



3rd August 2012

Mr David Kitto
Director
Mining and Industry Projects
Department of Planning and Infrastructure
GPO Box 39
SYDNEY NSW 2001

Dear David

**RE: WERRIS CREEK COAL MINE
MINOR MODIFICATION TO PROJECT APPROVAL PA 10_0059**

I refer to the Werris Creek Coal Mine Project Approval PA 10_0059 granted on 25th October 2011.

As per our prior discussions, I attach a completed Section 75W modification application seeking consent to a minor modification to the approved development.

In summary, the approved project allows for the construction of an additional Void Water Dam in proximity to the relocated coal processing area. Following geotechnical works to facilitate design and construction of the new dam, it has been determined that the inherent soil materials present in the locality of the proposed new dam are unsuitable for required compaction and permeability requirements. Further testing in areas to the north also identified soil material as being unsuitable for dam construction. As a means of ensuring adequate storage availability for in-pit water, a suitable alternate dam location was identified at the southern end of the project site. This determination was based on prior void water dam construction in this locality. It has been further identified that the required storage capacity of 250ML could be obtained by augmenting the existing 20ML storage dam (VWD1).

To undertake the required construction to facilitate augmentation of the existing void water storage dam (VWD1), it will result in the requirement to excise 6.1ha from the approved Biodiversity Offset Area (BOA) as shown on the attached Figure. The vegetation community within this area to be removed from the BOA comprises condition class 3b White Box Grassy Woodland Derived Native Grassland. This vegetation community, whilst meeting the NSW Threatened Species Conservation Act Endangered Ecological Community classification for White Box-Yellow Box-Blakely's Red Gum woodland, does not meet the Commonwealth definition of this community under the Environment Protection Biodiversity Conservation Act. The removal of the 6.1ha from the approved BOA will not impact on the provision of 218.66ha of Mine Site offset, as required under the Project Approval PA 10_0059.

In order to provide an appropriate replacement for the area excised from the approved BOA, it is proposed to provide this from the area available from the "Greenslopes"/"Banool" properties, parts of which are already included in the approved BOA as demonstrated in the draft Biodiversity and Offset

Management Plan (BOMP) submitted to the Department in June 2012. Areas of the "Greenslopes"/"Banool" properties were put forward in the BOMP as meeting the requirements of the 74ha of "Additional Offset Area" as prescribed in the Project Approval PA 10_0059. As prescribed in the submitted BOMP, 78ha of Class 4 condition White Box Grassy Woodland and Tumbledown Gum Woodland was identified as meeting this conditional requirement. To maintain a contiguous BOA on "Greenslopes" and "Banool", a further 45ha has been included in the overall offset area comprising condition class 3a White Box Grassy Woodland and Derived Native Grassland. This area will provide for a suitable replacement for the 6.1ha of condition class 3b White Box Grassy Woodland and derived Native Grassland. This area provides for a "like for like or better" replacement for that area impacted by the proposed augmentation to VWD1.

In addition to the modification required for the augmentation to void water dam (VWD1), a minor amendment is also required to the approved location for the explosives magazine. The area identified and subsequently approved for the explosives magazine under PA 10_0059 has been found to be constrained by the presence of a power-line, which, due to the surrounding topography, is not of sufficient elevation from the ground to allow for safe access for construction equipment and subsequent use by vehicles accessing the compound with adequate vertical separation distance. On this basis, it is proposed to relocate the explosives magazine approximately 300m south-east to an area that is not constrained by existing infrastructure, as identified on the attached Figure. The alternate location will impact on 0.4ha of Class 1 (Cleared) land and 0.4ha of class 3b White Box Grassy Woodland and Derived Native Grassland. The original location was to impact on 4ha of class 3a White Box Woodland and Derived Native Grassland. The proposed relocation will result in a substantial reduction in required disturbance to that assessed and approved under PA 10_0059. That area originally proposed for the explosives magazine will no longer require subsequent disturbance.









On the basis of the description of the required modifications provided above, it is considered that the requested changes are minor in nature and are generally consistent with the project intent and approval accorded in PA 10_0059. The modifications associated with the increased capacity of VWD1 will require a revision to the draft Site Water Management Plan submitted to the Department for approval as required under PA 10_0059. Similarly, the modification to the Biodiversity Offset Area (BOA) will require an amendment to the draft submitted Biodiversity and Offset Management Plan as submitted to the Department for approval. The required revisions to these plans will be made on provision of a modified PA 10_0059. Should you have any queries in relation to this modification application, please contact me on 02 6741 9316.

Yours sincerely



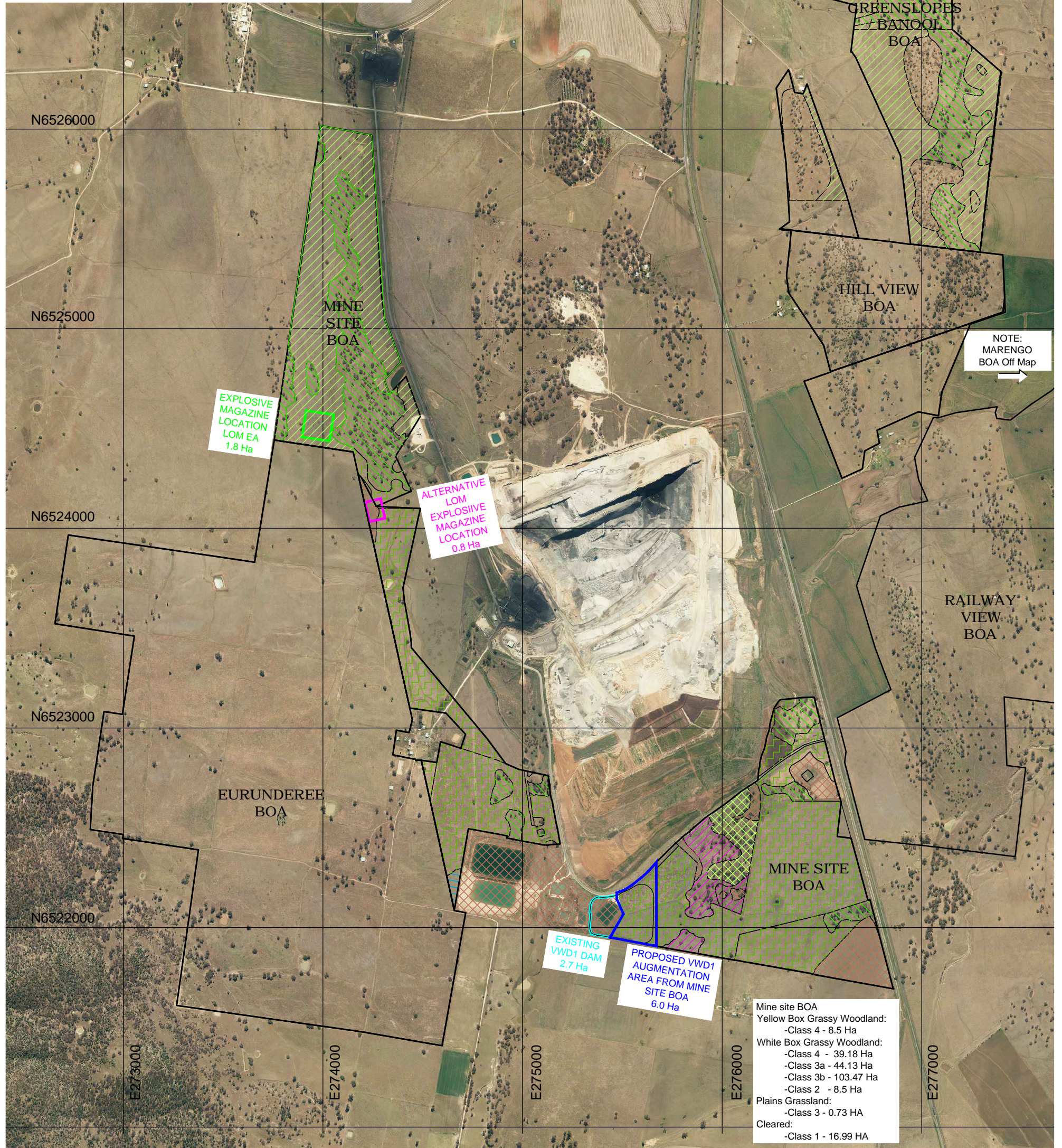
Danny Young
Group Environmental Manager
Whitehaven Coal Limited.
Ref: dy05412

VEGETATION COMMUNITIES & CONDITION

-  Class 1 - Cleared Vegetation
-  Class 2 - White Box Grassy Woodland
-  Class 3a - White Box Grassy Woodland
-  Class 3b - White Box Grassy Woodland
-  Class 4 - White Box Grassy Woodland
-  Class 3 - Plains Grassland
-  Class 4 - Tumbledown Gum Shrubby Open Forest
-  Class 4 - Yellow Box Grassy Woodland



Greenslopes BOA
 Tumbledown Gum Shrubby Open Forest:
 -Class 4 - 27.32 Ha
 White Box Grassy Woodland:
 -Class 4 - 51.49 Ha
 -Class 3a - 44.98 Ha



Mine site BOA
 Yellow Box Grassy Woodland:
 -Class 4 - 8.5 Ha
 White Box Grassy Woodland:
 -Class 4 - 39.18 Ha
 -Class 3a - 44.13 Ha
 -Class 3b - 103.47 Ha
 -Class 2 - 8.5 Ha
 Plains Grassland:
 -Class 3 - 0.73 Ha
 Cleared:
 -Class 1 - 16.99 Ha

DESIGN: AW	DATUM: AHD		
DRAWN: PJB	Red Ratio: 1: @A1 10,000: @ A3 1:20,000		
CHECKED: PJB	Plot size issued: A3		
SURVEY: ----			
		B 06-08-12	ADDITIONAL NOTES- COLOUR & B&W PHOTO
		A 03-08-12	INITIAL ISSUE
		Rv DATE	REVISIONS

Werris Creek Coal Pty Limited

PLAN SHOWING AMENDED WERRIS CREEK COAL
 BIODIVERSITY OFFSET AREAS FOR
 - PROPOSED VWD1 AUGMENTATION
 - ALTERNATE LOM EXPLOSIVE MAGAZINE LOCATION

Sheet 1 (colour photo) of 2 Sheets

DATE: 3rd August 2012





Werris Creek Coal Pty Limited
 1435 Werris Creek Road, Werris Creek 2341
 TEL: +61 2 6768 7039

Rv



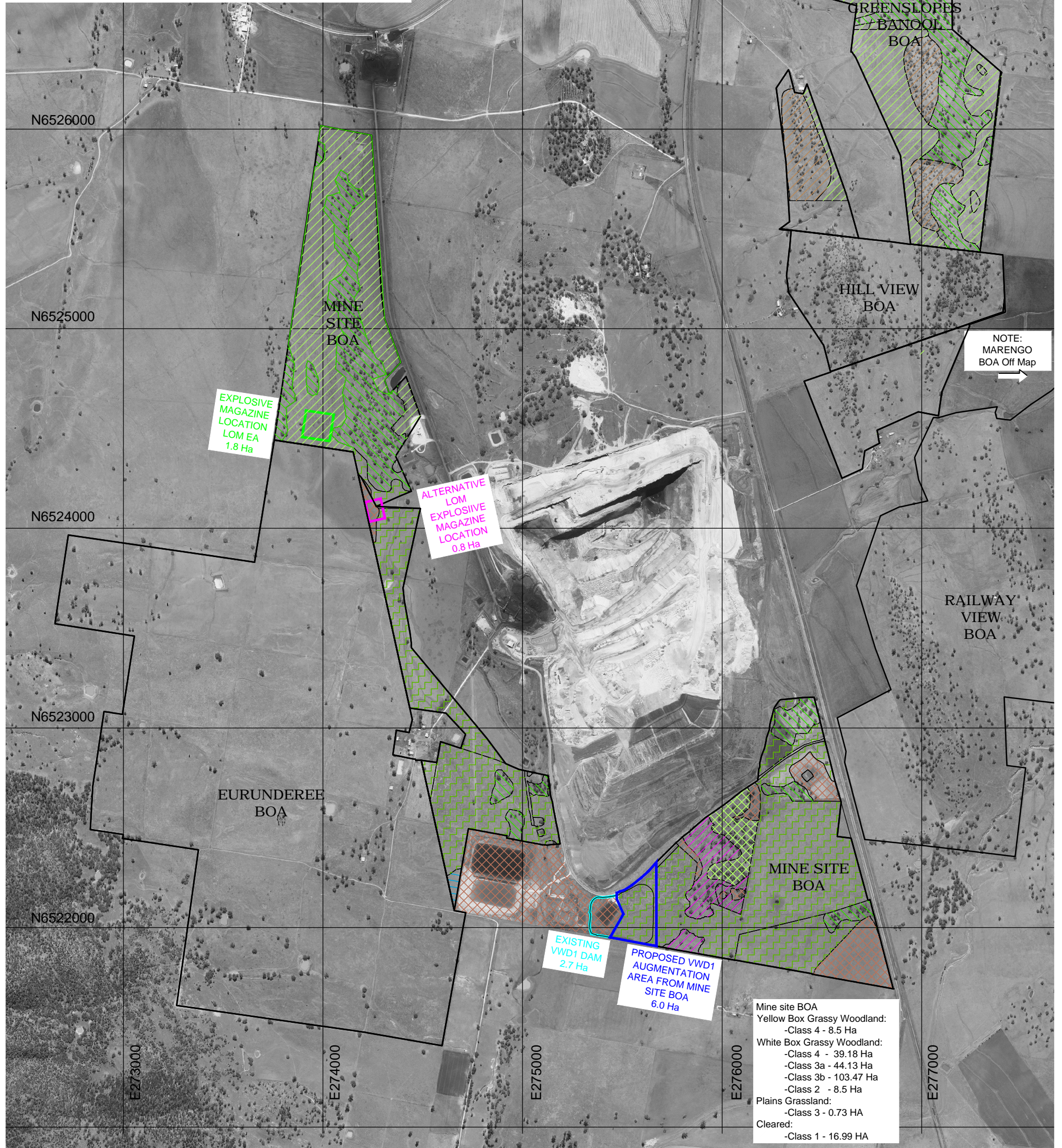
B

VEGETATION COMMUNITIES & CONDITION

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-  Class 3a - White Box Grassy Woodland
-  Class 3b - White Box Grassy Woodland
-  Class 4 - White Box Grassy Woodland
-  Class 3 - Plains Grassland
-  Class 4 - Tumbledown Gum Shrubby Open Forest
-  Class 4 - Yellow Box Grassy Woodland



Greenslopes BOA
 Tumbledown Gum Shrubby Open Forest:
 -Class 4 - 27.32 Ha
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Werris Creek Coal Pty Limited

PLAN SHOWING AMENDED WERRIS CREEK COAL
 BIODIVERSITY OFFSET AREAS FOR
 - PROPOSED VWD1 AUGMENTATION
 - ALTERNATE LOM EXPLOSIVE MAGAZINE LOCATION

Sheet 2 (B&W photo) of 2 Sheets

DATE: 3rd August 2012

Werris Creek Coal Pty Limited
 1435 Werris Creek Road, Werris Creek 2341
 TEL: +61 2 6768 7039

Rv



Request to modify a major project



NSW GOVERNMENT
Department of Planning

Date duly made: ___/___/___

Modification No. _____

1. Before you lodge

This form is required under section 75W of the *Environmental Planning and Assessment Act 1979* (the Act) in order to request the Minister to modify the Minister's approval to carry out a project or concept plan to which Part 3A of the Act applies.

Before making this request, it is recommended that you first consult with the Department of Planning (the Department) concerning your modification. The Director-General may issue environmental assessment requirements that must be complied with before your request will be considered by the Minister. If the changes proposed by the modification will result in a project that is consistent with the existing approval, the Minister's approval for a modification is not required.

Disclosure Statement

Persons making a request to modify a project or concept plan are required to declare reportable political donations (including donations of or more than \$1,000) made in the previous two years.

Note: For more details about political donations disclosure requirements, including a disclosure form, go to www.planning.nsw.gov.au/donations.

Lodgement

All modification requests must be lodged with the Director-General of the Department of Planning, by courier or mail. An electronic copy should also be e-mailed to the assessment contact officer assigned to the project.

NSW Department of Planning
Ground floor, 23-33 Bridge Street, SYDNEY NSW 2000
GPO Box 39 SYDNEY NSW 2001
Phone 1300 305 695

2. Details of the proponent

Company/organisation/agency		ABN
Werris Creek Coal Pty Limited		69 107 169 103
<input checked="" type="checkbox"/> Mr <input type="checkbox"/> Ms <input type="checkbox"/> Mrs <input type="checkbox"/> Dr <input type="checkbox"/> Other		
First name	Family name	
Brian	Cullen	
Position		
General Manager, Technical Services		
STREET ADDRESS		
Unit/street no.	Street name	
10409	Kamilaroi Highway	
Suburb or town	State	Postcode
GUNNEDAH	NSW	2380
POSTAL ADDRESS (or mark 'as above')		
PO Box 600		
Suburb or town	State	Postcode
GUNNEDAH	NSW	2380
Daytime telephone	Fax	Mobile
02 67424337	02 67423607	0418200512
Email		
bcullen@whitehavencoal.com.au		

3. Identify the land

STREET ADDRESS (where relevant)

Unit/street no.

1435

Street or property name

Werris Creek Road

Suburb, town or locality

WERRIS CREEK NSW

Postcode

2341

Local government area(s)

Liverpool Plains Shire
Council

State Electorate(s)

Tamworth

REAL PROPERTY DESCRIPTION

See Schedule of land attached.

Note: The real property description is found on a map of the land or on the title documents for the land. If you are unsure of the real property description, you should contact the Department of Lands.

Please ensure that you place a slash (/) to distinguish between the lot, section, DP and strata numbers. If the proposed modification applies to more than one piece of land, please use a comma to distinguish between each real property description.

OR: detailed description of land attached:

MAP: A map of the site and locality should also be submitted with this request.

4. Details of the original major project or concept plan

Briefly describe what the original approval allows

Production of up to 2.5mtpa of ROM Coal
Increase in hours of operation to 24hrs/day 7 days/week
Northerly extension of open cut mining and associated activities
Relocation of, and modification to infrastructure including construction of turn around rail loop, relocation of crushing and screening facilities, construction of a new entrance and access road, construction of a new void water dam to the north, relocation of explosives magazine
Rehabilitation of the final landform

What was the original project application no.?

10_0059

What was the date of the approval?

25th October 2011

What was the original application fee?

\$78,511.00

Note: Clause 245K of the *Environmental Planning and Assessment Regulation 2000* provides information on calculating the maximum fee for a request for modification.

5. Describe the modification you propose to make to the approval

Describe the proposed modification

The approved northern void water dam will no longer be constructed, in preference for the extension of the existing Void Water Dam 1 at the southern end of the project site. The extension of this dam will necessitate a minor alteration to the approved Biodiversity offset area. The approved size of the offset will be maintained, with the approved boundary subject to minor adjustment.
In addition it is proposed to vary the approved location of the explosives magazine. The

magazine will be located further to the south than originally proposed to avoid conflict with existing power-lines.

Your modification request may need to be accompanied by an Environmental Assessment, including plans. An electronic and hard copy of this document will be required.

ESTIMATED CAPITAL INVESTMENT VALUE

Please indicate the estimated capital investment value (CIV) of the modification to the project approval or concept plan (excluding GST).

\$400000

FULL TIME EQUIVALENT JOBS

Please indicate the number of jobs created by the proposed modification. This should be expressed as a proportion of full time equivalent (FTE) jobs over a full year.

Construction jobs (FTE)

1

Operational jobs (FTE)

6. Landowner's consent (where required)

As the owner(s) of the above property, I/we consent to this request being made by the proponent:

Land

Signature

Name

Date

Land

Signature

Name

Date

Note: Under Clause 8F of the *Environmental Planning and Assessment Regulation 2000* (the Regulation), certain applications for approval under Part 3A of the Act do not require consent of the landowner, however, the proponent is required to give notice of the application (e.g. linear infrastructure, mining & petroleum projects, and critical infrastructure).

7. Political donation disclosure statement

Persons making a request to modify a project or concept plan are required to declare reportable political donations (including donations of or more than \$1,000) made in the previous two years.

Have you attached a disclosure statement to this request?

Yes

No

Note: For more details about political donations disclosure requirements, including a disclosure form, go to www.planning.nsw.gov.au/donations.

8. Proponent's signature

As the proponent(s) of the project and in signing below, I/we hereby:

- provide a description of the modification to the project approval or concept plan and address all matters required by the Director-General pursuant to Section 75W of the Act, and

- declare that all information contained within this form is accurate at the time of signing.

Signature

[Handwritten Signature]

In what capacity are you signing if you are not the proponent

Name

BRAND CULLEN

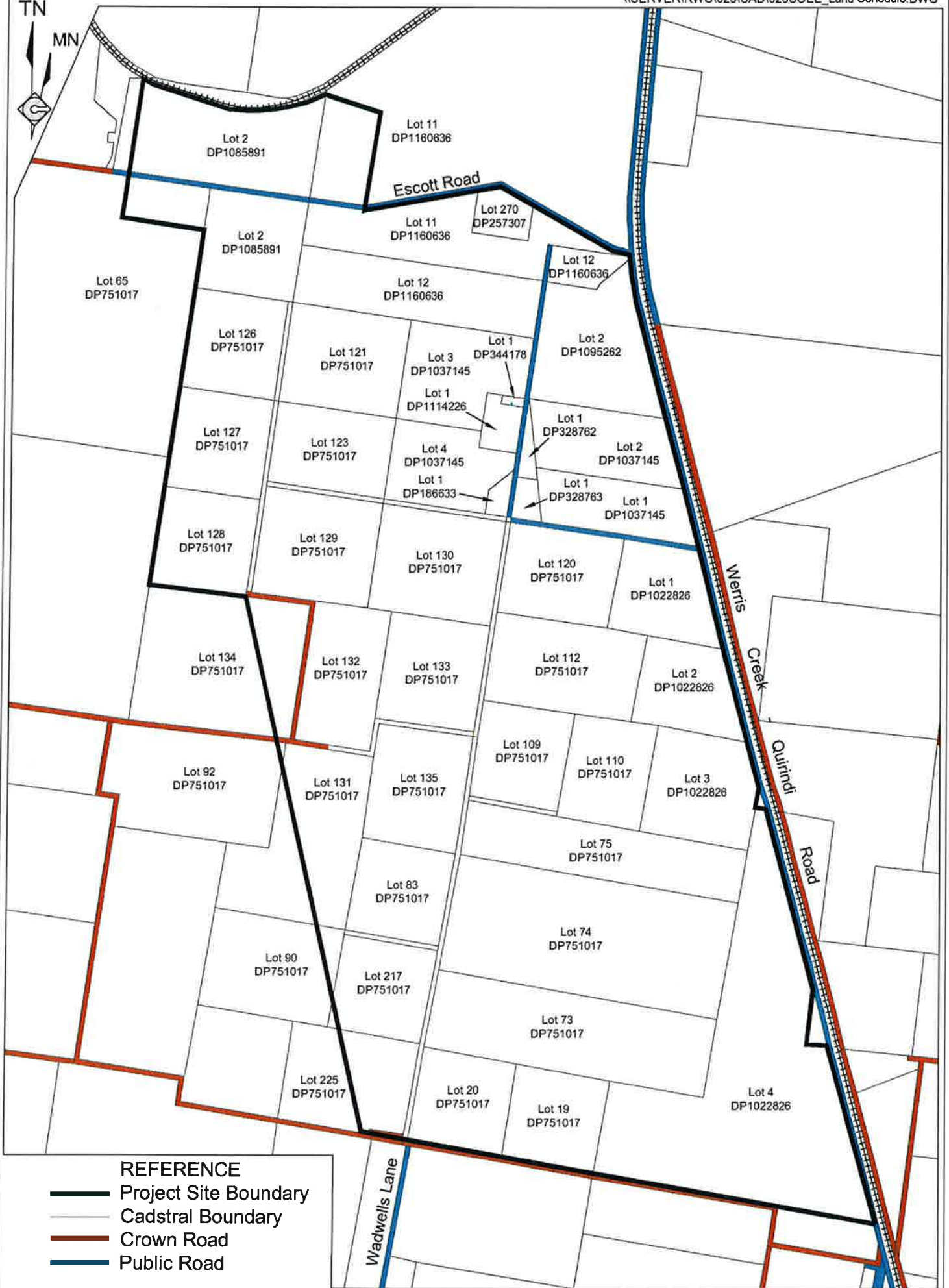
Name, if you are not the proponent


Date

3/8/12.

SCHEDULE OF LANDS

LOTS	DP
19-20, 65, 73-75, 83, 90, 92, 109-110, 112, 120-121, 123, 126-130, 131-135, 217, 225	751017
1-4	1022826
1-4	1037145
2	431951
1	186633
270	257307
2	1095262
1	344178
1	1114226
1	328762
1	328763
11-12	1160636
2	1085891
All Crown and Public Roads within the Project Boundary as shown on Figure Titled "Land Schedule"	



- REFERENCE**
-  Project Site Boundary
 -  Cadstral Boundary
 -  Crown Road
 -  Public Road

SCALE 1:25 000

250 0 250 500 750 1000 1250 m



Cadastral Information Source: LPI (Bathurst) - Digitised from DCDB

LAND SCHEDULE

Political donations disclosure statement



NSW GOVERNMENT
Department of Planning

Office use only:

Date received: ____/____/____

Planning application no. _____

This form may be used to make a political donations disclosure under section 147(3) of the *Environmental Planning Assessment Act 1979* for applications or public submissions to the Minister or the Director-General.

Please read the following information before filling out the Disclosure Statement on pages 3 and 4 of this form. Also refer to the 'Glossary of terms' provided overleaf (for definitions of terms in *italics* below). Once completed, please attach the completed declaration to your planning application or submission.

Explanatory information

Making a planning application or a public submission to the Minister or the Director-General

Under section 147(3) of the Environmental Planning and Assessment Act 1979 ('the Act') a person:

- (a) who makes a *relevant planning application* to the Minister or the Director-General is required to disclose all *reportable political donations* (if any) made within the *relevant period* to anyone by any *person with a financial interest* in the application, or
- (b) who makes a *relevant public submission* to the Minister or the Director-General in relation to the application is required to disclose all *reportable political donations* (if any) made within the *relevant period* to anyone by the person making the submission or any *associate of that person*.

How and when do you make a disclosure?

The disclosure to the Minister or the Director-General of a *reportable political donation* under section 147 of the Act is to be made:

- (a) in, or in a statement accompanying, the relevant planning application or submission if the donation is made before the application or submission is made, or
- (b) if the donation is made afterwards, in a statement of the person to whom the relevant planning application or submission was made within 7 days after the donation is made.

What information needs to be included in a disclosure?

The information requirements of a disclosure of reportable political donations are outlined in section 147(9) of the Act.

Pages 3 and 4 of this document include a Disclosure Statement Template which outlines the information requirements for disclosures to the Minister or to the Director-General of the Department of Planning.

Note: A separate Disclosure Statement Template is available for disclosures to councils.

Warning: A person is guilty of an offence under section 125 of the *Environmental Planning and Assessment Act 1979* in connection with the obligations under section 147 only if the person fails to make a disclosure of a political donation or gift in accordance with section 147 that the person knows, or ought reasonably to know, was made and is required to be disclosed under section 147.

The maximum penalty for any such offence is the maximum penalty under Part 6 of the *Election Funding and Disclosures Act 1981* for making a false statement in a declaration of disclosures lodged under that Part.

Note: The maximum penalty is currently 200 penalty units (currently \$22,000) or imprisonment for 12 months, or both.

Glossary of terms (under section 147 of the *Environmental Planning and Assessment Act 1979*)

gift means a gift within the meaning of Part 6 of the *Election Funding and Disclosures Act 1981*. Note. A gift includes a gift of money or the provision of any other valuable thing or service for no consideration or inadequate consideration.

Note: Under section 84(1) of the *Election Funding and Disclosures Act 1981* gift is defined as follows:

gift means any disposition of property made by a person to another person, otherwise than by will, being a disposition made without consideration in money or money's worth or with inadequate consideration, and includes the provision of a service (other than volunteer labour) for no consideration or for inadequate consideration.

local councillor means a councillor (including the mayor) of the council of a local government area.

relevant planning application means:

- a) a formal request to the Minister, a council or the Director-General to initiate the making of an environmental planning instrument or development control plan in relation to development on a particular site, or
 - b) a formal request to the Minister or the Director-General for development on a particular site to be made State significant development or declared a project to which Part 3A applies, or
 - c) an application for approval of a concept plan or project under Part 3A (or for the modification of a concept plan or of the approval for a project), or
 - d) an application for development consent under Part 4 (or for the modification of a development consent), or
 - e) any other application or request under or for the purposes of this Act that is prescribed by the regulations as a relevant planning application,
- but does not include:
- f) an application for (or for the modification of) a complying development certificate, or
 - g) an application or request made by a public authority on its own behalf or made on behalf of a public authority, or
 - h) any other application or request that is excluded from this definition by the regulations.

relevant period is the period commencing 2 years before the application or submission is made and ending when the application is determined.

relevant public submission means a written submission made by a person objecting to or supporting a relevant planning application or any development that would be authorised by the granting of the application.

reportable political donation means a reportable political donation within the meaning of Part 6 of the *Election Funding and Disclosures Act 1981* that is required to be disclosed under that Part. Note. Reportable political donations include those of or above \$1,000.

Note: Under section 86 of the *Election Funding and Disclosures Act 1981* reportable political donation is defined as follows:

86 Meaning of "reportable political donation"

- (1) For the purposes of this Act, a reportable political donation is:
 - (a) in the case of disclosures under this Part by a party, elected member, group or candidate—a political donation of or exceeding \$1,000 made to or for the benefit of the party, elected member, group or candidate, or
 - (b) in the case of disclosures under this Part by a major political donor—a political donation of or exceeding \$1,000:
 - (i) made by the major political donor to or for the benefit of a party, elected member, group or candidate, or
 - (ii) made to the major political donor.
- (2) A political donation of less than an amount specified in subsection (1) made by an entity or other person is to be treated as a reportable political donation if that and other separate political donations made by that entity or other person to the same party, elected member, group, candidate or person within the same financial year (ending 30 June) would, if aggregated, constitute a reportable political donation under subsection (1).
- (3) A political donation of less than an amount specified in subsection (1) made by an entity or other person to a party is to be treated as a reportable political donation if that and other separate political donations made by that entity or person to an associated party within the same financial year (ending 30 June) would, if aggregated, constitute a reportable political donation under subsection (1). This subsection does not apply in connection with disclosures of political donations by parties.
- (4) For the purposes of subsection (3), parties are associated parties if endorsed candidates of both parties were included in the same group in the last periodic Council election or are to be included in the same group in the next periodic Council election.

a person has a financial interest in a relevant planning application if:

- a) the person is the applicant or the person on whose behalf the application is made, or
- b) the person is an owner of the site to which the application relates or has entered into an agreement to acquire the site or any part of it, or
- c) the person is associated with a person referred to in paragraph (a) or (b) and is likely to obtain a financial gain if development that would be authorised by the application is authorised or carried out (other than a gain merely as a shareholder in a company listed on a stock exchange), or
- d) the person has any other interest relating to the application, the site or the owner of the site that is prescribed by the regulations.

persons are associated with each other if:

- a) they carry on a business together in connection with the relevant planning application (in the case of the making of any such application) or they carry on a business together that may be affected by the granting of the application (in the case of a relevant planning submission), or
- b) they are related bodies corporate under the *Corporations Act 2001* of the Commonwealth, or
- c) one is a director of a corporation and the other is any such related corporation or a director of any such related corporation, or
- d) they have any other relationship prescribed by the regulations.

Political Donations Disclosure Statement to Minister or the Director-General

If you are required under section 147(3) of the Environmental Planning and Assessment Act 1979 to disclose any political donations (see Page 1 for details), please fill in this form and sign below.

Disclosure statement details				
Name of person making this disclosure	Planning application reference (e.g. DA number, planning application title or reference, property address or other description)			
Your interest in the planning application (circle relevant option below)				
You are the APPLICANT YES / NO OR You are a PERSON MAKING A SUBMISSION IN RELATION TO AN APPLICATION YES / NO				
Reportable political donations made by person making this declaration or by other relevant persons				
<i>* State below any reportable political donations you have made over the 'relevant period' (see glossary on page 2). If the donation was made by an entity (and not by you as an individual) include the Australian Business Number (ABN).</i>				
<i>* If you are the applicant of a relevant planning application state below any reportable political donations that you know, or ought reasonably to know, were made by any persons with a financial interest in the planning application, OR</i>				
<i>* If you are a person making a submission in relation to an application, state below any reportable political donations that you know, or ought reasonably to know, were made by an associate.</i>				
Name of donor (or ABN if an entity)	Donor's residential address or entity's registered address or other official office of the donor	Name of party or person for whose benefit the donation was made	Date donation made	Amount/ value of donation
<i>Please list all reportable political donations—additional space is provided overleaf if required.</i>				
By signing below, I/we hereby declare that all information contained within this statement is accurate at the time of signing.				
Signature(s) and Date				
Name(s)				

Cont...

Political Donations Disclosure Statement to Minister or the Director-General

Name of donor (or ABN if an entity)	Donor's residential address or entity's registered address or other official office of the donor	Name of party or person for whose benefit the donation was made	Date donation made	Amount/ value of donation