

Notice of Modification

Section 96(2) of the *Environmental Planning and Assessment Act 1979*

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



Mr David Johnson
Member of the Commission

Sydney

17 January 2017

SCHEDULE 1

The development consent (SSD-4960) for the Bulga Optimisation Project, granted by the Planning Assessment Commission on 1 December 2014.

SCHEDULE 2

1. In the list of Definitions, delete the following definitions: "Development", "EIS", "MSB", "Mushroom composting facility land", "NOW", "NSW Trade & Investment", "OEH" and "RTS" and insert the following definitions in alphabetical order:

Development	The development as described in the documents listed in condition 2 of schedule 2
DPI Water	Division of Water within the Department of Primary Industries
DRE	Division of Resources and Energy within the NSW Department of Industry
EIS	Environmental Impact Statement titled <i>Bulga Optimisation Project, Environmental Impact Statement</i> (8 volumes), dated April 2013 and prepared by Umwelt (Australia) Pty Ltd, as modified by the response to submissions document titled <i>Response to Submissions and Revised and Amended Project Application Assessment Report – Bulga Optimisation Project</i> , dated August 2013 and prepared by Umwelt (Australia) Pty Limited
Mushroom composting facility	The mushroom composting facility on Lot 81 DP 1006883
OEH	Office of Environment and Heritage
Open cut mining operations	Includes the removal and emplacement of overburden and extraction, processing, handling, storage and transport of coal in the development area
SANSW	Subsidence Advisory NSW
SEE (MOD 1)	Statement of Environmental Effects titled <i>Bulga Surface Operations Eastern Emplacement Area Modification Statement of Environmental Effects</i> , dated July 2016 and prepared by Umwelt (Australia) Pty Ltd, including the Response to Submissions titled <i>Bulga Surface Operations Eastern Emplacement Area Modification Response to Submissions</i> , dated December 2016 and prepared by Umwelt (Australia) Pty Ltd

2. Delete all references to "shall" and replace with "must", except in:
- condition 3 of Schedule 2; and
 - the fourth reference in condition 5 of Schedule 4.

3. Delete all references to "NSW Trade & Investment" or "the Secretary NSW Trade & Investment" and replace with "DRE".
4. Delete all references to "Director-General" or "Director General" and replace with "Secretary".
5. Delete all references to "MSB" and replace with "SANSW".
6. Delete all references to "NOW" and replace with "DPI Water".
7. In condition 2 of Schedule 2 delete paragraphs (b) and (c) and replace with the following:
 - (b) SEE (MOD 1); and
 - (c) the general layout of the development.
8. After condition 2 of Schedule 2, insert the following:

2A. The Applicant must carry out the development in accordance with the conditions of this consent.
9. In condition 12 of Schedule 2, after the words "does not apply to", insert the words "any damage to public infrastructure subject to compensation payable under the *Mine Subsidence Compensation Act 1961*, or to".
10. Delete condition 14 of Schedule 2, including the heading.
11. In conditions 7, 15, 22, 28, 34, 42, 46 and 50 of Schedule 3:
 - a) delete the words "and implement" in the first sentence; and
 - b) after the last paragraph, insert the following:

The Applicant must implement the approved plan as approved from time to time by the Secretary.
12. In condition 10 of Schedule 3:
 - a) delete the words "or its workers", and insert instead ", its workers or the general public"; and
 - b) in the 'Note', after the full stop, insert the sentence "For the avoidance of doubt, should an additional blast be required after a blast misfire, this additional blast and the blast misfire are counted as a single blast for the purpose of calculating the maximum number of daily and weekly blasts under this condition."
13. In condition 19 of Schedule 3:
 - a) delete the words "and implement" in the first sentence;
 - b) delete paragraph (j); and
 - b) after paragraph (k), insert the following:

The Applicant must implement the approved EEAMF as approved from time to time by the Secretary.
14. Delete condition 21 of Schedule 3.
15. In Table 8 in condition 27 of Schedule 3:

- a) in the third row and second column, delete the words "the *Guidelines for Controlled Activities on Waterfront Land* (DPI 2007)" and replace with the words "*DPI Water Controlled Activities Guidelines* (2012)"; and
- b) delete the sixth row and insert instead the following:

Mine water storages	<p>Design, install and maintain mine water storage infrastructure to ensure no unlicensed or uncontrolled discharge of mine water off-site</p> <p>Design, install and maintain on-site storages (including tailings dams, mine infrastructure dams, groundwater storage and treatment dams) to minimise permeability</p> <p>Ensure adequate freeboard within the pit void at all times to minimise the risk of discharge to surface waters</p>
Tailings storage	<p>Design and maintain tailings storage areas to maximise recovery of tailings decant water</p> <p>Design and maintain tailings storage areas to encapsulate and prevent the movement of tailings seepage/leachate offsite, where reasonable and feasible</p>

16. In condition 28(c) of Schedule 3:

- a) in paragraph (i), after the 2nd open circle dot point, insert the following:
 - o Water Access Licences held by the development;
- b) in paragraph (ii), in the 2nd open circle dot point, after the words "sediment controls", insert the words "and works"; and
- c) in paragraph (iii), in the 2nd open circle dot point, after the words "water storages," insert the words "tailings storage areas,".

17. In condition 35 of Schedule 3:

- a) in paragraph (b), delete the full stop and insert the following:

, to the satisfaction of the Secretary.

- b) delete the words "no later than 30 June 2015", and replace with the following:

at least 1 month prior to lodgement of any bond.

The conservation bond must be reviewed by the Applicant and, if required, an updated bond must be lodged with the Department within 3 months of any of the following:

- (a) an approved revision of the Biodiversity Management Plan;
 - (b) the completion of an Independent Environmental Audit in which recommendations relating to the implementation of the Biodiversity Offset Strategy have been made; or
 - (c) in response to a request by the Secretary.
- c) in the 'Notes', delete the second dot point and replace with the following:
 - *The sum of the conservation bond required under this condition excludes the costs associated with the establishment of the Rehabilitation Area, to the extent that these costs are covered by a separate rehabilitation security required under the mining lease.*

18. In condition 41(a) of Schedule 3, delete the words "summarised in Tables 4.11 and 4.12 of the RTS", and replace with the words "described in the documents listed in condition 2 of schedule 2".

19. In Table 10 in condition 53 of Schedule 3, in the second row and second column:

- a) in the 4th open circle dot point, delete the word "and"; and
- b) after the 5th open circle dot point, insert the following:
 - ;
 - o minimise long term groundwater seepage;
 - o minimise exposure of tailings material and prevent the occurrence of spontaneous combustion; and
 - o be sustainable and compatible with surrounding land uses.

20. In Table 10 in condition 53 of Schedule 3, in the fourth row and second column, after the 3rd open circle dot point, insert the following:

- Establish native vegetation areas that complement and improve local and regional biodiversity

21. In condition 53 of Schedule 3, after Table 10, insert the following 'Note':

Note: The Revegetation objective is satisfied through establishment of the Rehabilitation Area required under condition 29 of schedule 3.

22. In condition 55 of Schedule 3:

- a) delete the words "and implement" in the first sentence; and
- b) after the last paragraph, insert the following:

The Applicant must implement the approved Rehabilitation Management Plan as approved from time to time to the satisfaction of DRE.

23. In condition 1 of Schedule 4 and conditions 4 and 11 of Schedule 5 delete the word "EIS", and replace with the words "documents listed in condition 2 of schedule 2".

24. In condition 1 of Schedule 5:

- a) delete the words "The Applicant shall prepare and implement" in the first sentence, and replace with the words "If the Secretary requires, the Applicant must prepare"; and
- b) after the last paragraph, insert the following:

The Applicant must implement the approved strategy as approved from time to time by the Secretary.

25. In condition 4 of Schedule 5, delete the word "review" in the first sentence, and replace with the words "submit a report to the Department, reviewing".

26. In condition 5 of Schedule 5, delete the last paragraph, and replace with the following:

Within 4 weeks of conducting any such review, the Applicant must advise the Secretary of the outcomes of the review, and provide any revised documents to the Secretary for review and approval.

27. After condition 5 of Schedule 5, insert the following:

Updating & Staging Strategies, Plans or Programs

5A. The Applicant may at any time submit revised strategies, plans or programs for the approval of the Secretary. With the agreement of the Secretary, the Applicant may also submit any strategy, plan or program required by this consent on a staged basis.

With the agreement of the Secretary, the Applicant may prepare a revision or stage of any strategy, plan or program required under this consent without undertaking consultation with all parties nominated under the applicable condition in this consent.

Notes:

- While any strategy, plan or program may be submitted on a staged 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.

28. In condition 6 of Schedule 5, delete all the words after "accordance with the" (except the 'Notes') and replace with "Community Consultative Committee Guidelines for State Significant Projects (Department of Planning & Environment, 2016, or its latest version)".

29. In condition 9 of Schedule 5:

- a) after the word "commission", insert ", commence"
- b) at the end of paragraph (d), delete the word "and"; and
- c) at the end of paragraph (e), delete the full stop and insert instead:

; and

- (f) be conducted and reported to the satisfaction of the Secretary.

30. Delete condition 10 of Schedule 5, and insert instead the following:

10. Within 12 weeks of commencing each audit, unless the Secretary agrees otherwise, the Applicant must 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 any measures proposed to address the recommendations.

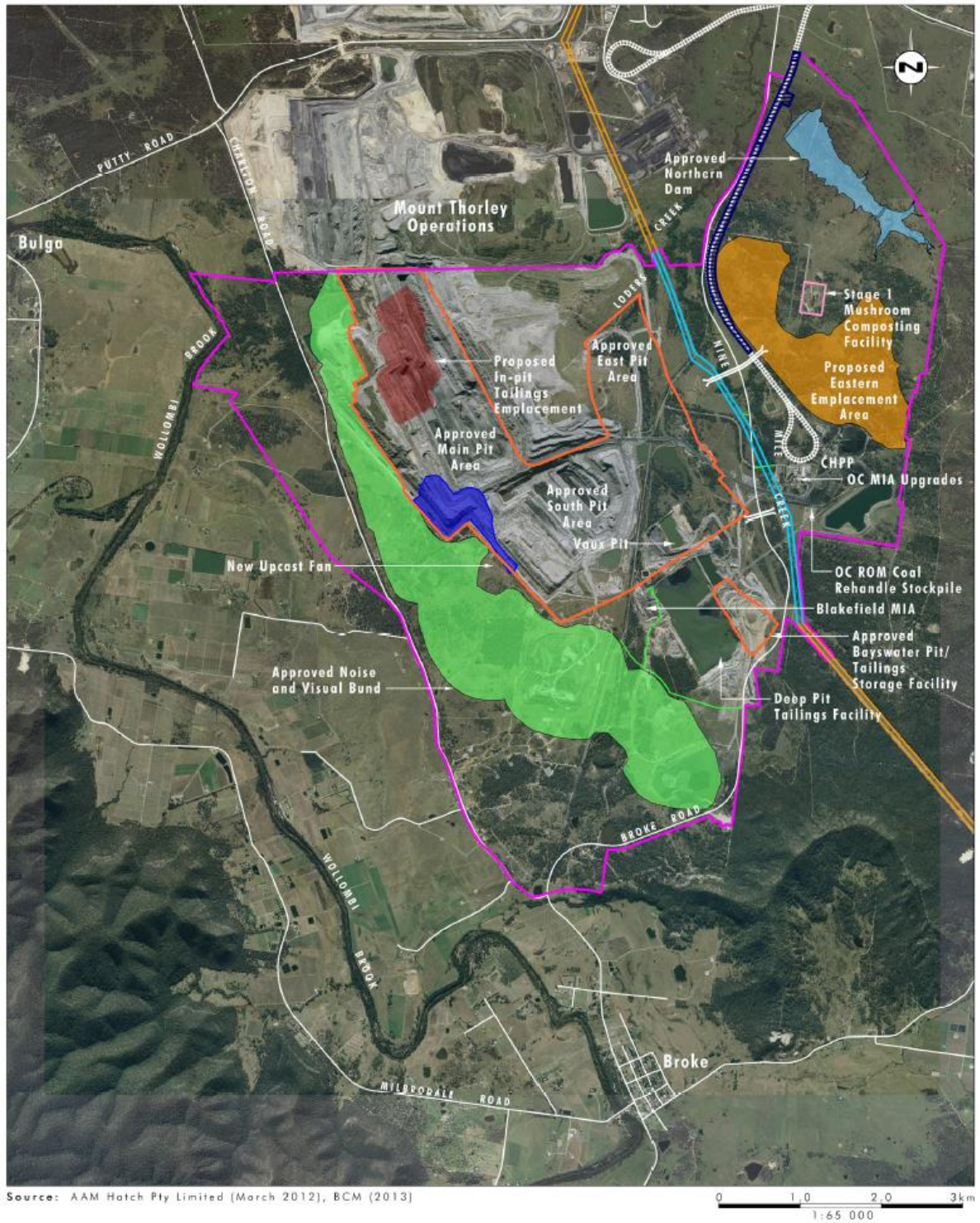
31. In Appendix 1:

- a) in the table, before the row "Part Charlton Road", insert the following two rows:

1	136366	Mushroom Composters Pty Ltd
82	1006883	Mushroom Composters Pty Ltd

- b) delete the 'Note'.

32. Delete the Figure in Appendix 2 Development Layout and replace with the following:



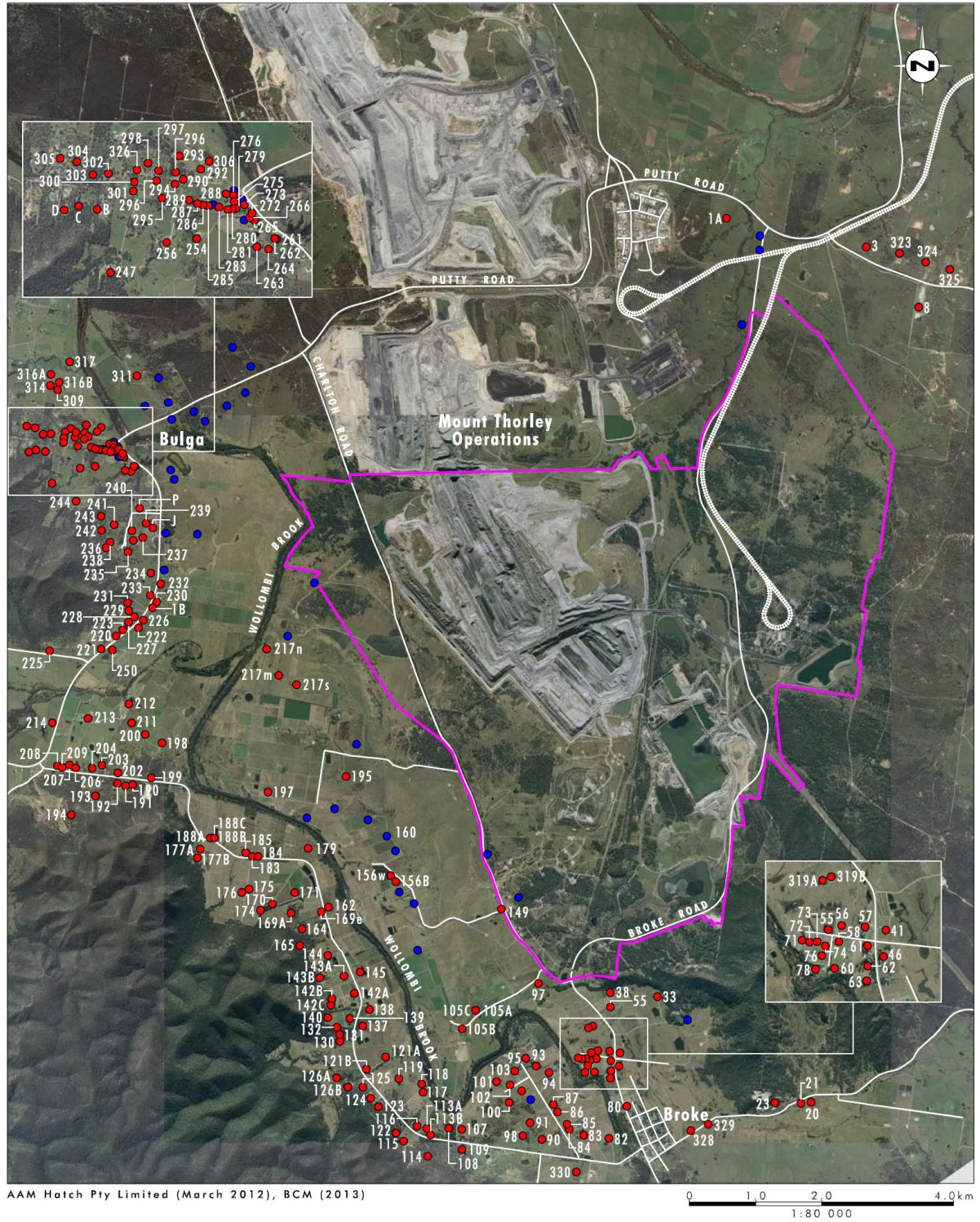
Legend

- Revised Project Area
- Coal Extraction Area
- Approved Noise and Visual Bund
- Proposed Revised EEA
- Proposed In-pit Tailings Emplacement
- Approved Northern Dam
- Approved Rail Siding
- Approved BCC Access Roads
- Existing 330kV Transmission Line
- Approved 330kV Transmission Line Realignment
- Approved Underground Access via Open Cut
- Existing Rail Line

Proposed Modified Development

File Name (A4): 2869_1035.dgn
20161212 10.29

33. Delete Figures 1 and 2 in Appendix 5 Land Ownership and replace with the following:

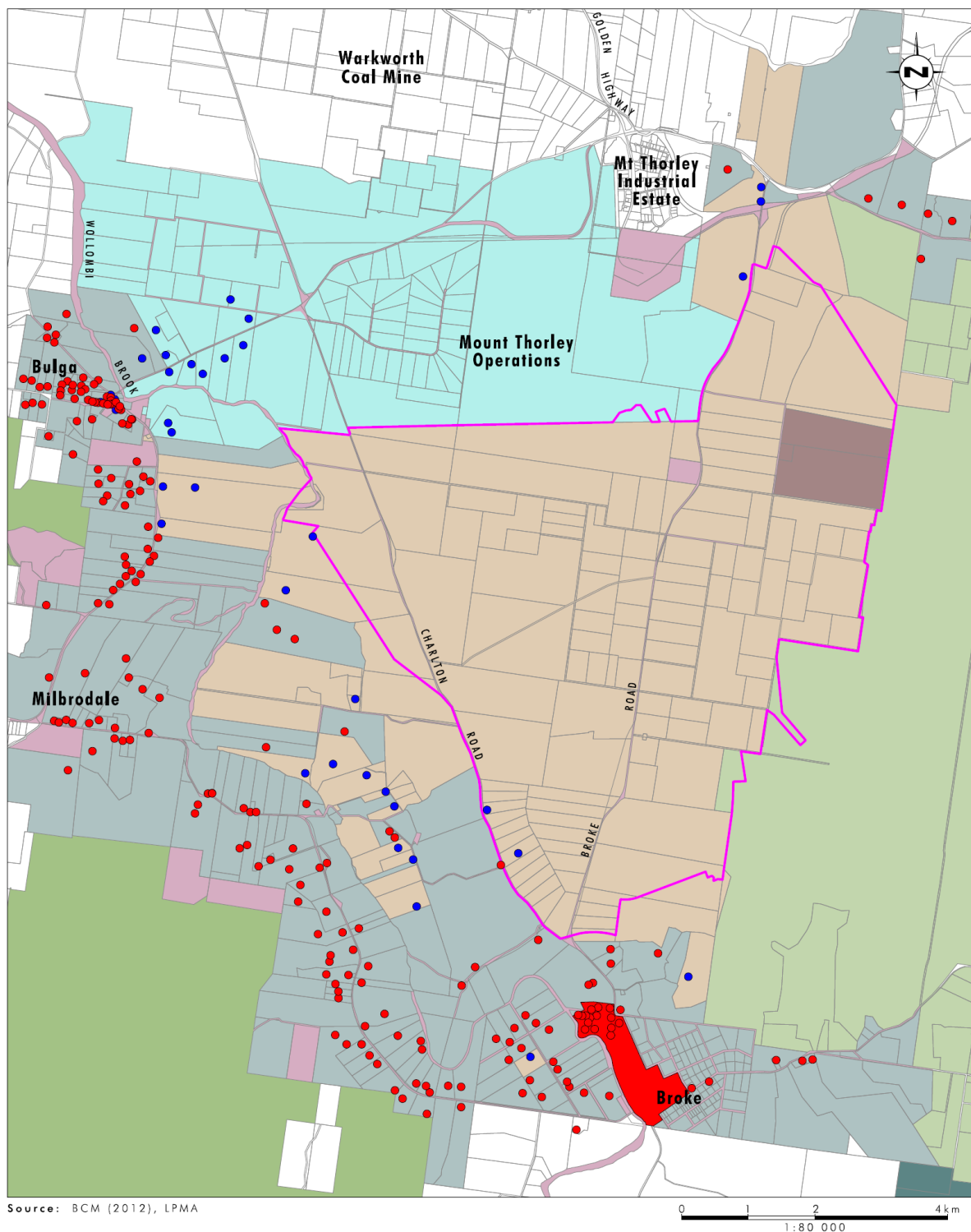


Legend

- ▬ Revised Project Area
- Mine Owned Residence
- Private Residence

**Location of Properties Included
in Noise Assessment**

File Name (A4): 2869_1037.dgn
20161212 10.53



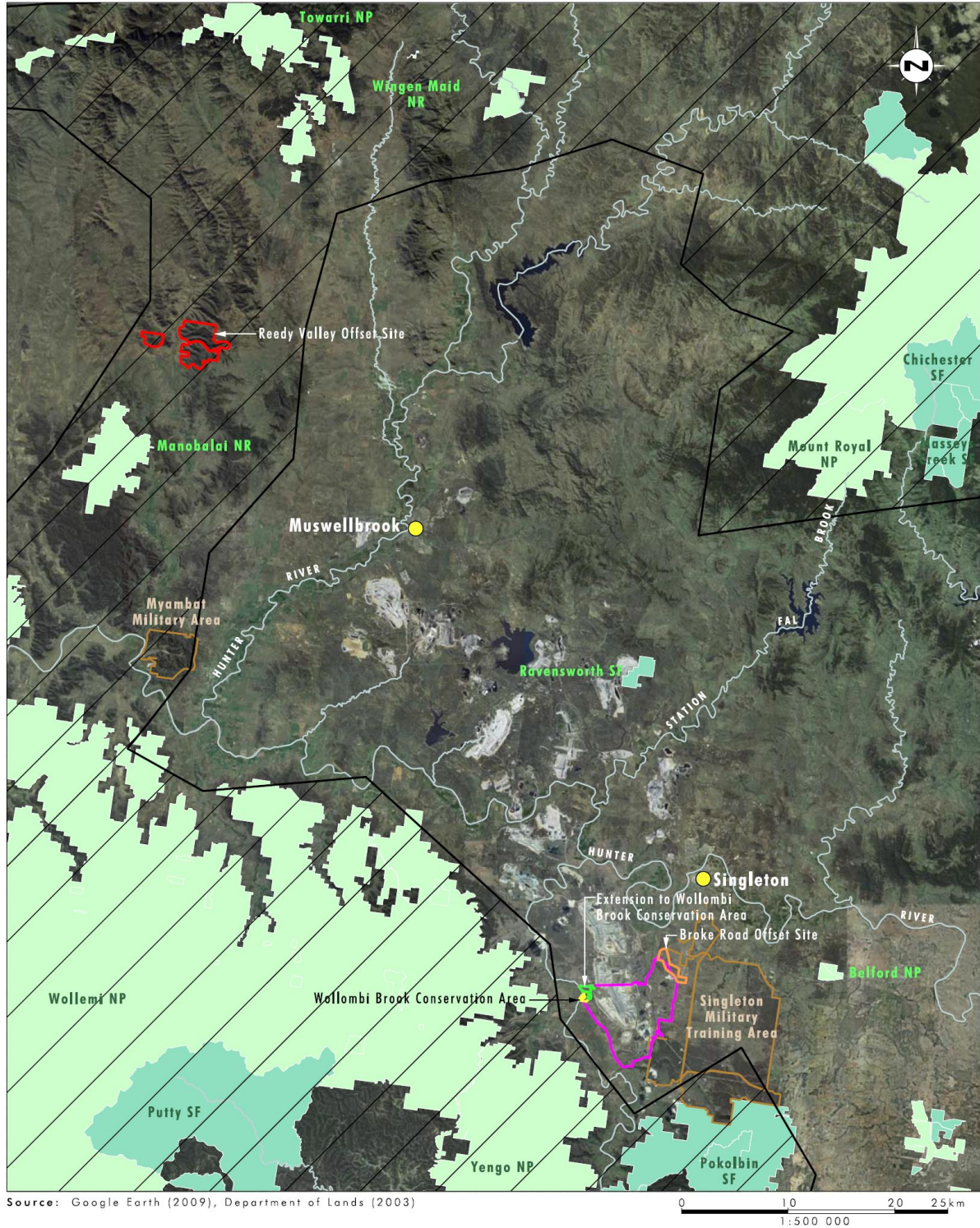
Legend

- | | |
|--|--|
| Revised Project Area | Commonwealth |
| Broke Residential Area | Crown Land/Road Reserve/State Rail |
| ● Residence Location | Mount Thorley Warkworth |
| ● Mine Owned Residence Location | Private Freehold |
| Bulga Coal | National Park |
| Mushroom Composter Pty Ltd | State Forest |

Land Ownership

File Name (A4): 2869_1041.dgn
20161214 13.01

34. Delete Figures 1 and 3 in Appendix 9 Biodiversity Offset Strategy and replace with the following:

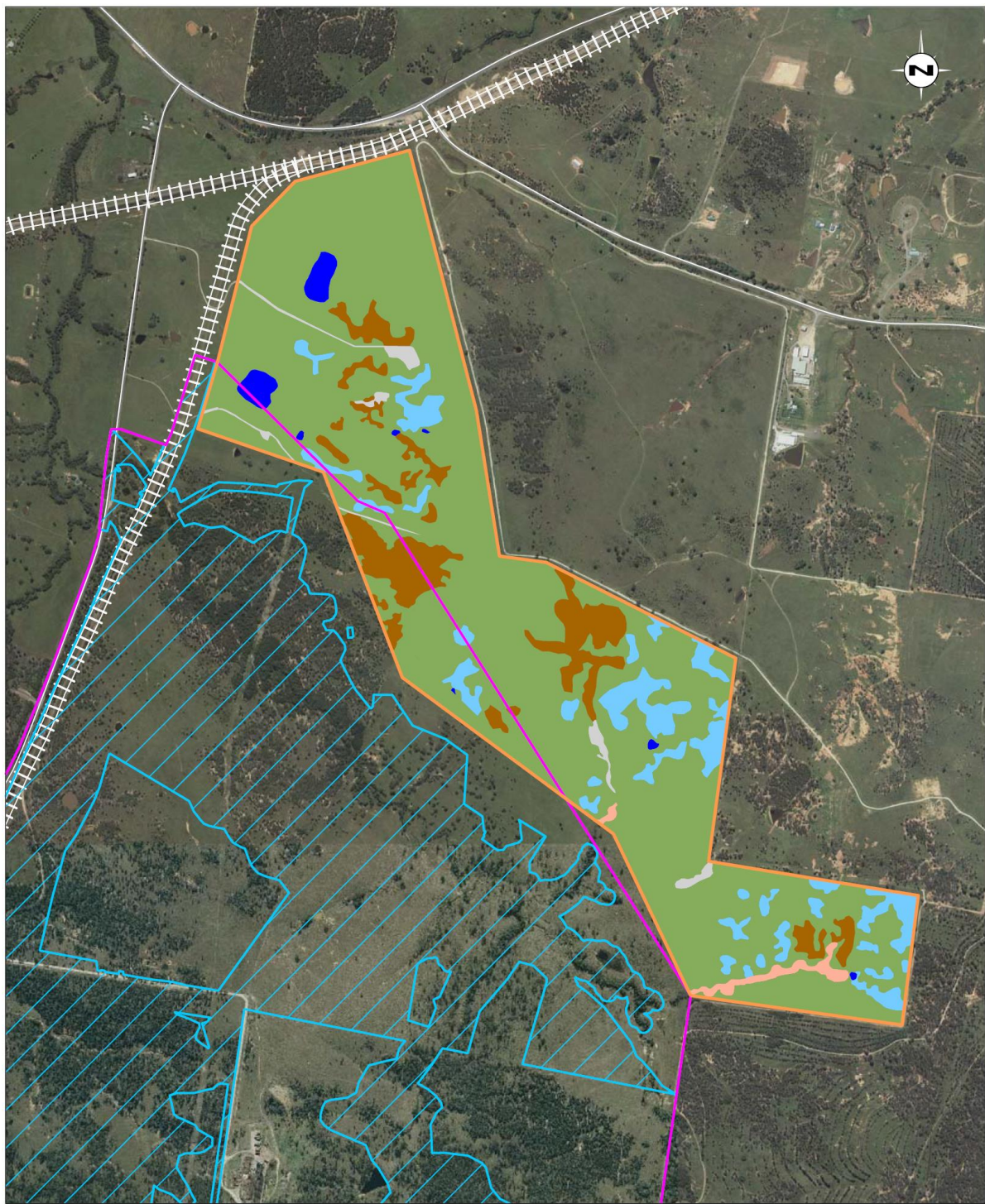


Legend

- | | |
|--|--|
| Revised Project Area | State Forest (SF) |
| Reedy Valley Offset Site | Military Area |
| Broke Road Offset Site | Great Eastern Ranges Conservation Corridor Initiative |
| Wollombi Brook Conservation Area | |
| Extension to Wollombi Brook Conservation Area | |
| National Park/Nature Reserve (NP/NR) | |

Location of Ecology
Offset Sites

File Name (A4): 2869_1040.dgn
20130823 16.03



Source: Aerial - AAM Pty Limited (March 2012), Glencore,
Boundaries - Bulga Coal (2013), Vegetation Communities - Umwelt (2013)

0 0.25 0.5 2.0 km
1:20 000

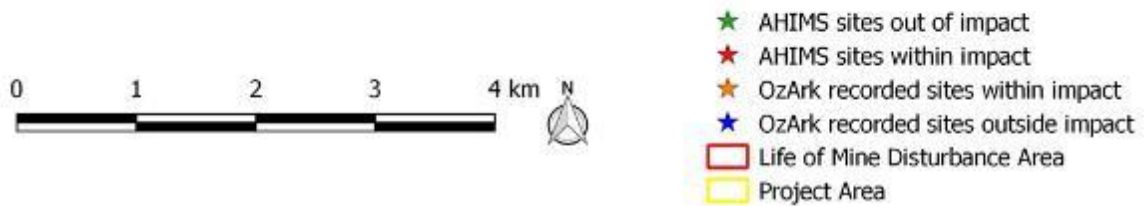
Legend

- Revised Project Area
- Revised Project Disturbance Footprint
- Broke Road Offset Site
- Central Hunter Grey Box - Ironbark Derived Native Grassland
- Central Hunter Grey Box - Ironbark Open Woodland
- Central Hunter Grey Box - Ironbark Woodland
- Central Hunter Swamp Oak Forest
- Disturbed
- Water body

Proposed Broke Road Offset Site

File Name (A4): 2869_1039.dgn
20161213 10.44

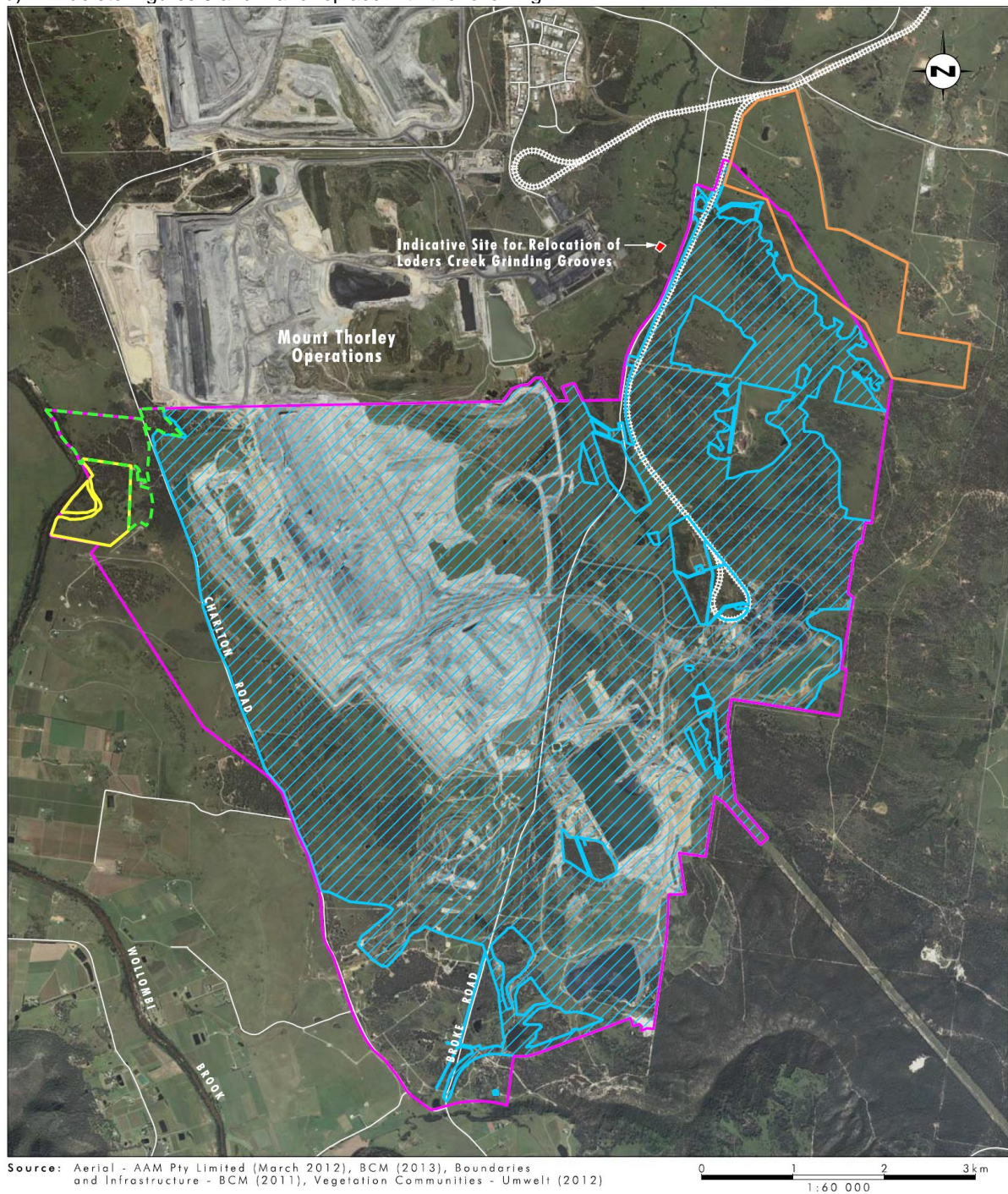
35. In Appendix 10 Heritage:
a) delete Figure 1 and replace with the following:



c) in Table 2, insert the following two rows to the bottom of the table:

37-6-2836	OS-2	Open Site	3
37-6-3661	BOP-IF-8	Isolated find	3

d) delete Figures 3 and 4 and replace with the following:



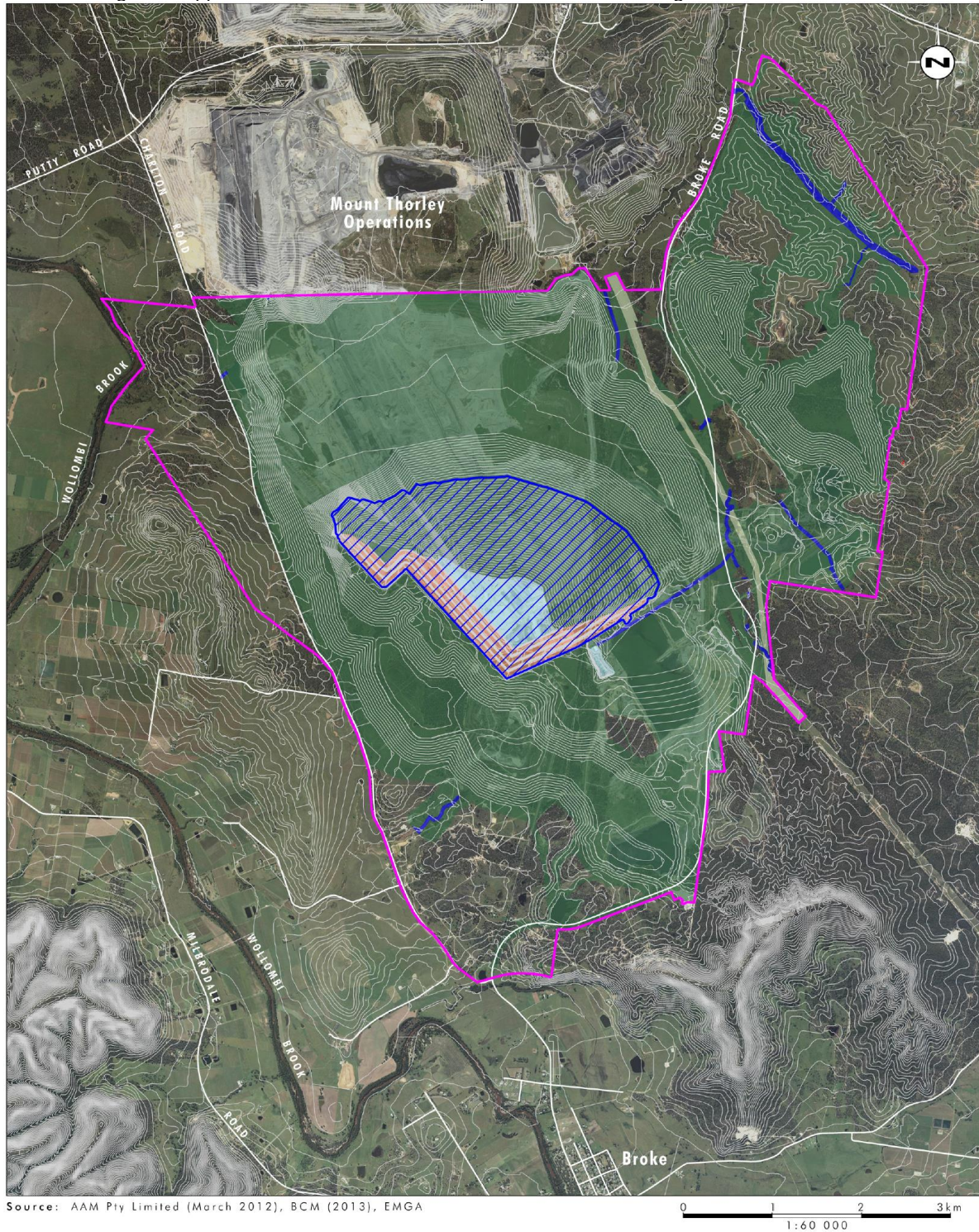
Legend

- Revised Project Area
- Revised Project Disturbance Footprint
- Proposed Broke Road Offset Site
- Existing Wallombi Brook Conservation Area
- Proposed Extension to Wallombi Brook Conservation Area

**Indicative Site for Relocation of
Loders Creek Grinding Grooves**

File Name (A4): R13/2869_809.dgn
20161213 11.08

36. Delete the Figure in Appendix 13 Rehabilitation and replace with the following:



Legend

- Revised Project Area
- Woodland
- Water
- Grassland
- Riparian Revegetation
- Highwall
- Maximum Void Water Level

File Name (A4): R19/2869_993.dgn
20160708 15:00

FIGURE 3.6
**Conceptual Final Landform
and Rehabilitation Areas**