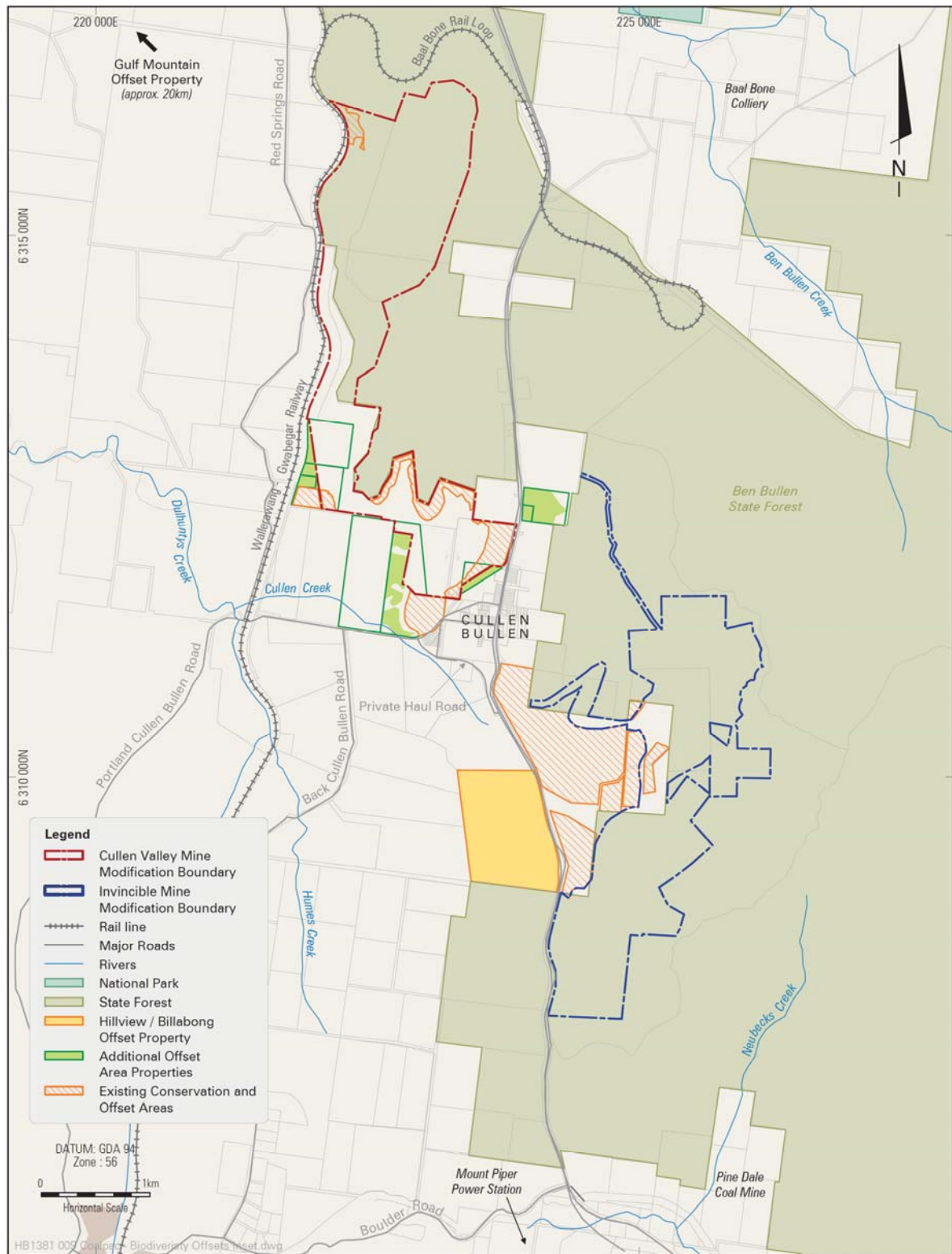


Figure 2: Onsite Biodiversity Offset Areas

APPENDIX 8 ARCHAEOLOGICAL HERITAGE SITES

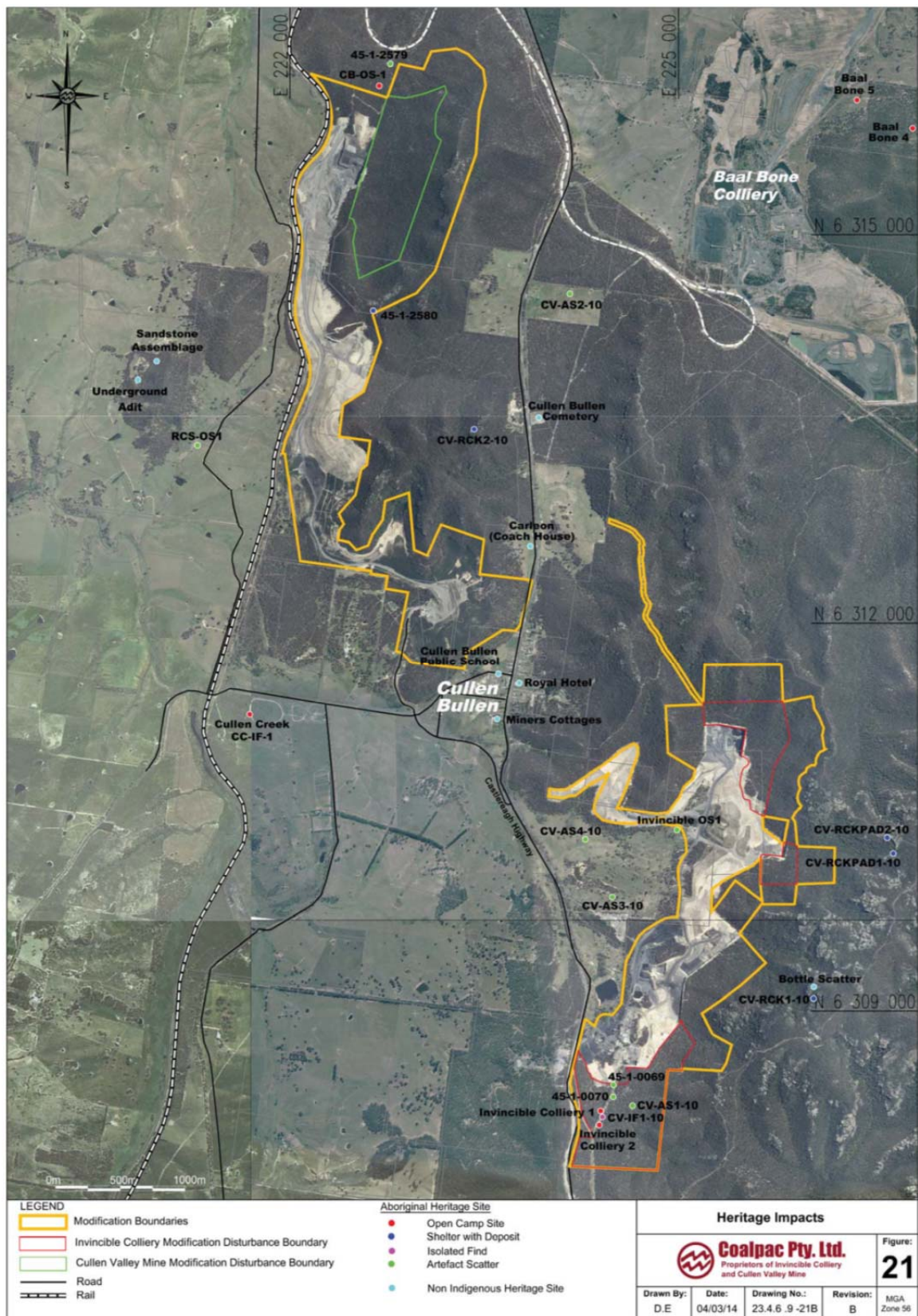


Figure 1: Aboriginal Cultural Heritage Sites (note cave art sites are excluded)

APPENDIX 9 CONCEPTUAL REHABILITATION & FINAL LANDFORM

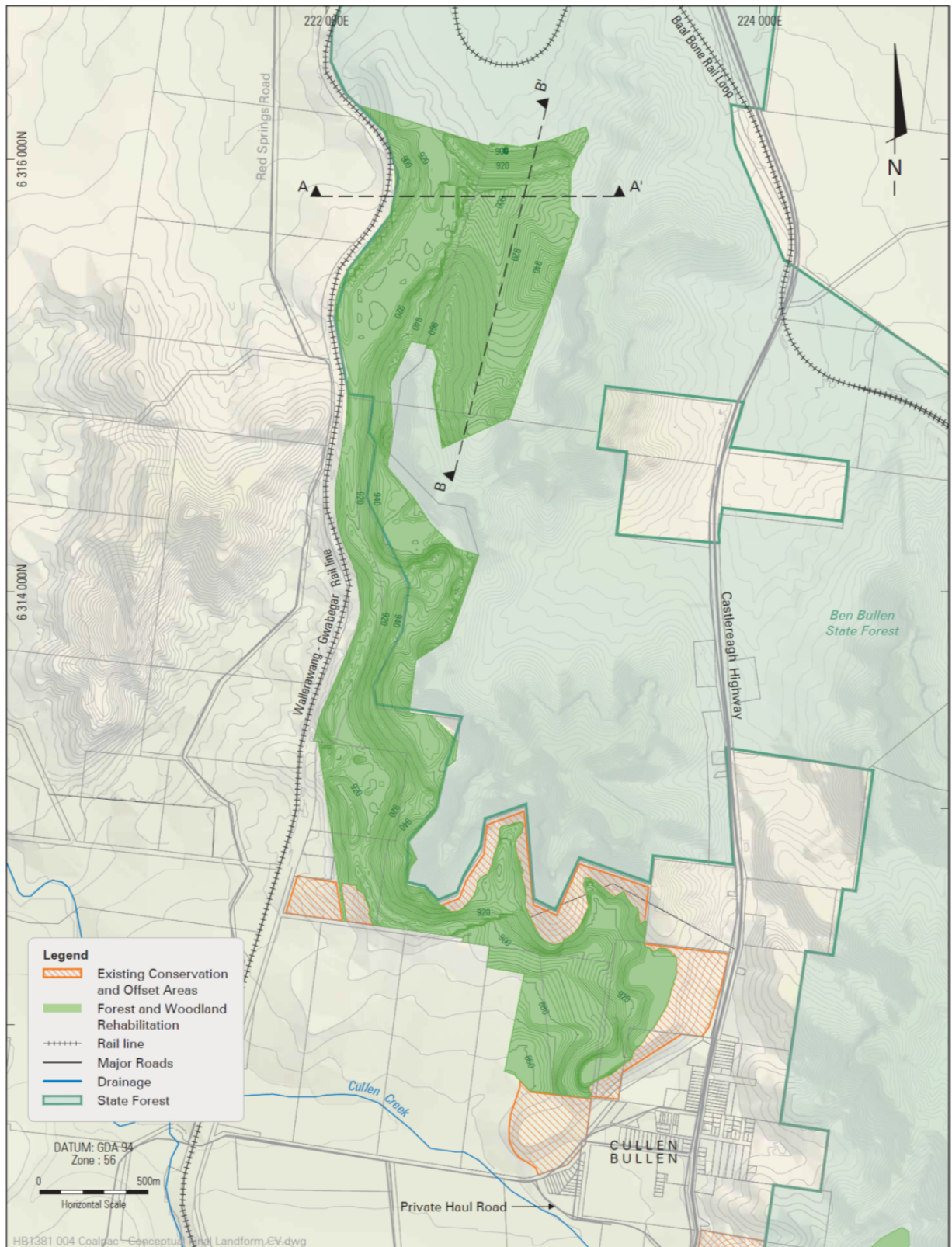


Figure 1: Conceptual Final Landform

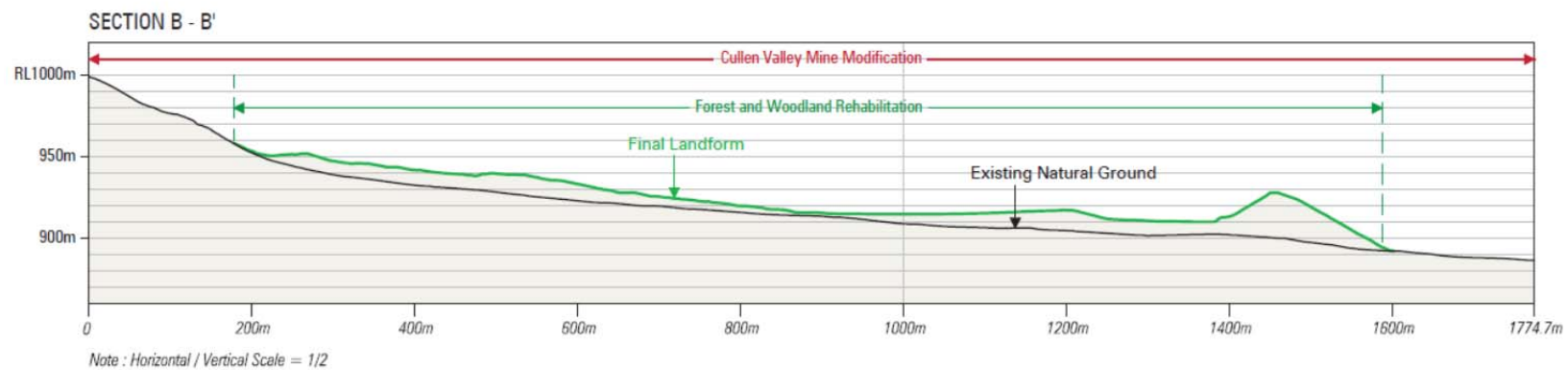
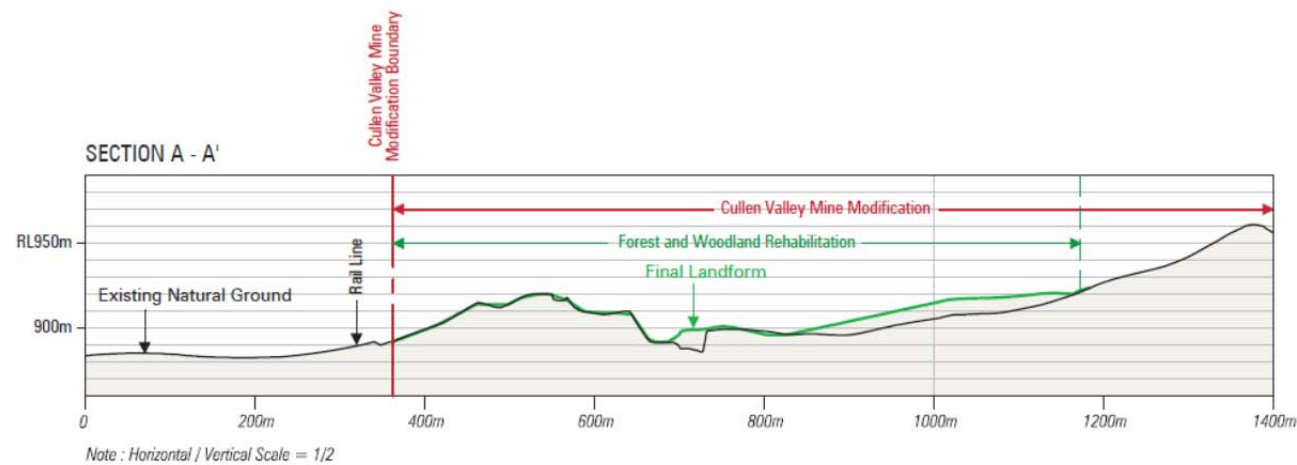


Figure 2: Conceptual Final Landform – Cross-Sections

APPENDIX 10 VOLUNTARY PLANNING AGREEMENT - TERMS

1. Calculation

Coalpac will contribute an amount of \$0.07 per tonne ("**Rate**") of coal sold per annum for each Financial Year ("**Contribution Calculation**"), subject to the initial fixed payments and allocation percentages set out below.

2. CPI Increases

The Rate used to calculate the Contribution Calculation will be subject to a CPI increase each year using the following formula:

$$\text{Rate} = R \times X/Y$$

Where:

R = is the Rate applicable immediately before the relevant CPI increase

X = is the CPI last published before the relevant CPI increase date

Y = is the CPI last published 12 months before the relevant CPI increase date

3. Initial Fixed Payments and Allocation Percentages

The payment of the Development Contributions by Coalpac will be made in accordance with Table 1 below:

Table 1

Relevant Payment Period	Community Contribution	Total Payment
Within 90 days after the grant of the Modifications Approval	\$30,000	\$30,000
Within 60 days of each subsequent Financial Year end for the remainder of the Term	\$0.07 per tonne of coal sold per annum and indexed as per Schedule 1.	\$0.07 per tonne of coal sold under the Coalpac Modifications and indexed as per Schedule 1.

Note: The VPA offer applies to both the Cullen Valley Mine and the Invincible Colliery (PA 07_0127). For clarity, if both the Invincible Colliery and Cullen Valley proceed then Coalpac would be required to pay Council \$30,000 plus 7 cents per tonne of coal sold from both sites, in accordance with the terms of the VPA offer above. However, if the Invincible Colliery does not proceed, the initial payment of \$30,000 shall be reduced to \$15,000, but Coalpac would still be required to pay Council 7 cents per tonne of coal sold from the Cullen Valley Mine, in accordance with the terms of the VPA offer above.