

ASSESSMENT REPORT

CHITTER AND TAILINGS RECLAMATION PROJECT

Haul Road Modification (06_0236 - MOD 1)

1 BACKGROUND

Hunter Enviro-Mining Pty Limited (HEM), has approval to extract coal chitter and coal tailings from three former coal mining sites at Aberdare East, Neath and Richmond Main East, near Cessnock in the Lower Hunter Valley (see Figure 1).

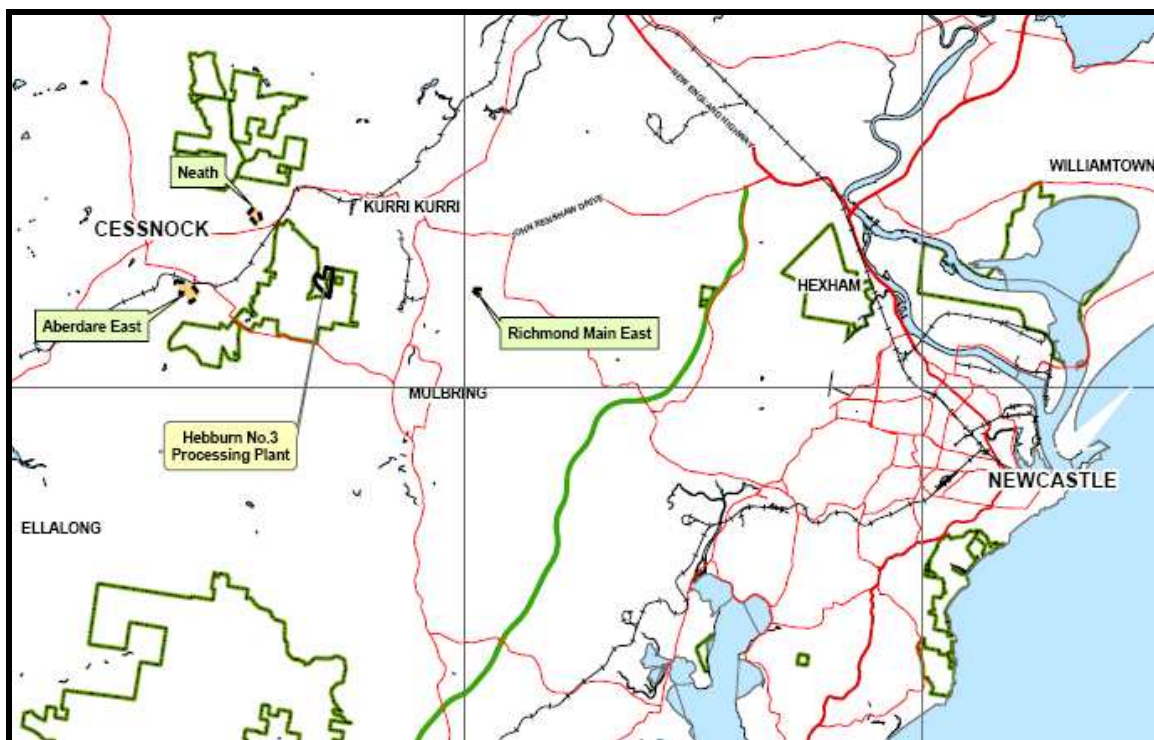


Figure 1: Local and regional context

This project, known as the Chitter and Tailings Reclamation Project, was approved by the former Minister for Planning in September 2008 (06_0236). The approval allows HEM to:

- extract up to a combined total of 2.86 million tonnes of chitter and tailings from the sites at a combined maximum rate of 0.9 million tonnes per annum (Mtpa) for 3 years;
- transport the extracted material to the existing Hebburn No.3 coal handling and preparation plant (CHPP), using both public roads and fire trails on Crown land and in the Werakata National Park; and
- rehabilitate each of the 3 sites.

2 PROPOSED MODIFICATION

On 17 September 2009, HEM asked the Minister to modify the terms of its approval under section 75W of the *Environmental Planning and Assessment Act 1979* (EP&A Act). HEM withdrew this application on 12 November 2009, following public and agency consultation. Following further agency consultation, HEM re-applied to modify the approval on 1 March 2010.

The proposed modification involves amending the alignment of the approved Aberdare East haulage route. The approved route to the CHPP uses Government Circuit, Caledonia Street, Greta

Street, the Greta Street South Maitland Railway (SMR) crossing, the access road for the Gordon Williams Memorial Cemetery, the Kearsley Powerline Fire Trail and Hebburn Road (see Figure 2).

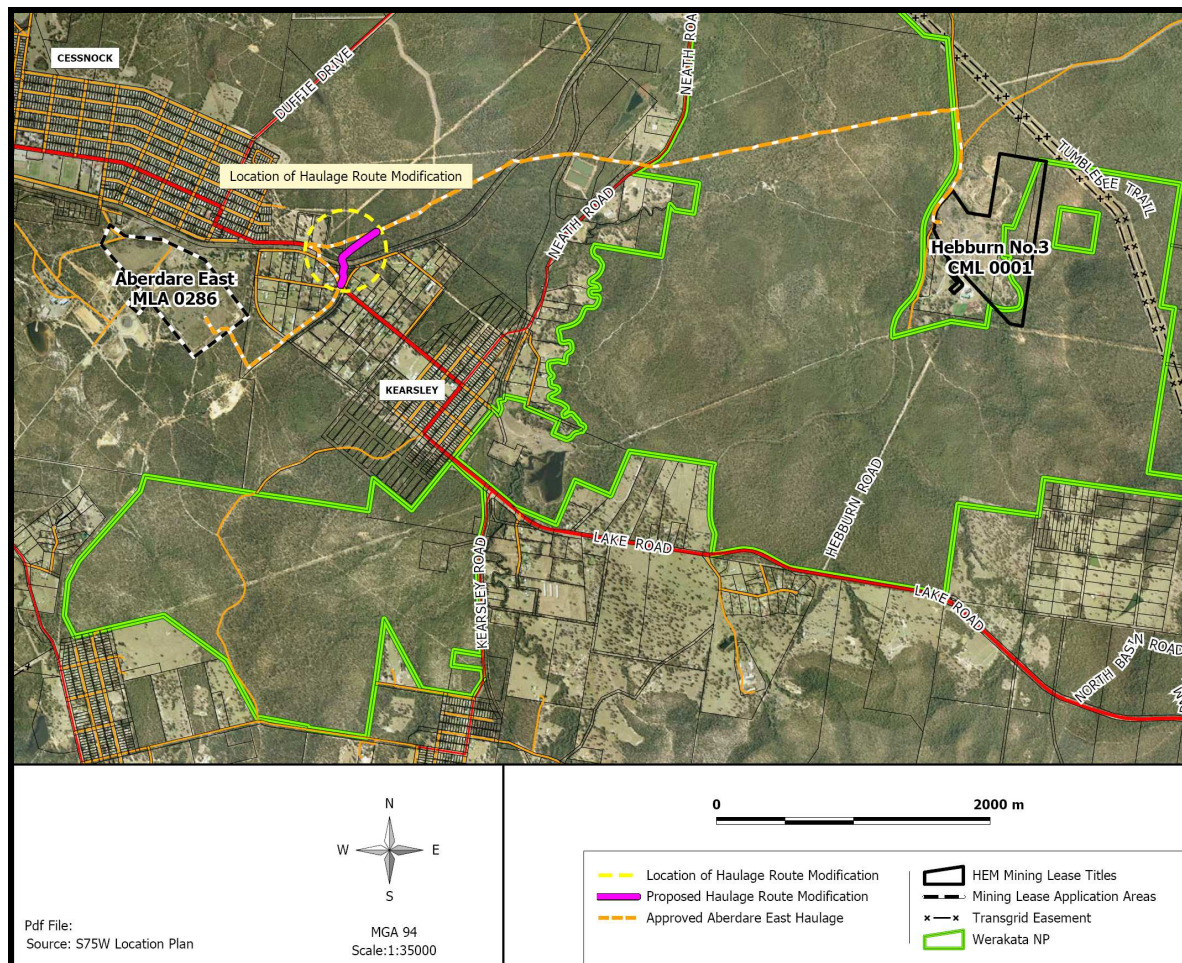


Figure 2: Approved Aberdare East haulage route and proposed route amendment

HEM now considers that, by making a minor amendment to the alignment of this haulage route, haulage efficiency can be substantially improved. HEM proposes to shorten the route by 1 kilometre (km) by linking the intersection of Government Circuit and Caledonia Street with an existing fire trail north of the SMR which joins the Kearsley Powerline Fire Trail. HEM proposes to construct a private road through a small area of Crown land north of the intersection and a temporary private rail crossing over the SMR (see Figure 4).

3 STATUTORY CONTEXT

Approval Authority

The Minister was the approval authority for the original project application, and is consequently the approval authority for this modification application. However the Director, Mining and Industry, may determine the modification application under the Minister's delegation of 25 January 2010.

Modification

The proposed modification involves modifying a haulage route. It does not involve changing the mining component of the approved project. The Department is satisfied that the proposed modification is within the scope of section 75W of the EP&A Act.

Consultation

Under section 75W, the Department is not required to undertake consultation or exhibit the modification application. However, after accepting HEM's original application and Environmental Assessment (EA) for the proposed modification in September 2009, the Department:

- made the EA publicly available from 23 September 2009 until 7 October 2009:
 - on the Department's website;

- at the Department's Information Centre, Cessnock City Council and the Nature Conservation Council;
- notified relevant State government agencies by letter; and
- advertised the public exhibition in both the Newcastle Herald and the Cessnock Advertiser on 23 September 2009.

The Department did not re-exhibit HEM's second modification application in March 2010 as no change to the original modification application was proposed.

Submissions in support were received from the Roads and Traffic Authority (RTA), Land and Property Management Authority (LPMA), Cessnock City Council (Council) and the United Mineworkers Federation of Australia. LMPA gave conditional approval for HEM to construct the new haul road on Crown land, RTA included its specifications for the proposed intersection upgrade at Government Circuit/Caledonia Road and Council highlighted that the new intersection and haul road should be constructed to relevant standards.

4 ASSESSMENT

4.1 Traffic

Road Traffic

The proposed modified haulage route would bypass Greta Street, the existing public rail crossing and the cemetery access road, providing the following beneficial outcomes:

- improved traffic safety due to the reduced travelling distance for trucks on public roads;
- reduced traffic congestion at the Greta Street rail crossing and elimination of potential safety hazards associated with trucks turning from Greta Street into the cemetery access road;
- reduced haulage distance of 1 km per return trip, or a saving of 42,000 km travel over the life of the project; and
- reduced potential for truck movements to disturb funeral proceedings and the general amenity of the cemetery.

Figure 3 shows the proposed intersection works HEM would undertake to construct the new haulage road. These include:

- constructing a separate sealed access road on the eastern side of Caledonia Street north of Ellalong Street to form a cross intersection with Government Circuit; and
- erecting warning signs on Caledonia Street at the approaches to the new intersection, and providing traffic signals at the intersection (see Figure 3).

As part of its assessment of the modification application, the RTA re-considered safety aspects associated with HEM's previous proposal to undertake roadworks at the intersection of Caledonia Street and the cemetery access road, in accordance with the existing project approval. It concluded that it would now be impractical to upgrade this intersection due to a planned upgrade of the Greta Street rail crossing 100 metres further east. RTA considered that HEM's previously-approved intersection works would now conflict with the proposed rail crossing works and cause unacceptable traffic impacts in the area. RTA therefore supported the proposed modification, but requested that HEM provide traffic signals at the intersection and construct kerb and guttering on all intersection approaches. HEM agreed to the RTA's requests. The Department has included a condition of approval requiring the new intersection to be constructed to the satisfaction of the RTA.

Condition 11 of Schedule 3 of the project approval requires HEM to cease haulage past the cemetery whilst funerals are in progress. In diverting its trucks away from the rail crossing at Greta Street and the cemetery access road, HEM would avoid potential impacts on the amenity and peaceful atmosphere at the cemetery and consequently this condition can be deleted from the approval.

The proposed modification would not change the number of trucks using the haulage route and therefore the impacts from haulage on local roads would remain unchanged from that previously assessed.

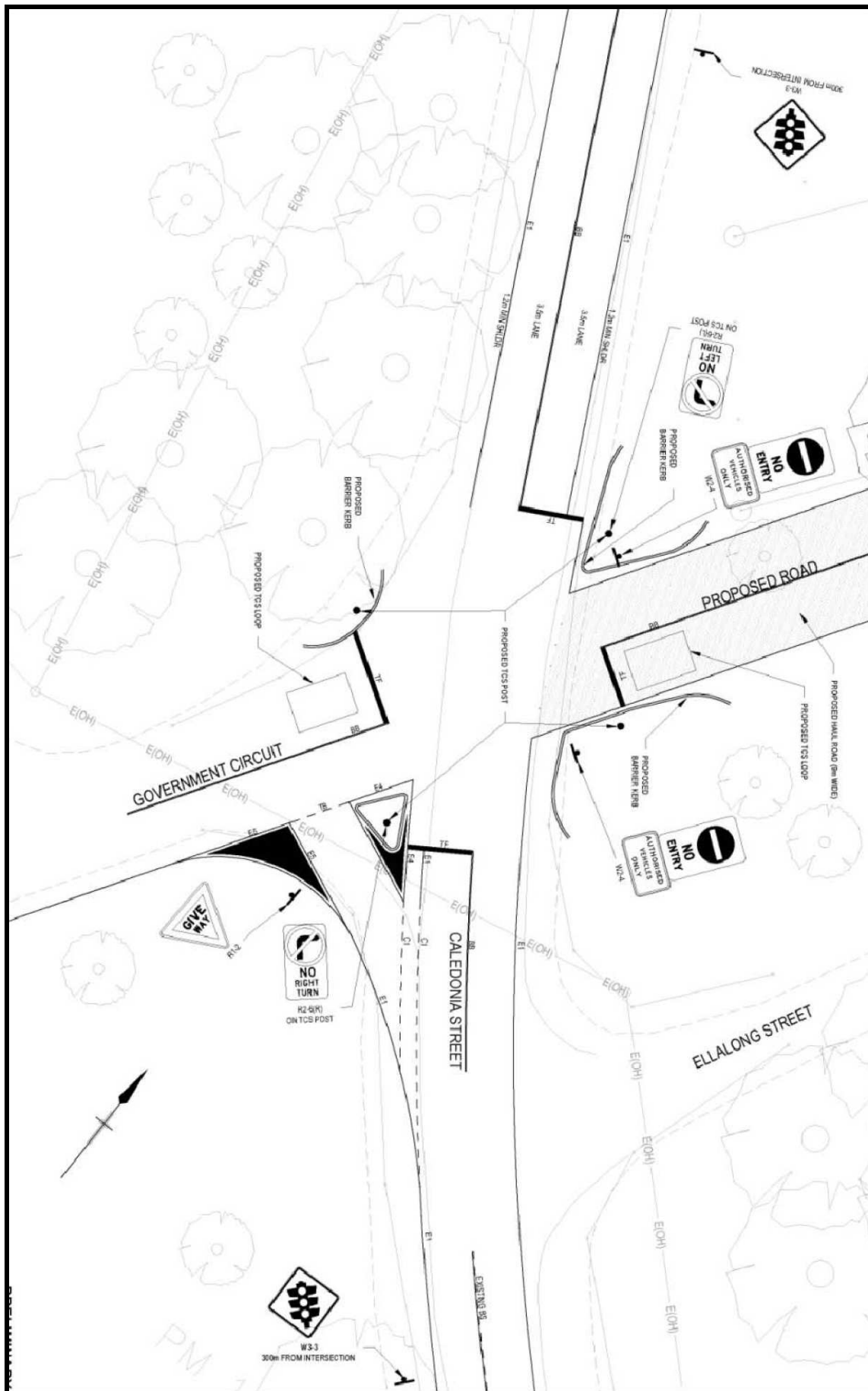


Figure 3: Proposed Government Circuit/Caledonia Street intersection works

Rail Crossing

Amending the haulage route would also require a temporary rail crossing to be constructed, crossing the SMR at ground level. Its construction would mainly involve replacing a 12 metre (m) section of track, asphalt sealing the crossing to a width of 6 m and installing drainage structures and warning signs. A minor amount of vegetation on each side of the SMR would be removed to provide adequate sight lines to the crossing. The crossing would not impact on the performance of the SMR, which is mainly used to transport coal from the nearby Austar Coal Mine. HEM has consulted with South Maitland Railways (the rail line owner), which gave its approval for HEM to construct the temporary crossing. South Maitland Railways issued its own conditions for the construction of the crossing, which include:

- erecting barriers at the crossing to prevent unauthorised access;
- complying with relevant legislative requirements and standards;
- providing a bank guarantee for the works; and
- remediating the rail crossing following completion of the project.

The Department considers these conditions are adequate for the safe construction and operation of the rail crossing and has recommended a condition of approval requiring HEM to construct the crossing to the satisfaction of South Maitland Railways.

4.2 Flora and Fauna

HEM assessed the flora and fauna impacts that would result from the construction of the new intersection and haul road. HEM would need to clear 0.08 hectares of Lower Hunter Spotted Gum Ironbark Forest (LHSGIF) to construct its new haul road. LHSGIF is listed as an Endangered Ecological Community under the *Threatened Species Conservation Act 1995*. HEM's assessment concluded that impacts to LHSGIF would be minor, and able to be limited through the application of appropriate sediment and erosion control measures.

HEM would remove the proposed new section of haul road and rehabilitate the land following completion of the project, with the aim being to restore the land's pre-clearance biodiversity attributes. The Department considers the proposed clearing impacts would be minor when considered in both local and regional contexts and that, given the proposed rehabilitation, the impacts do not warrant any additional offset measures. The Department has recommended a condition of approval which requires HEM to revise and update its Water Management Plan (which includes an Erosion and Sediment Control Plan) and its Rehabilitation and Landscape Management Plan, to include the proposed amended haulage route.

4.3 Noise

Noise impacts from the proposed modification were modelled for the closest residences to the modified haul route (see Figure 4) with reference to the *NSW Industrial Noise Policy* and the *Environmental Criteria for Road Traffic Noise* (ECRTN).

HEM's assessment concluded that traffic noise from the proposed modification would comfortably comply with the ECRTN criterion. Noise impacts are limited due to existing restrictions on haulage to daytime hours on weekdays. The Department is satisfied that noise impacts from the proposed modification would not be significant and that no additional noise conditions are necessary to manage the project.

4.4 Air Quality

HEM's assessment considered the potential air quality impacts from the proposed amended haulage route. This assessment found that impacts would remain within DECCW's air quality criteria. Impacts would be further limited as the new section of road would be tar sealed from the Government Circuit/Caledonia Street intersection to north of the SMR. The Department considers that the current conditions of approval would continue to provide adequate controls for any potential air quality impacts and that no additional conditions are required.

4.5 Other Issues

HEM also considered the potential for the proposed modification to impact on sites of Aboriginal significance. However, its assessment did not locate any sites on the proposed route alignment.

All other issues were considered to have negligible environmental impacts and to not warrant further assessment.

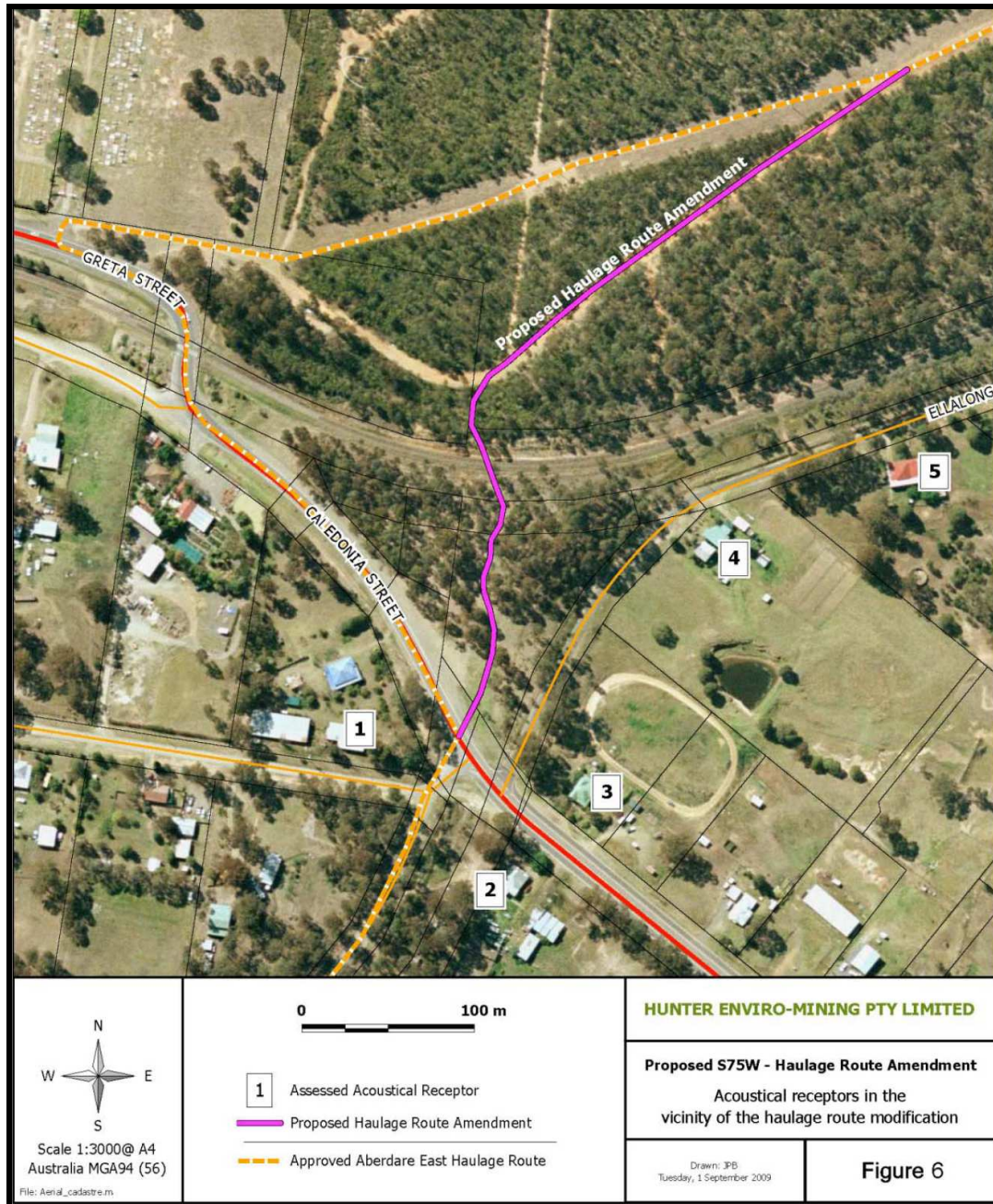


Figure 4: Nearest residences to the proposed modified haulage route alignment

5 CONCLUSION

The Department has assessed the modification application in accordance with the relevant requirements of the EP&A Act. The Department has also taken the opportunity to make administrative amendments to conditions in the project approval. The Department is satisfied that the proposed modification would:

- improve the efficiency of haulage of material extracted from the Aberdare East extraction site to the CHPP;
- improve the performance and safety of Greta Street by removing HEM's trucks from that road;
- preserve the amenity of the Gordon Williams Memorial Cemetery; and
- not increase the approved project's environmental impacts.

The Department therefore believes that the proposed modification is in the public interest and should be approved, subject to conditions.

6 RECOMMENDATION

It is RECOMMENDED that the Director, Mining and Industry:

- **consider** the findings and recommendations of this report;
- **determine** that the proposed modification is within the scope of section 75W of the EP&A Act;
- **approve** the proposed modification under section 75W of the EP&A Act; and
- **sign** the attached Notice of Modification (Tag A).

SIGNED 22 MARCH 2010

Manager, Mining Projects

SIGNED 25 MARCH 2010

Director, Mining & Industry Projects