

# Notice of Modification

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

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

[Name of Commissioner]  
Member of the Commission

[Name of Commissioner]  
Member of the Commission

Sydney

2019

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### SCHEDULE 1

The development consent for underground coal mining at the Dartbrook Underground Mine (DA 231-07-2000), granted by the Minister for Urban Affairs and Planning on 28 August 2001.

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### SCHEDULE 2

1. In the Definitions in Schedule 2, delete the terms "AEMR", "Construction", "DA area", "Director-General", "First Workings", "Independent Dispute Resolution Process", "Land Capability", "Mining Operations", "Secondary workings" and "Surface facilities" and their definitions and insert the following in alphabetical order:
  - Annual Review** - *The Annual Review required by Condition 9.2 (a)*
  - Applicant** - *AQC Dartbrook Management Pty Ltd, or any person carrying out any development under this consent*
  - Approved mine plan** - *The underground mine plan in Appendix 3*
  - Built features** - *Includes any building or work erected or constructed on land, and includes dwellings and infrastructure such as any formed road, street, path, walk, or driveway; any pipeline, water, sewer, telephone, gas or other service main*
  - Calendar year** - *A period of 12 months from 1 January to 31 December*
  - Construction** - *All physical works to enable mining operations to be carried out, including demolition and removal of buildings or works, and erection of buildings and other infrastructure permitted by this consent*
  - DA area** - *Development Application area which encompasses all surface and underground works on the site, as described in the documents referred to in Condition 1.1 (a)*
  - Decommissioning** - *The deconstruction or demolition and removal of works installed as part of the development*
  - Delivery shaft** - *The coal delivery shaft to the Hunter Tunnel as described in the documents listed in Condition 1.1(a)(xi)*
  - Development** - *The development described in the documents referred to in Condition 1.1 (a), as modified by the conditions of this consent*
  - First workings** - *Development of main headings, bord and pillar workings, longwall gate roads, related cut throughs and other in-seam workings for mine access and ventilation*
  - Environmental consequences** - *The environmental consequences of subsidence impacts, including: damage to built features, loss of surface water flows to the subsurface, loss of standing pools, slope changes to streams, adverse water quality impacts, development of iron bacterial mats, cliff falls, rock falls, landslides, damage to Aboriginal heritage sites, impacts on aquatic ecology, and ponding*
  - Incident** - *An occurrence or set of circumstances that causes or threatens to cause material harm and which may or may not be or cause a non-compliance*
  - Kayuga Entry** - *The mine entry to the Kayuga Seam located at the West Site*
  - Land** - *Has the same meaning as the definition of the term in section 1.4 of the Environmental Planning & Assessment Act 1979, except for where the term is used in the noise and air quality conditions 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

**Land capability** - Refers to the ability of a parcel of land to accept a type and intensity of use permanently, or for specified periods under specific management, without permanent damage

**Material harm** - Is harm that involves actual or potential harm to the health or safety of human beings or to the environment that is not trivial, or results in actual or potential loss or property damage of an amount, or amounts in aggregate, exceeding \$10,000 (such loss includes the reasonable costs and expenses that would be incurred in taking all reasonable and practicable measures to prevent, mitigate or make good harm to the environment). This definition excludes "harm" that is authorised under either this consent or any other statutory approval

**Mining operations** – The carrying out of underground mining within the area covered by the approved mine plan, the extraction, processing, stockpiling and transportation of coal on the site and the emplacement of coarse/fine coal reject material resulting from underground mining on the site

**Mine water** - Water that accumulates within, or drains from, active mining and infrastructure areas and any other areas where runoff may have come into contact with carbonaceous material

**Minor** - Not very large, important or serious

**Mitigation** - Activities associated with reducing the impacts of the development prior to or during the occurrence of those impacts

**Modification 7** - The modification to the development as described in the documents referred to in Condition 1.1 (a)(xi)

**Negligible** - Small and unimportant, such as to be not worth considering

**Non-compliance** - An occurrence, set of circumstances or development that is a breach of this consent

**Privately-owned land** - Land that is not owned by a public agency or a mining, petroleum or extractive industry company (or its subsidiary)

**Public infrastructure** - Linear and related infrastructure that provides services to the general public, such as roads, railways, water supply, drainage, sewerage, gas supply, electricity, telephone, telecommunications, etc

**Reasonable** - Means applying judgement in arriving at a decision, taking into account: mitigation benefits, cost of mitigation versus benefits provided and the nature and extent of potential improvements

**Recommencement** - Restarting construction or mining operations on the site after a period of care and maintenance

**Rehabilitation** - The restoration of land disturbed by the development to a good condition, to ensure it is safe, stable and non-polluting

**Remediation** - Activities associated with partially or fully repairing or rehabilitating the impacts of the development or controlling the environmental consequences of these impacts

**Residence** - Existing or approved dwelling at the date of grant of this consent

**Second workings** - Extraction of coal from longwall panels and mini-wall panels

**Secretary** - Planning Secretary under the Environmental Planning and Assessment Act 1979, or nominee

**Site** - The land defined in Appendix 1 Schedule of Lands

**Subsidence** - The totality of subsidence effects, subsidence impacts and environmental consequences of subsidence impacts

**Subsidence effects** - Deformation of the ground mass due to mining, including all mining-induced ground movements, such as vertical and horizontal displacement, tilt, strain and curvature

**Subsidence impacts** - Physical changes to the ground and its surface caused by subsidence effects, including tensile and shear cracking of the rock mass, localised buckling of strata caused by valley closure and upsidence and surface depressions or troughs

**Surface facilities** - Associated surface facilities and infrastructure to facilitate mining operations

2. In the list of Government Authorities in Schedule 2, delete the terms "DLWC", "DMR", "MSB", "NPWS", "SSC" and "RTA" and their definitions and insert the following in alphabetical order:

**ARTC** – Australian Rail Track Corporation

**Department** – NSW Department of Planning and Environment

**DoI** – NSW Department of Industry - Lands and Water

**DRG** – Division of Resources and Geoscience within the Department

**OEH** – Office of Environment and Heritage

**Resources Regulator** – NSW Resources Regulator

**RMS** – NSW Roads and Maritime Services

**SA NSW** – Subsidence Advisory NSW

**UHSC** – Upper Hunter Shire Council

3. After the list of Government Authorities in Schedule 2, delete the note.

4. Delete all references to "Director-General" and replace with "Secretary".

5. Delete all references to "DLWC" and replace with "DoI".
6. Delete all references to "DMR" and replace with "Resources Regulator", except in conditions 1.4, 2.1 and 12.1 of Schedule 2, where replace such references with "DRG".
7. Delete all references to "DUAP" and replace with "the Department".
8. Delete all references to "MSB" and "Mine Subsidence Board" and replace with "SA NSW".
9. Delete all references to "NPWS" and "the Director-General of NPWS" and replace with "OEH".
10. Delete all references to "RTA" and replace with "RMS".
11. Delete all references to "SSC" and replace with "UHSC".
12. Delete all references to "AEMR", "Annual Environmental Management Report" and "Annual Environmental Management Report (AEMR)" and replace with "Annual Review".
13. Delete all references to "shall" and replace with "must", except in:
  - a) the last paragraph of condition 1.1 (a) of Schedule 2;
  - b) in the note to condition 3.4 of Schedule 2;
  - c) the first instance in condition 11.2 (B) (d) of Schedule 2;
  - d) condition 11.2 (B) (e) of Schedule 2;
  - e) condition 11.2 (C) (a) (iv) of Schedule 2; and
  - f) condition 11.2 (D) (a) and (b) of Schedule 2.
14. In condition 1.1 (a) of Schedule 2:
  - a) at the end of subparagraph (ix), delete the word "and"; and
  - b) at the end of subparagraph (x), delete the full stop and replace with the following:
 

; and

    - (xi) The environmental assessment titled "*Dartbrook Mine Modification 7 Environmental Assessment Kayuga Seam Bord and Pillar Mining Operations*", dated June 2018 and prepared by Hansen Bailey Environmental Consultants, and the associated Response to Submissions titled "*Dartbrook Mine Modification 7 Response to Submissions*", dated August 2018 and prepared by Hansen Bailey Environmental Consultants, and the additional information dated 12 October and 13 November 2018.
  - (a1) The development must be carried out in compliance with the conditions of this consent.
  - (a2) The development must be carried out generally in accordance with the development layout in Appendix 2 and the approved mine plan in Appendix 3.
  - (a3) Consistent with the requirements in this consent, the Secretary may make written directions to the Applicant in relation to:
    - (i) the content of any strategy, study, system, plan, program, review, audit, notification, report or correspondence submitted under or otherwise made in relation to this consent, including those that are required to be, and have been, approved by the Secretary; and
    - (ii) the implementation of any actions or measures contained in any such document referred to in Condition 1.1 (a).
15. In the note after condition 1.1 (d) of Schedule 2, delete "11.1,".
16. Delete condition 1.2 (a) of Schedule 2, and replace with the following:
  - (a) Mining operations may be carried out on the site until 5 December 2027.
 

**Note:** *Under this consent, the Applicant is required to decommission and rehabilitate the site and carry out other requirements in relation to mining operations. Consequently, this consent will continue to apply in all respects other than to permit the carrying out of mining operations until the rehabilitation of the site and other requirements have been carried out to the required standard.*
17. Delete condition 1.3 of Schedule 2.
18. In condition 2.1 (b) of Schedule 2:
  - a) delete subparagraph (i); and

b) at the end of subparagraph (v) delete and the semicolon and replace with the following:

that:

- describes how the rehabilitation of the site would achieve the objectives identified in Table 3 (see Condition 3.7 (a));
- include detailed performance and completion criteria for evaluating the performance of the rehabilitation of the site (including progressive rehabilitation), and triggering remedial action (if necessary); and
- include a program to monitor and report on the effectiveness of the rehabilitation measures and progress against the detailed performance and completion criteria; and

19. In condition 2.1 (c) of Schedule 2, delete the words "Mine Operations Plan" and replace with "MOP".
20. In conditions 2.2, 3.4, 3.5 (a), 3.8 (a) and 4.1 (a) of Schedule 2 delete the word "commencement" and replace with "recommencement".
21. At the end of condition 2.2 of Schedule 2, insert "The plan must describe the measures to be implemented to prevent, detect and control spontaneous combustion."
22. In condition 2.3 (a) of Schedule 2:
  - a) delete the word "generally"; and
  - b) delete the second sentence.
23. At the end of condition 2.3 (c) of Schedule 2, insert the following:

***Note:** Road transport operating hours are further restricted by Conditions 7.2 (c) and (d).*

24. Delete condition 3.1 of Schedule 2.
25. Delete condition 3.2 (a) and (b) of Schedule 2 and replace with:
  - (a) Prior to the recommencement of mining operations, the Applicant must prepare an Environmental Management Strategy for the development.
  - (b) This strategy must:
    - (i) provide the strategic framework for environmental management of the development;
    - (ii) identify the statutory approvals that apply to the development;
    - (iii) set out the role, responsibility, authority and accountability of all key personnel involved in the environmental management of the development;
    - (iv) set out the procedures to be implemented to:
      - keep the local community and relevant agencies informed about the operation and environmental performance of the development;
      - receive, record, handle and respond to complaints;
      - resolve any disputes that may arise during the course of the development;
      - respond to any non-compliance and any incident;
      - respond to emergencies; and
    - (v) include:
      - references to any strategies, plans and programs approved under the conditions of this consent; and
      - a clear plan depicting all the monitoring to be carried out under the conditions of this consent.
26. Delete condition 3.2 (c) of Schedule 2.
27. In condition 3.2 (d) of Schedule 2:
  - a) in the first dot point, delete the words "Property Subsidence Management" and replace with "Extraction";
  - b) in the second dot point, after the words "Archaeology and Cultural", insert "Heritage";
  - b) after the ninth dot point, insert the following:
    - Flood Response Plan (refer condition 4.3(a))

c) delete the eleventh dot point and replace with the following:

- Air Quality and Greenhouse Gas Management Plan (refer condition 6.1(f))

- d) delete the sixteenth dot point; and
- e) delete the paragraph after the last dot point.

28. Delete conditions 3.2 (e) and (f) of Schedule 2 and replace with the following:

- (e) The Applicant must implement the environmental management plans in Condition 3.2 (d) as approved by the Secretary.

#### Management Plan Requirements

- (f) Management plans required under this consent must be prepared in accordance with relevant guidelines, and include:
  - (i) a summary of relevant background or baseline data;
  - (ii) details of:
    - the relevant statutory requirements (including any relevant approval, licence or lease conditions);
    - any relevant limits or performance measures and criteria; and
    - 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;
  - (iii) description of the measures to be implemented to comply with the relevant statutory requirements, limits, or performance measures and criteria;
  - (iv) a program to monitor and report on the:
    - impacts and environmental performance of the development; and
    - effectiveness of the management measures set out pursuant to paragraph (iii);
  - (v) 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;
  - (vi) a program to investigate and implement ways to improve the environmental performance of the development over time;
  - (vii) a protocol for managing and reporting any:
    - incident, non-compliance or exceedance of any impact assessment criterion or performance criterion);
    - complaint; or
    - failure to comply with other statutory requirements; and
  - (viii) 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.*

#### Evidence of Consultation

- (g) Where conditions of this consent require consultation with an identified party, the Applicant must:
  - (i) consult with the relevant party prior to submitting the subject document; and
  - (ii) provide details of the consultation undertaken including:
    - the outcome of that consultation, matters resolved and unresolved; and
    - details of any disagreement remaining between the party consulted and the Applicant and how the Applicant has addressed the matters not resolved.

#### Staging, Combining and Updating Strategies, Plans or Programs

- (h) With the approval of the Secretary, the Applicant may:
  - (i) prepare and submit any strategy, plan or program required by this consent on a staged basis (if a clear description is provided as to the specific stage and scope of the development to which the strategy, plan or program applies, the relationship of the stage to any future stages and the trigger for updating the strategy, plan or program);
  - (ii) combine any strategy, plan or program required by this consent (if a clear relationship is demonstrated between the strategies, plans or programs that are proposed to be combined);

- (iii) update any strategy, plan or program required by this consent (to ensure the strategies, plans and programs required under this consent are updated on a regular basis and incorporate additional measures or amendments to improve the environmental performance of the development); and
  - (iv) combine any strategy, plan or program required by this consent with any similar strategy, plan or program required by a consent or approval for an adjoining mine subject to common, shared or related ownership or management.
- (i) With the agreement of the Secretary, a strategy, plan or program may be staged or updated without consultation being undertaken with all parties required to be consulted in the relevant condition in this consent.

Revision of Strategies, Plans and Programs

- (j) Within three months of:
- (i) the notification of an incident under Condition 9.3 (a);
  - (ii) the submission of an Annual Review under Condition 9.2 (a);
  - (iii) the submission of an Independent Environmental Audit under Condition 8.1 (a); or
  - (iv) the approval of any modification of the conditions of this consent (unless the condition specifies otherwise),
- the suitability of existing strategies, plans and programs required under this consent must be reviewed by the Applicant.
- (k) If necessary, to either improve the environmental performance of the development, cater for a modification or comply with a direction, the strategies, plans and programs required under this consent must be revised, to the satisfaction of the Secretary. Where revisions are required, the revised document must be submitted to the Secretary for approval within six weeks of the completion of the review on Condition 3.2 (j).

**Note:** *This is to ensure strategies, plans and programs are updated on a regular basis and to incorporate any recommended measures to improve the environmental performance of the development.*

Application of Existing Strategies, Plans or Programs

- (l) The Applicant must continue to apply existing management strategies, plans or monitoring programs approved prior to the approval of Modification 7, until the approval of a similar plan, strategy or program following the approval of Modification 7.

29. Delete condition 3.3 including the heading and replace with:

**3.3 Extraction Plan**

- (a) The Applicant must prepare an Extraction Plan for all second workings on the site to the satisfaction of the Secretary. Each Extraction Plan must:
- (i) be prepared by a suitably qualified and experienced person/s;
  - (ii) include detailed plans of existing and proposed first and second workings and overlying surface features, including any applicable adaptive management measures;
  - (iii) include adequate consideration of mine roof and floor conditions, pillar width to height ratio, final pillar design dimensions and the long-term stability of pillars which has been undertaken in consultation with the Resources Regulator;
  - (iv) provide updated predictions of the potential subsidence effects, subsidence impacts and environmental consequences of the proposed mining covered by the Extraction Plan, incorporating any recently obtained information;
  - (v) describe in detail the performance indicators to be implemented to ensure compliance with the performance measures in Table 1 and Table 2, and manage or remediate any impacts and/or environmental consequences to meet the rehabilitation objectives in Condition 3.7 (a);
  - (vi) include a:
    - **Subsidence Monitoring Program** which has been prepared in consultation with the Resources Regulator to:
      - describe the ongoing conventional and non-conventional subsidence monitoring program;
      - provide data to assist with the management of risks associated with conventional and non-conventional subsidence;

- validate the conventional and non-conventional subsidence predictions; and
- analyse the relationship between the predicted and actual conventional and non-conventional subsidence effects and predicted and actual impacts under the plan and any ensuing environmental consequences;
- **Built Features Management Plan** which has been prepared in consultation with the Resources Regulator, to manage the potential subsidence impacts of the proposed underground workings on built features (excluding mine-owned infrastructure), and which:
  - has been prepared in consultation with the owners of potentially affected features and has taken their views into account;
  - ensures that, with the consent of the owner, a pre-mining structural inspection is conducted of each structure and a report prepared on the structural integrity of all buildings in their entirety (including roofs, ceilings, openings, foundations and household sewage treatment and disposal systems);
  - addresses in appropriate detail all items of key public infrastructure (with particular consideration of transmission lines and towers (including angle towers), other public infrastructure and all classes of other built features);
  - recommends appropriate pre-mining mitigation measures to reduce environmental consequences and comply with the performance measures in Table 2;
  - recommends appropriate remedial measures and includes commitments to mitigate, repair, replace or compensate 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 which may impact the infrastructure;
- **Water Management Plan** which has been prepared in consultation with EPA and DoI, which provides for the management of potential impacts and/or environmental consequences of the proposed second workings on surface water and groundwater resources and flooding, including:
  - surface and groundwater impact assessment criteria that build on the performance measures in Tables 1 and 4;
  - a program to monitor and report on compliance with the surface and groundwater impact assessment criteria, including:
    - stream flows, quality and channel stability;
    - groundwater inflows to underground workings;
    - the height of groundwater depressurisation; and
    - groundwater levels, yield and quality, including for privately-owned bores, in the vicinity of the site; and
  - a program to compare predicted impacts with actual impacts, including mapping of subsidence profiles;
- **Biodiversity Management Plan** which has been prepared in consultation with OEH, which provides for the management of 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 groundwater dependent ecosystems;
- **Land Management Plan** which has been prepared in consultation with any affected public authorities, which provides for the management of potential impacts and/or environmental consequences of the proposed second workings on land in general, with a specific focus on agricultural enterprises, cliffs, minor cliffs, rock face features and steep slopes;
- **Heritage Management Plan** which has been prepared in consultation with OEH and relevant stakeholders for heritage items, which provides for the management of potential impacts and/or environmental consequences of the proposed second workings on heritage items and includes all requirements under Condition 3.4;
- **Public Safety Management Plan** which has been prepared in consultation with the Resources Regulator to ensure public safety and manage access on the site;
- **Trigger Action Response Plan** to identify risks and specific follow up actions to avoid or remediate exceedances of the performance measures in Table 1 and Table 2; and
- **Contingency Plan** that expressly provides for adaptive management where monitoring indicates that there has been an exceedance of any performance measure in Table 1 and Table 2, or where any such exceedance appears likely.

**Notes:**

- This condition does not apply to first or second workings which are covered by an Extraction Plan or Subsidence Management Plan approved, or submitted for approval, prior to the approval of Modification 7.
- In accordance with Condition 3.2 (j), the preparation and implementation of Extraction Plans may be staged, with each plan covering a defined area of underground workings. In addition, these plans are only required to contain management plans that are relevant to the specific underground methods that are being carried out.

- (b) The Applicant must not undertake second workings until the relevant Extraction Plan is approved by the Secretary.
- (c) The Applicant must compensate landowners for compensable loss in accordance with the provisions of the Mining Act 1992 and/or the Coal Mine Subsidence Compensation Act 2017.

Performance Measures – Natural and Heritage Features

- (d) The Applicant must ensure that second workings do not cause any exceedances of the performance measures in Table 1.

**Table 1: Subsidence impact performance measures – natural and heritage features etc**

<b>Feature</b>	<b>Performance Measures</b>
<b>Watercourses</b>	
6 <sup>th</sup> Order Streams and their alluvium	<ul style="list-style-type: none"> <li>• Negligible subsidence impacts and environmental consequences</li> </ul>
4 <sup>th</sup> and 5 <sup>th</sup> Order Streams and their alluvium	<ul style="list-style-type: none"> <li>• No subsidence impact or environmental consequence greater than minor</li> <li>• No connective cracking between the surface, or the base of the alluvium, and the underground workings</li> </ul>
1 <sup>st</sup> , 2 <sup>nd</sup> and 3 <sup>rd</sup> Order Streams	<ul style="list-style-type: none"> <li>• No subsidence impact or environmental consequence greater than predicted in the documents referred to in Condition 1.1 (a)</li> </ul>
<b>Water Resources</b>	
Hunter Unregulated and Alluvial Water Sources	<ul style="list-style-type: none"> <li>• No greater environmental consequences greater than predicted in the documents referred to in Condition 1.1 (a) or as permitted under the performance measures for Watercourses (above)</li> </ul>
<b>Biodiversity</b>	
Threatened species, threatened populations, or endangered ecological communities	<ul style="list-style-type: none"> <li>• Negligible environmental consequences</li> </ul>
<b>Agriculture</b>	
Agricultural enterprises	<ul style="list-style-type: none"> <li>• Negligible loss in land capability or agricultural productivity</li> </ul>
<b>Heritage sites</b>	
Aboriginal and Heritage sites	<ul style="list-style-type: none"> <li>• Negligible subsidence impacts or environmental consequences</li> <li>• Negligible loss of heritage value</li> </ul>

**Notes:**

- Streams are classified in accordance with the Strahler stream order system.
- These performance measures apply to all mining taking place after the date of approval of Modification 7.
- The Applicant will be required to define more detailed performance criteria for each of these performance measures in the various management plans that are required under this consent (see Condition 3.3(a)).

- (e) Measurement and monitoring of compliance with performance measures and performance criteria in this consent is to be undertaken using generally accepted methods that are appropriate to the environment and circumstances in which the feature or characteristic is located. These methods are to be fully described in the relevant management plans and monitoring programs. In the event of a dispute over the appropriateness of proposed methods, the Secretary will be the final arbiter.

Additional Offsets

- (f) If the Applicant exceeds the performance measures in Table 1 and the Secretary determines that:
- (i) it is not reasonable or feasible to remediate the subsidence impact or environmental consequence; or
  - (ii) remediation measures implemented by the Applicant have failed to satisfactorily remediate the subsidence impact or environmental consequence,
- then the Applicant must provide a suitable offset to compensate for the subsidence impact or environmental consequence, to the satisfaction of the Secretary.

Performance Measures – Built Features

- (g) The Applicant must ensure that second workings meet the performance measures in Table 2.

**Table 2: Subsidence impact performance measures – built features**

<b>Feature</b>	<b>Performance Measures</b>
<i>Key Public Infrastructure</i>	
<ul style="list-style-type: none"> <li>• Dartbrook and Dorset Roads</li> <li>• Main Northern Railway; and</li> <li>• Electricity transmission lines and towers</li> </ul>	<ul style="list-style-type: none"> <li>• Always safe and serviceable</li> <li>• Damage that does not affect safety or serviceability must be fully repairable and must be fully repaired</li> </ul>
<i>Other Infrastructure</i>	
<ul style="list-style-type: none"> <li>• Electricity distribution lines, poles and associated towers;</li> <li>• Unsealed roads and road culverts, fire trails, fences and other built features; and</li> <li>• Other public infrastructure</li> <li>• Privately-owned residences</li> <li>• Other privately-owned built features and improvements, including farm dams, swimming pools, tennis courts, roads, tracks and fences</li> </ul>	<ul style="list-style-type: none"> <li>• Always safe</li> <li>• Serviceability should be maintained wherever practicable</li> <li>• Loss of serviceability must be fully compensated</li> <li>• Damage must be fully repairable and must be fully repaired or else replaced or fully compensated</li> </ul>
<i>Public safety</i>	
<ul style="list-style-type: none"> <li>• Public Safety</li> </ul>	<ul style="list-style-type: none"> <li>• Negligible additional risk.</li> </ul>

**Notes:**

- These performance measures apply to all mining taking place after the approval of Modification 7.
  - These performance measures do not apply to built features owned by the Applicant.
  - The Applicant will be required to define more detailed performance measures in the Built Features Management Plans or Public Safety Management Plan (see Condition 3.3(a)).
  - Requirements regarding safety or serviceability do not prevent preventative or mitigatory actions being taken prior to or during mining in order to achieve or maintain these outcomes.
  - Requirements under this condition may be met by measures undertaken in accordance with the Coal Mine Subsidence Compensation Act 2017.
- (h) Any dispute between the Applicant and the owner of any built feature over the interpretation, application or implementation of the performance measures in Table 2 is to be settled by the Secretary, following consultation with the Resources Regulator. Any decision by the Secretary shall be final.

First Workings

- (i) The Applicant may carry out first workings within the approved mine plan, other than in accordance with an approved Extraction Plan, provided that the Resources Regulator is satisfied that the first workings are designed to remain stable and non-subsiding in the long-term, except insofar as they may be impacted by approved second workings.

**Note:** The intent of this condition is not to require an additional approval for first workings, but to ensure that first workings are built to geotechnical and engineering standards sufficient to ensure long-term stability, with negligible resulting direct subsidence impacts.

Bord and Pillar Mining

- (j) Prior to undertaking bord and pillar extraction of the Kayuga Seam above previously extracted Wynn Seam longwall panels (see the area identified in Figure 8 of Appendix 3 as the 'Geotechnical Investigation Area'), the Applicant must prepare and submit to the Secretary for approval, a geotechnical study. This study must:
- (i) be undertaken in consultation with the Resources Regulator; and
  - (ii) describe the final pillar design including pillar width to height ratio, final pillar design dimensions and long-term pillar stability predictions.
30. In condition 3.4 (a) of Schedule 2:
- a) after the words "Archaeology and Cultural", insert "Heritage";
  - b) after the words "in consultation with", insert "local Aboriginal stakeholders including";
  - c) after "OEH", insert "in accordance with the *Aboriginal Cultural Heritage Consultation Requirements for proponents* (2010)";
  - d) in subparagraph (i), after the word "mining", insert "including protecting extant sites MAC 15 and KAY 4";
  - d) in subparagraphs (iii) and (v), delete the words "Upper Hunter Wonnarua Tribal Council and Wannaruah Local Aboriginal Land Council", and replace with "Aboriginal stakeholders"; and
  - e) after subparagraph (iv), insert the following:
    - (iv1) an unanticipated finds protocol to manage the discovery of any unrecorded Aboriginal heritage sites;
31. In condition 3.4 (d) of Schedule 2, delete the first sentence and replace with "The Applicant is to consult regularly with Aboriginal stakeholders".
32. In condition 3.4 (g) of Schedule 2, after the words "Archaeology and Cultural", insert "Heritage".
33. In condition 3.5 (h) of Schedule 2, delete the words "in accordance with the Department of Mineral Resource's Guidelines to the Mining, Rehabilitation and Environmental Management Process (March 1998) or its latest version".
34. In condition 3.5 (k) of Schedule 2, delete the words "by the environmental officer".
35. Delete condition 3.6 (a) of Schedule 2 and replace with the following:
- (k) The Applicant must, prior to the recommencement of construction or mining operations, prepare an Erosion and Sediment Control Plan for construction and ongoing use of surface facilities to the satisfaction of the Secretary.
36. In condition 3.6 (c) of Schedule 2, in subparagraph (iv), delete the word "EIS" and replace with "the documents referred to in Condition 1.1 (a)".
37. Delete condition 3.7 of Schedule 2 and replace with the following:
- (a) The Applicant must rehabilitate the site to the satisfaction of the Resources Regulator. This rehabilitation must be generally consistent with the proposed rehabilitation activities described in the documents referred to in Condition 1.1 (a) and comply with the objectives in Table 3.

**Table 3: Rehabilitation objectives**

<b>Feature</b>	<b>Objective</b>
All areas of the site affected by the development	<ul style="list-style-type: none"> <li>• Safe, stable and non-polluting</li> <li>• Fit for the intended post-mining land use/s</li> </ul>
Areas proposed for native ecosystem re-establishment	<ul style="list-style-type: none"> <li>• Establish self-sustaining ecosystems comprising flora species selected to re-establish and complement local and regional biodiversity</li> </ul>
Areas proposed for agricultural or pastoral use	<ul style="list-style-type: none"> <li>• Nominated land capability classification is achieved and is self-sustaining</li> </ul>
Final Landform	<ul style="list-style-type: none"> <li>• Consistent with surrounding topography to minimise visual impacts</li> </ul>

<b>Feature</b>	<b>Objective</b>
	<ul style="list-style-type: none"> <li>• Incorporate relief patterns and design principles consistent with natural drainage</li> </ul>
Rehabilitation materials	<ul style="list-style-type: none"> <li>• Soil and vegetative materials from areas disturbed under this consent (including topsoils, substrates and seeds) are recovered, managed and used as rehabilitation resources</li> </ul>
Surface infrastructure of the development	<ul style="list-style-type: none"> <li>• Decommissioned and removed, unless the Resources Regulator agrees otherwise</li> <li>• All surface infrastructure sites are to be revegetated consistent with the post-mining land use</li> </ul>
Portals and vent shafts of the development	<ul style="list-style-type: none"> <li>• To be decommissioned and made safe and stable</li> <li>• Retain habitat for threatened species (e.g. bats), where practicable</li> </ul>
Watercourses subject to mine water discharges and/or subsidence impacts or environmental consequences that are greater than negligible	<ul style="list-style-type: none"> <li>• Hydraulically and geomorphologically stable</li> <li>• Aquatic ecology and riparian vegetation that is the same or better than prior to grant of this consent</li> </ul>
Water quality	<ul style="list-style-type: none"> <li>• Water retained on the site is fit for the intended post-mining land use/s</li> <li>• Water management is consistent with the regional catchment management strategy</li> </ul>
Built features damaged by mining operations	<ul style="list-style-type: none"> <li>• Repair to pre-mining condition or equivalent unless the: <ul style="list-style-type: none"> <li>○ owner agrees otherwise; or</li> <li>○ damage is fully restored, repaired or compensated for under the <i>Coal Mine Subsidence Compensation Act 2017</i></li> </ul> </li> </ul>
Cliffs, minor cliffs, rock face features and steep slopes	<ul style="list-style-type: none"> <li>• No additional risk to public safety compared to prior to mining</li> </ul>
Community	<ul style="list-style-type: none"> <li>• Ensure public safety</li> <li>• Minimise adverse socio-economic effects associated with mine closure</li> </ul>

**Notes:**

- *These rehabilitation objectives apply to all subsidence impacts and environmental consequences caused by all underground mining as part of the development and to all surface infrastructure components of the development.*
- *Where remediation of watercourses is likely to cause environmental consequences greater than those that require rehabilitation, alternative equivalent works may be undertaken within the affected watercourse.*

- (b) The Applicant must rehabilitate the site progressively, that is, as soon as reasonably practicable following disturbance. All reasonable steps must be taken to minimise the total area exposed at any time. Interim stabilisation and temporary vegetation strategies must be employed when areas prone to dust generation, soil erosion and weed incursion cannot 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.*

38. In condition 3.8 (a) of Schedule 2:
- after the words “Aberdeen sheet of”, delete “Resources Regulator” (where inserted by this instrument) and replace with “the”; and
  - delete the words “Drift Access” and replace with “Kayuga Entry”.
39. In condition 3.8 (c), delete “If the matter cannot be resolved within 21 days, the matter shall be referred to the Independent Dispute Resolution Process. The decision of the Independent Dispute Resolution Process shall be final, as agreed by the Director-General.”
40. At the end of condition 3.9 (b) of Schedule 2, delete the word “and” and insert the following:
- ensure all flammable materials are stored and handled in accordance with its Material Data Safety Sheets and relevant Australian Standard;

(b2) include fire safety as part of mine safety inductions for employees and contractors; and

41. In condition 4.1 (a) of Schedule 2:

a) in subparagraph (i), delete the words “within the areas covered by the water management plans;” and replace with the following:

to comply with the water performance measures in Table 4, including:

- 1) surface and groundwater impact assessment criteria; and
- 2) a description of the water management system and water balance;

b) in subparagraphs (ii) and (ix), delete the word “dirty” and replace with “mine”; and

c) delete subparagraph (vii).

42. Delete conditions 4.1 (c) and (d) and replace with the following:

(b1) The Applicant must comply with the performance measures in Table 4.

**Table 4: Water management performance measures**

<b>Feature</b>	<b>Performance Measure</b>
Water management – General	<ul style="list-style-type: none"> <li>• Maintain separation between clean and mine water management systems</li> <li>• Minimise the use of clean and potable water on the site</li> <li>• Minimise the use of make-up water from external sources</li> <li>• Design, install, operate and maintain water management infrastructure in a proper and efficient manner</li> </ul>
Erosion and sediment control works	<ul style="list-style-type: none"> <li>• Design, install and maintain erosion and sediment controls in accordance with the guidance series <i>Managing Urban Stormwater: Soils and Construction</i> including <i>Volume 1: Blue Book (Landcom, 2004)</i>, <i>Volume 2A: Installation of Services (DECC, 2008)</i>, <i>Volume 2C: Unsealed Roads (DECC, 2008)</i> and <i>Volume 2E: Mines and Quarries (DECC, 2008)</i></li> <li>• Design, install and maintain any infrastructure within 40 metres of watercourses in accordance with the guidance series for <i>Controlled Activities on Waterfront Land</i> (DPI Water, 2012)</li> <li>• Design, install and maintain any creek crossings generally in accordance with the <i>Fisheries NSW Policy and Guidelines for Fish Habitat Conservation and Management</i> (DPI, 2013) and <i>Why Do Fish Need To Cross The Road? Fish Passage Requirements for Waterway Crossings</i> (NSW Fisheries 2003)</li> </ul>
Clean water diversions and storage infrastructure	<ul style="list-style-type: none"> <li>• Design, install and maintain the clean water system to capture and convey the 100 year Annual Recurrence Interval (ARI) flood</li> <li>• Maximise as far as reasonable the diversion of clean water around disturbed areas on the site, except where clean water is captured for use on the site</li> </ul>
Sediment dams	<ul style="list-style-type: none"> <li>• Design, install and maintain sediment dams in accordance with the guidance series <i>Managing Urban Stormwater: Soils and Construction</i> including <i>Volume 1: Blue Book (Landcom, 2004)</i> and <i>Volume 2E: Mines and Quarries (DECC, 2008)</i></li> </ul>
Mine water storages	<ul style="list-style-type: none"> <li>• Design, install and maintain mine water storage infrastructure to avoid unlicensed or uncontrolled discharges to surface waters as far as reasonable and practicable</li> </ul>
Mine water discharges	<ul style="list-style-type: none"> <li>• No discharges to surface waters except in accordance with an Environment Protection Licence, section 120 of the <i>Protection of the Environment Operations Act 1997</i> or <i>Protection of the Environment Operations (Hunter River Salinity Trading Scheme) Regulation 2002</i></li> </ul>
Chemical and hydrocarbon storage	<ul style="list-style-type: none"> <li>• Chemical and hydrocarbon products to be stored in bunded areas in accordance with the relevant Australian Standard</li> </ul>
Tailings storages	<ul style="list-style-type: none"> <li>• Design and maintain tailings storage areas to encapsulate and prevent the release of tailings seepage/leachate</li> </ul>

**Note:** These performance measures apply to all mining taking place after the approval of Modification 7.

Compensatory Water Supply

(c) The Applicant must provide a compensatory water supply to any landowner of privately-owned land whose rightful water supply is adversely and directly impacted (other than an impact that is minor or

negligible) as a result of the development, in consultation with DoI, and to the satisfaction of the Secretary.

- (c1) The compensatory water supply measures must provide an alternative long-term supply of water that is equivalent, in quality and volume, to the loss attributable to the development. Equivalent water supply should be provided (at least on an interim basis) as soon as practicable after the loss is identified, unless otherwise agreed with the landowner.
- (c2) If the Applicant and the landowner cannot agree on whether the loss of water is to be attributed to the development or 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.
- (c3) If the Applicant is unable to provide an alternative long-term supply of water, then the Applicant must provide compensation, to the satisfaction of the Secretary.

**Notes:**

- *The Water Management Plan (see Condition 4.1(a)) is required to include trigger levels for investigating potentially adverse impacts on private water supplies.*
- *The burden of proof that any loss of surface water or groundwater access is not due to mining impacts rests with the Applicant.*

Water Supply

- (d) The Applicant must ensure that it has sufficient water for all stages of the development, and if necessary, adjust the scale of the development to match its available water supply.
- (d1) The Applicant must report on water extracted from the site each year (direct and indirect) in the Annual Review, including water taken under each water licence.

**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, including during rehabilitation and following mine closure.*

43. After condition 4.2 of Schedule 2, insert the following:

**4.3 Flood Response Plan**

- (a) The Applicant must, prior to the commencement of construction of the delivery shaft, prepare and implement a Flood Response Plan, to the satisfaction of the Secretary. The Plan must identify flood risks and describe the mitigation measures and management procedures to mitigate these risks during construction and operation of the delivery shaft and ensure the safety of personnel on the site during flood events.

**Notes:**

- *In this condition, "flood" is considered to be any event exceeding the 20% Annual Exceedance Probability (AEP) up to and including the Probably Maximum Flood (PMF) event.*
- *Under the Work Health and Safety Act 2011 and the Work Health and Safety (Mines and Petroleum Sites) Act 2013, the Applicant is responsible for ensuring the safety of its workers and contractors.*

44. In condition 5.1 of Schedule 2, delete all occurrences of "Department of Primary Industries" and replace with "Resources Regulator".

45. Delete conditions 6.1 (a1) to (f) of Schedule 2, including the headings, and replace with the following:

Air Quality Standards/Goals

- (a) The Applicant must 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 listed in Table 5 at any residence on privately-owned land.

**Table 5:** *Air quality criteria*

<b>Pollutant</b>	<b>Averaging period</b>	<b>Criterion</b>
Particulate matter	Annual	a, c 25 µg/m <sup>3</sup>
< 10 µm (PM <sub>10</sub> )	24 hour	b 50 µg/m <sup>3</sup>
Particulate matter	Annual	a, c 8 µg/m <sup>3</sup>

< 2.5 µm (PM <sub>2.5</sub> )	24 hour	<sup>b</sup> 25 µg/m <sup>3</sup>
Total suspended particulate (TSP) matter	Annual	<sup>a, c</sup> 90 µg/m <sup>3</sup>

**Notes:**

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

- (b) The air quality criteria in Table 5 do not apply if the Applicant has an agreement with the owner/s of the relevant residence or land to exceed the air quality criteria, and the Applicant has advised the Department in writing of the terms of this agreement.
- (c) Upon receiving a written request for acquisition from the owner of the land listed in Table 6, the Applicant must acquire the land in accordance with the procedures in Conditions 11.2 (C) and (D).

**Table 6: Air quality affected land subject to acquisition upon request**

<b>Acquisition Basis</b>	<b>Land</b>
Air Quality	Receiver 181 Property 76 Receiver 212* Receiver 228* Receiver 238* Receiver 242* Receiver 244* Receiver 374* Receiver 319*

**Notes:**

- *\*The Applicant is only required to acquire this property if acquisition rights are no longer available under the development consent for the Mt Pleasant mine.*
- *The location of the land referred to in Table 6 is shown on the figure in Appendix 4.*

Mine-owned Land

- (d) Particulate matter emissions generated by the development must not exceed the criteria listed in Table 6 at any occupied residence on mine-owned land (including land owned by another mining company) unless:
- the tenant and landowner (if the residence is owned by another mining company) have been notified of any health risks associated with such exceedances in accordance with the notification requirements under 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 and landowner (if the residence is owned by another mining company) of the likely particulate matter emissions at the residence; and
  - data from this monitoring is presented to the tenant and landowner in an appropriate format for a medical practitioner to assist the tenant and landowner in making informed decisions on the health risks associated with occupying the property.

Air Quality Operating Conditions

- (e) The Applicant must:
- take all reasonable steps to minimise odour, fume, greenhouse gas and dust (including PM<sub>10</sub> and PM<sub>2.5</sub>) emissions of the development;
  - minimise any visible off-site air pollution generated by the development;
  - minimise to the greatest extent practicable, the extent of potential dust generating surfaces exposed on the site at any given point in time;
  - ensure all ROM coal and dust-prone surfaces are watered and kept sufficiently moist to prevent or minimise emissions;
  - operate an air quality management system commensurate with the risk of impact to ensure compliance with the relevant conditions of this consent;

- (vi) minimise the air quality impacts of the development during adverse meteorological conditions and extraordinary events (see Note c to Table 5 above);
- (vii) use all reasonable efforts to co-ordinate air quality management on the site with the air quality management at nearby mines to minimise cumulative air quality impacts;
- (viii) carry out regular air quality monitoring to determine whether the development is complying with the relevant conditions of this consent; and
- (ix) regularly assess the air quality monitoring data, and modify operations on the site to ensure compliance with the relevant conditions of this consent.

#### Air Quality and Greenhouse Gas Management Plan

- (f) The Applicant must, prior to the recommencement of construction or mining operations, prepare an Air Quality and Greenhouse Gas Management Plan for the development to the satisfaction of the Secretary. This plan must:
- (i) be prepared by a suitably qualified and experienced person/s whose appointment has been endorsed by the Secretary;
  - (ii) describe the measures to be implemented to ensure:
    - compliance with the air quality criteria and operating conditions in this consent;
    - best practice management is being employed; and
    - the air quality impacts of the development are minimised during adverse meteorological conditions and extraordinary events;
  - (iii) outline mitigation measures to be employed to minimise dust emissions including dust from rejects emplacement area in dry and windy conditions;
  - (iv) describe the air quality management system in detail; and
  - (v) include an air quality monitoring program that:
    - uses monitors to evaluate the performance of the development against the air quality criteria in this consent and to guide day to day planning of operations;
    - adequately supports the air quality management system; and
    - includes a protocol for identifying an air quality-related exceedance, incident or non-compliance and notifying the Department and relevant stakeholders of any such event.

46. In conditions 5.3 (j) and (k) of Schedule 2, delete the words “the commencement of”.
47. In condition 6.1 (j) of Schedule 2, delete the words “December 1999” and replace with “2007”.
48. Delete conditions 6.4.1 and 6.4.2 of Schedule 2, including the headings, and replace with the following:

#### **6.4.1 Noise Levels**

##### Intrusive Noise Criteria

- (a) Except for the carrying out of construction works, the Applicant must ensure that the noise generated by the development does not exceed the criteria in Table 7 at any residence on privately-owned land.

**Table 7: Operational noise criteria dB(A)**

<b>Noise Assessment Group</b>	<b>Day</b>	<b>Evening</b>	<b>Night</b>	<b>Night</b>
	<b>L<sub>Aeq</sub> (15 min)</b>	<b>L<sub>Aeq</sub> (15 min)</b>	<b>L<sub>Aeq</sub> (15 min)</b>	<b>L<sub>A1</sub> (1 min)</b>
Aberdeen	49	42	41	52
East Site Receivers	50	50	41	52
West Site Receivers	40	40	35	52
Other privately-owned residences	40	35	35	52

**Notes:**

- To identify the locations referred to in Table 7, refer to Schedule 1 and Appendix 4.
- Daytime (between the hours of 7am and 6pm); evening (between 6pm and 10pm) and night time (between 10 pm and 7 am).

Noise generated by the development must be monitored and measured in accordance with the relevant procedures and exemptions (including certain meteorological conditions) of the *NSW Noise Policy for Industry* (EPA, 2017).

The noise criteria in Table 7 do not apply if the Applicant has an agreement with the owner/s of the relevant residence or land to exceed the noise criteria, and the Applicant has advised the Department in writing of the terms of this agreement.

#### Noise Acquisition Criteria

- (c) Upon receiving a written request for acquisition from the owner of the land listed in Table 8, the Applicant must acquire the land in accordance with the procedures in Conditions 11.2 (C)-(D).

**Table 8:** Land subject to acquisition upon request

<b>Acquisition Basis</b>	<b>Land</b>
Noise	Receiver 86

**Notes:**

- The location of the land referred to in Table 8 is shown on the figure in Appendix 4.
- Land previously identified as 'Knight' and 'Gordon' are now mine-owned.

#### Construction Noise

- (d) The Applicant must ensure that the noise generated by construction of the delivery shaft is managed in accordance with the requirements outlined in the *Interim Construction Noise Guideline* (DECC, 2009).

#### Noise Operating Conditions

- (e) The Applicant must:
- (i) take all reasonable steps to minimise all noise from construction and operational activities including low frequency noise and other audible characteristics, as well as road and rail noise associated with the development;
  - (ii) operate a comprehensive noise management system commensurate with the risk of impact to ensure compliance with the relevant conditions of this consent;
  - (iii) take all reasonable steps to minimise noise impacts of the development during noise-enhancing meteorological conditions;
  - (iv) only use locomotives and rolling stock that are approved to operate on the NSW rail network in accordance with the noise limits in ARTC's EPL and use reasonable endeavours to ensure that rolling stock is selected to minimise noise;
  - (v) carry out regular attended noise monitoring (at least once a month, unless otherwise agreed by the Secretary) to determine whether the development is complying with the relevant conditions of this consent; and
  - (vi) regularly assess the noise monitoring data and modify or stop operations on the site to ensure compliance with the relevant conditions of this consent.

#### **6.4.2 Noise Management Plan**

- (a) The Applicant must, prior to the recommencement of construction or mining operations, prepare a Noise Management Plan for the development to the satisfaction of the Secretary. This plan must:
- (i) be prepared by a suitably qualified and experienced person/s;
  - (ii) describe the measures to be implemented to ensure:
    - compliance with the noise criteria and operating conditions in this consent;
    - best practice management is being employed;
    - noise impacts of the development are minimised during noise-enhancing meteorological conditions;
  - (iii) seek to minimise road traffic noise generated by coal haulage on internal haul roads and employee commuter vehicles on local public roads;
  - (iv) describe the noise management system in detail; and
  - (v) include a monitoring program that:
    - uses a combination of real-time and supplementary attended monitoring to evaluate the performance of the development;
    - monitors noise at the nearest and/or most affected residences;
    - includes a program to calibrate and validate the real-time noise monitoring results with the attended monitoring results over time;

- adequately supports the noise management system; and
- includes a protocol for identifying noise-related exceedance, incident and non-compliance and for notifying the Department and relevant stakeholders of any such event.

49. Delete condition 6.6 (c) of Schedule 2.
50. In conditions 7.2 (a) and (c) of Schedule 2, delete the words “western site to the eastern site” and replace with “Kayuga Entry to the delivery shaft”.
51. Delete condition 7.2 (b) of Schedule 2, and replace with the following:
- (b) The Applicant must not transport by private road haulage more than 1.5 million tonnes of ROM coal per calendar year from the Kayuga Entry to the delivery shaft.
52. Delete condition 7.2 (e) of Schedule 2, and replace with the following:
- (e) The Applicant must seal all coal haulage roads between the Kayuga Entry and delivery shaft before the recommencement of coal haulage.
53. Delete conditions 7.2 (h) to (j) of Schedule 2.
54. Delete condition 7.5 (a) of Schedule 2.
55. Delete conditions 8 (a) and (b) of Schedule 2, and replace with the following:
- (a) Any condition of this consent that requires the carrying out of monitoring or an environmental audit, whether directly or by way of a plan, strategy or program, is taken to be a condition requiring monitoring or an environmental audit under Division 9.4 of Part 9 of the EP&A Act. This includes conditions in respect of incident notification, reporting and response, non-compliance notification, compliance report and independent audit.
- Note: For the purposes of this condition, as set out in the EP&A Act, “monitoring” is monitoring of the development to provide data on compliance with the consent or on the environmental impact of the development, and an “environmental audit” is a periodic or particular documented evaluation of the development to provide information on compliance with the consent or the environmental management or impact of the development.*
- (b) Monitoring under this consent is not required at all privately-owned residences and the use of representative monitoring locations can be used to demonstrate compliance with criteria.
56. Delete conditions 8.1 (a) to (c) of Schedule 2, and replace with the following:
- (a) Within one year of the recommencement of mining operations, and every three years after, unless the Secretary directs otherwise, the Applicant must commission and pay the full cost of an Independent Environmental Audit of the development. The audit must:
- (i) be led and conducted by a suitably qualified, experienced and independent team of experts whose appointment has been endorsed by the Secretary;
- (ii) be carried out in consultation with the relevant agencies and the CCC;
- (iii) assess the environmental performance of the development and whether it is complying with the relevant requirements in this consent, water licences and mining leases for the development (including any assessment, strategy, plan or program required under these approvals);
- (iv) review the adequacy of any approved strategy, plan or program required under the abovementioned approvals and this consent;
- (v) recommend appropriate measures or actions to improve the environmental performance of the development and any assessment, strategy, plan or program required under the abovementioned approvals and this consent; and
- (vi) be conducted and reported to the satisfaction of the Secretary.
- (b) Within three months of commencing an Independent Environmental Audit, or other timeframe agreed by the Secretary, the Applicant must submit a copy of the audit report to the Secretary, and any other NSW agency that requests it, together with its response to any recommendations contained in the audit report, and a timetable for the implementation of the recommendations. The recommendations must be implemented to the satisfaction of the Secretary.

**Note:** The audit team must be led by a suitably qualified auditor and include experts in any fields specified by the Secretary.

57. Delete condition 8.2 (a) of Schedule 2, and replace with the following:
- (a) The Applicant must continue to maintain and operate a suitable meteorological station operating in the vicinity of the site that:
    - (i) complies with the requirements in the *Approved Methods for Sampling and Analysis of Air Pollutants in New South Wales* (2007); and
    - (ii) is capable of measuring meteorological conditions in accordance with the *NSW Noise Policy for Industry* (2017),unless a suitable alternative is approved by the Secretary following consultation with the EPA.
58. In condition 9.1 (a) of Schedule 2, delete the words “mine operations plan” and replace with “MOP”.
59. Delete conditions 9.2 (a) to (c) of Schedule 2, including the heading, and replace with the following:

#### Annual Review

- (a) By the end of March in each year after the commencement of the development, or other timeframe agreed by the Secretary, a report must be submitted to the Department reviewing the environmental performance of the development, to the satisfaction of the Secretary. This review must:
  - (i) describe the development (including any rehabilitation) that was carried out in the previous calendar year, and the development that is proposed to be carried out over the current calendar year;
  - (ii) include a comprehensive review of the monitoring results and complaints records of the development over the previous calendar year, including 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 documents referred to in Condition 1.1(a);
  - (iii) identify any non-compliance or incident which occurred in the previous calendar year, and describe what actions were (or are being) taken to rectify the non-compliance or incident and avoid reoccurrence;
  - (iv) evaluate and report on:
    - the effectiveness of the noise and air quality management systems;
      - socio-economic impact of the development including the workforce characteristics of the previous calendar year; and
      - the surveillance of any prescribed dam on the site to the satisfaction of the DSC;
    - the outcome of the water budget for the year, the quantity of water used from water storages and details of discharge of any water from the site; and
    - compliance with the performance measures, criteria and operating conditions in this consent;
  - (v) identify any trends in the monitoring data over the life of the development;
  - (vi) identify any discrepancies between the predicted and actual impacts of the development, and analyse the potential cause of any significant discrepancies; and
  - (vii) describe what measures will be implemented over the next calendar year to improve the environmental performance of the development.
- (b) Copies of the Annual Review must be submitted to the Department, Council and made available to the CCC and any interested person upon request.

### **9.3 Incident and Non-Compliance Reporting**

#### Incident Notification

- (a) The Applicant must immediately notify the Department and any other relevant agencies immediately after it becomes aware of an incident. The notification must be in writing to [compliance@planning.nsw.gov.au](mailto:compliance@planning.nsw.gov.au) and identify the development (including the development application number and name) and set out the location and nature of the incident.

### Non-Compliance Notification

- (b) Within seven days of becoming aware of a non-compliance, the Applicant must notify the Department of the non-compliance. The notification must be in writing to [compliance@planning.nsw.gov.au](mailto:compliance@planning.nsw.gov.au) and identify the development (including the development application number and name), set out the condition of this consent that the development is non-compliant with, the way in which it does not comply and the reasons for the non-compliance (if known) and what actions have been, or will be, undertaken to address the non-compliance.

**Note:** *A non-compliance which has been notified as an incident does not need to also be notified as a non-compliance.*

60. Delete conditions 10.1, 10.2 and 11.1 of Schedule 2, and replace with the following:
- (a) The Applicant must operate a Community Consultative Committee (CCC) for the life of the development, or other timeframe agreed by the Secretary, in accordance with the Department's *Community Consultative Committee Guidelines: State Significant Projects* (2016).
- Notes:**
- *The CCC is an advisory committee only.*
  - *In accordance with the Guidelines, the Committee should comprise an independent chair and appropriate representation from the Applicant, Council and the local community.*
  - *This condition does not require the re-constitution of any CCC members established under previous conditions of consent.*
61. In condition 11.2 of Schedule 2, delete all references to "Mine Subsidence Compensation Act 1961" and replace with "Coal Mine Subsidence Compensation Act 2017".
62. In condition 11.2 (A) of Schedule 2:
- a) in subparagraph (a), delete the words ", after receiving notification from the Applicant in accordance with Condition 3.3(m)(ii),";
- b) in subparagraph (b), delete all words after "structural inspection" and replace with a full stop; and
- c) in subparagraph (c), delete the reference to "Mining Warden" and replace with "Land and Environment Court".
63. In condition 11.2 (B) of Schedule 2:
- a) in subparagraph (b), delete the reference to "Mining Warden" and replace with "Land and Environment Court"; and
- b) in subparagraph (e), in the last dot point, delete the words "issues considered by the Mining Warden in any".
64. In condition 11.2 (C) (a) of Schedule 2:
- a) delete the words "condition 11.2, the Applicant shall negotiate and purchase" and replace with "conditions 6.1 (c), 6.4.1 (c) and 11.2, the Applicant must offer in writing to acquire"; and
- b) delete the word "Scone" and replace with "Upper Hunter".
65. In condition 11.2 (C) (b) of Schedule 2:
- a) at the end of subparagraph (i) delete the "and"; and
- b) at the end of subparagraph (ii), delete the full stop and replace with the following:
- ; and
- (iii) for land listed in Tables 6 and 8, for the life of the development.
66. After condition 11.2 (D), insert the following:

### **(E) Additional Mitigation Upon Request**

- (a) Upon receiving a written request for mitigation from the owner of any residence on the land listed in Tables 6 and 8, the Applicant must implement additional mitigation measures at or in the vicinity of the residence in consultation with the landowner. These measures must be consistent with the measures outlined in the *Voluntary Land Acquisition and Mitigation Policy for State Significant Mining, Petroleum and Extractive Industry Development* (2018). They must also be reasonable and feasible, proportionate to the level of predicted impact and directed towards reducing the noise and/or air quality impacts of the development. The Applicant must also be responsible for the reasonable costs of ongoing maintenance of these additional mitigation measures until the cessation of mining operations.

- (b) 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.

**(F) Notification of Landowners/Tenants**

- (a) Within one month of the approval of Modification 7, the Applicant must:
- (i) notify in writing the owner of:
    - the land listed in Tables 6 or 8 that they have the right to require the Applicant to acquire their land at any stage during the development; and
    - the residences on the land listed in Tables 6 or 8 that they are also entitled to ask the Applicant to install additional mitigation measures at the residence;
  - (ii) notify the tenants of any mine-owned land of their rights under this consent; and
  - (iii) send a copy of the NSW Health fact sheet entitled “*Mine Dust and You*” (2017) to the owners and/or existing tenants of any land (including mine-owned land) where the predictions in the documents referred to in Condition 1.1 (a) identify that dust emissions generated by the development are likely to be greater than the relevant air quality criteria identified in Condition 6.1 (a) at any time during the life of the development.
- (b) 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 must:
- (i) 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*” (2017); and
  - (ii) advise the prospective tenants of the rights they would have under this consent, to the satisfaction of the Secretary.

67. Delete condition 11.3, including the note, and replace with the following:

**Notification of Exceedances**

- (a) As soon as practicable and no longer than 7 days after obtaining monitoring results showing an exceedance of any noise or air quality criterion in condition 6.1 (a) and condition 6.4.1 (a) of this consent, the Applicant must:
- (i) provide to any affected landowners and tenants; and
  - (ii) publish on its website, the full details of the exceedance.
- (b) For any exceedance of any air quality criterion in condition 6.1 (a) of this consent, the Applicant must also provide to any affected land owners and tenants copy of the NSW Health fact sheet entitled “*Mine Dust and You*” (2017).

**Independent Review**

- (c) If a landowner considers the development to be exceeding any air quality or noise relevant criterion in condition 6.1 (a) or condition 6.4.1 (a) of this consent, they may ask the Secretary in writing for an independent review of the impacts of the development on their residence or land.
- (d) If the Secretary is not satisfied that an independent review is warranted, the Secretary will notify the landowner in writing of that decision, and the reasons for that decision, within 21 days of the request for a review.
- (e) If the Secretary is satisfied that an independent review is warranted, within 3 months, or other timeframe agreed by the Secretary and the landowner, of the Secretary’s decision, the Applicant must:
- (iii) commission a suitably qualified, experienced and independent person, whose appointment has been approved by the Secretary, to:
    - consult with the landowner to determine their concerns;
    - conduct monitoring to determine whether the development is complying with the relevant criteria in condition 6.1 (a) or condition 6.4.1 (a); and
    - if the development is not complying with the relevant criterion, identify measures that could be implemented to ensure compliance with the relevant criterion; and
  - (iv) give the Secretary and landowner a copy of the independent review; and

- (v) comply with any written requests made by the Secretary to implement any findings of the review.

68. Delete condition 11.4 and replace with the following:

Planning Agreement – MSC

- (a) Within six months of the approval of Modification 7, or other timeframe agreed by the Secretary, the Applicant must enter into a Planning Agreement with MSC in accordance with:
  - (i) Division 7.1 of Part 7 of the EP&A Act; and
  - (ii) the terms of the offer in Appendix 5.

Planning Agreement – UHSC

- (b) Within six months of the approval of Modification 7, or other timeframe agreed by the Secretary, the Applicant must enter into a Planning Agreement with UHSC in accordance with:
  - (i) Division 7.1 of Part 7 of the EP&A Act; and
  - (ii) the terms of the offer in Appendix 5.

69. Delete condition 13, including the heading, and replace with the following:

**13. Access to Information**

- (a) Prior to the recommencement of mining operations until the completion of all rehabilitation required under this consent, the Applicant must:
  - (i) make the following information and documents (as they are obtained, approved or as otherwise stipulated within the conditions of this consent) publicly available on its website:
    - the documents referred to in Condition 1.1 (a) of this consent;
    - all current statutory approvals for the development;
    - all approved strategies, plans and programs required under the conditions of this consent;
    - minutes of CCC meetings;
    - regular reporting on the environmental performance of the development in accordance with the reporting requirements in any plans or programs approved 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 summary of the current stage and progress of the development;
    - contact details to enquire about the development or to make a complaint;
    - a complaints register, updated monthly;
    - the Annual Reviews of the development;
    - audit reports prepared as part of any Independent Environmental Audit of the development and the Applicant's response to the recommendations in any audit report; and
    - any other matter required by the Secretary; and
  - (ii) keep such information up to date, to the satisfaction of the Secretary.

70. Delete Schedules A to C, and replace with the following:

**SCHEDULE A**

The table below provides a link between the original receiver 'locations' and the new receiver identifications introduced under Modification 7.

<b>Location</b>	<b>Receiver ID</b>	<b>Lot / Section and DP Number</b>		
<b>East Site Receivers</b>				
Knight*	302	1453		628493
Day	86	51		776564
O'Brien	303	170		723261
	422	7		844651
Gordon*	304	1452		583830
<b>West Site Receivers</b>				
Blairmore Point*	295	3		835733
"Waitomo"	371	100		1177385
"Maryvale"	153	156		750926
Standing	181	5	23	758554
Lonergan	212	7	21	758554
MacIntyre 1*	69	110		873834
MacIntyre 2*	69	110		873834
MacIntyre 3*	69	110		873834
"Woodburn"***	137	102		1124883
"Athlone"***	344	28		750926
"Glenmore"***	512	177		750926
"Belgrave"	336	74		750926
"Woodlands"*	36	180		750951
"Mayvale"	35	178		750951
"Malara"	34	181		750951

\* Property acquired by the Applicant, now mine-owned

\*\*Property acquired by MACH Energy, now mine-owned

**Appendix 1 - Schedule of Land**

**Schedule of Land**

ID	Lot	Section	DP
5	164		750951
6	164		750951
8	165		750951
14	1771		1175346
15	1770		1175346
16	1772		1175346
17	176		750951
18	2		1103375
19	1		1103375
20	195		750951
21	204		750951
22	196		750951
23	191		750951
24	190		750951
25	2		1001266
26	1		1001266
27	167		750951
32	178		750951
34	181		750951
35	178		750951
36	180		750951
37	179		750951
38	183		750951
39	192		750951
40	10		789319
41	11		789319
42	2		578034
43	1852		582597
44	186		750951
45	187		750951
46	188		750951
47	189		750951
48	168		750951
51	169		750951
53	171		750951
54	172		750951
55	173		750951
57	174		750951
58	175		750951
68	110		873834
69	110		873834
70	A		940118
73	A		389101
74	2		709576

ID	Lot	Section	DP
75	1		709576
76	1		601918
81	1		105260
82	1		961491
84	153		752485
85	2		601918
94	2		835733
100	1		997444
101	111		714211
107	111		714211
132	101		1124883
133	166		750926
134	167		750926
136	102		1124883
137	102		1124883
138	163		750926
139	164		750926
140	203		750926
141	2		223787
142	165		750926
143	109		750926
144	102		1124883
145	11		253397
146	12		253397
147	13		253397
148	160		750926
149	159		750926
150	158		750926
151	155		750926
152	157		750926
153	156		750926
154	14		253397
155	15		253397
156	113		750926
157	108		750926
158	1		505544
159	2		505544
160	111		873834
161	111		873834
162	114		750926
163	24		750926
164	22		750926
165	23		750926
166	14		750926

ID	Lot	Section	DP
167	183		750926
168	25		750926
169	277		750926
170	1		835733
171	7301		1146826
172	1		835733
173	1	23	758554
174	14	23	758554
175	2	23	758554
176	13	23	758554
177	3	23	758554
178	12	23	758554
179	4	23	758554
180	11	23	758554
181	5	23	758554
182	10	23	758554
183	6	23	758554
184	9	23	758554
185	7	23	758554
186	8	23	758554
187	1	16	758554
188	8	16	758554
189	1		835733
190	286		729019
191	4	22	758554
192	7	22	758554
193	5	22	758554
194	6	22	758554
195	1	17	758554
196	10	17	758554
197	2	17	758554
198	9	17	758554
199	3	17	758554
200	8	17	758554
201	4	17	758554
202	7	17	758554
203	5	17	758554
204	6	17	758554
205	1	21	758554
206	10	21	758554
207	2	21	758554
208	9	21	758554
209	3	21	758554
210	8	21	758554
211	4	21	758554

ID	Lot	Section	DP
212	7	21	758554
213	5	21	758554
214	6	21	758554
215	832		599850
216	1		835733
217	244		750926
218	243		750926
219	1		835733
220	3	2	758554
221	4	2	758554
222	5	2	758554
223	285		750926
224	1	20	758554
225	10	20	758554
226	2	20	758554
227	9	20	758554
228	3	20	758554
229	8	20	758554
230	4	20	758554
231	7	20	758554
232	5	20	758554
233	6	20	758554
234	7302		1146788
235	284		750926
236	2	19	758554
237	1	19	758554
238	1		1043519
239	8	19	758554
240	4	19	758554
241	7	19	758554
242	5	19	758554
243	6	19	758554
244	1	13	758554
245	1	9	758554
246	2	9	758554
247	3	9	758554
248	4	9	758554
249	5	9	758554
250	6	9	758554
251	12	9	758554
252	11	9	758554
253	10	9	758554
254	9	9	758554
255	8	9	758554
256	7	9	758554

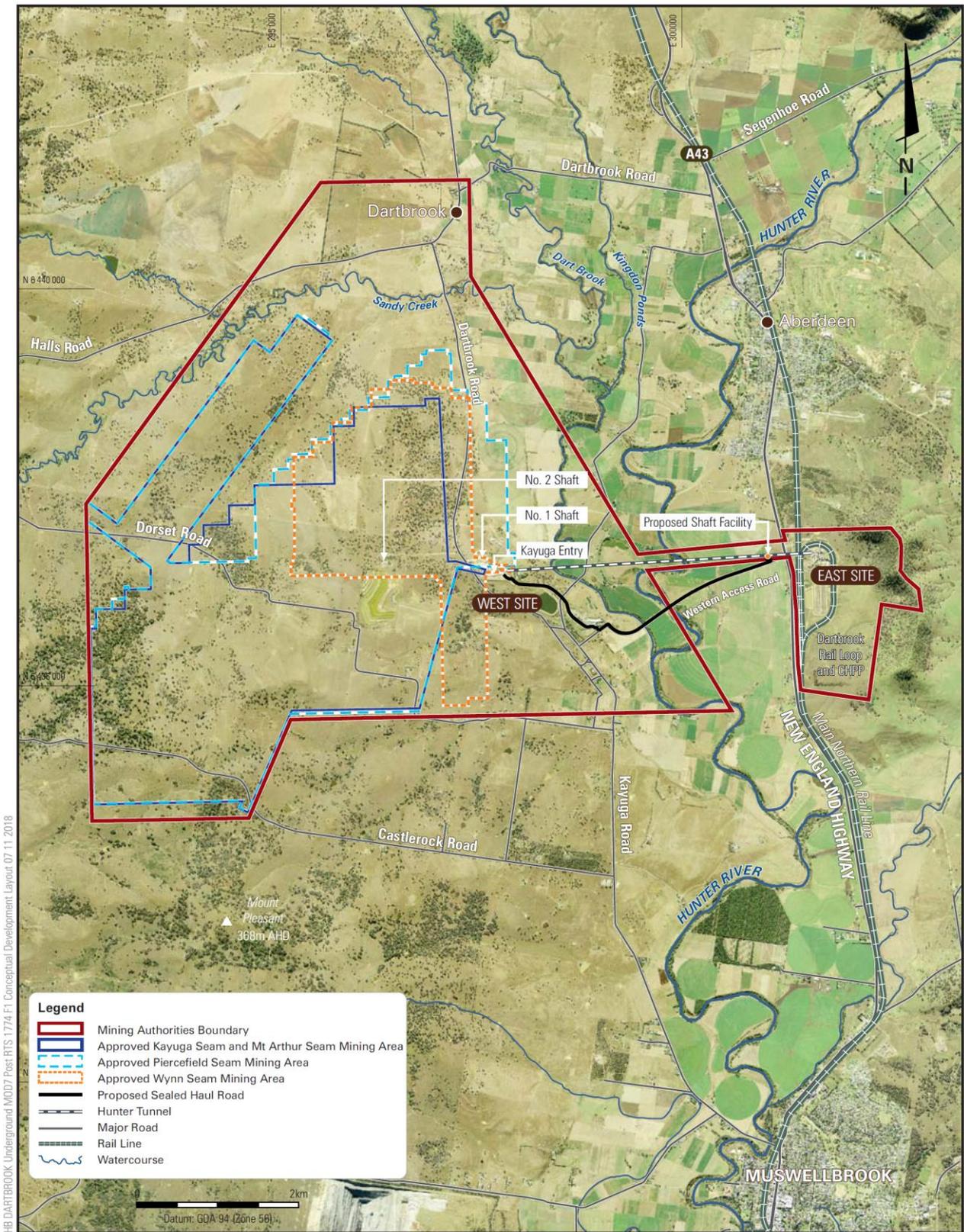
ID	Lot	Section	DP
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258	2	3	758554
259	3	3	758554
260	4	3	758554
261	5	3	758554
263	1	12	758554
264	2	12	758554
265	3	12	758554
266	4		666721
267	1		113230
268	5	12	758554
269	6	12	758554
270	11	12	758554
271	10	12	758554
272	9	12	758554
273	8	12	758554
274	7	12	758554
275	1		112745
276	2		112745
277	1	10	758554
278	2	10	758554
279	3	10	758554
280	4	10	758554
281	5	10	758554
282	6	10	758554
283	7303		1146789
284	11	10	758554
285	10	10	758554
286	9	10	758554
287	8	10	758554
288	7	10	758554
289	287		823092
290	1	11	758554
291	2	11	758554
292	3	11	758554
293	4	11	758554
294	1		823126
295	3		835733
296	1		835733
297	3		835733
298	1		835733
300	17		844652
301	16		844652
302	1453		628493
305	63		833348

ID	Lot	Section	DP
306	63		833348
309	1		823759
310	63		833348
326	207		750926
327	21		870608
328	22		870608
329	200		750926
330	110		750926
331	155		750926
332	154		750926
333	153		750926
334	94		665393
335	1		312392
336	74		750926
337	73		750926
338	45		750926
339	152		750926
340	86		750926
341	13		750926
342	12		659924
343	11		1051153
344	28		750926
345	36		1108421
355	7		112742
358	10		750926
359	3		112745
360	9		750926
363	1	28	758554
364	8	28	758554
365	2	28	758554
366	7	28	758554
367	3	28	758554
368	6	28	758554
369	4	28	758554
372	1	29	758554
373	2	29	758554
374	3	29	758554
382	1	1	2770
383	2	1	2770
384	3	1	2770
387	3	2	2770
450	128		750926
451	129		750926
452	130		750926
453	131		750926

ID	Lot	Section	DP
454	131		750926
455	185		750926
456	192		750926
457	176		750926
458	132		750926
459	186		750926
460	191		750926
461	175		750926

ID	Lot	Section	DP
462	133		750926
479	A		174071
480	93		750926
481	B		174071
549	15		112742
550	13		112742
553	14		112742

## Appendix 2 - Development Layout Plans



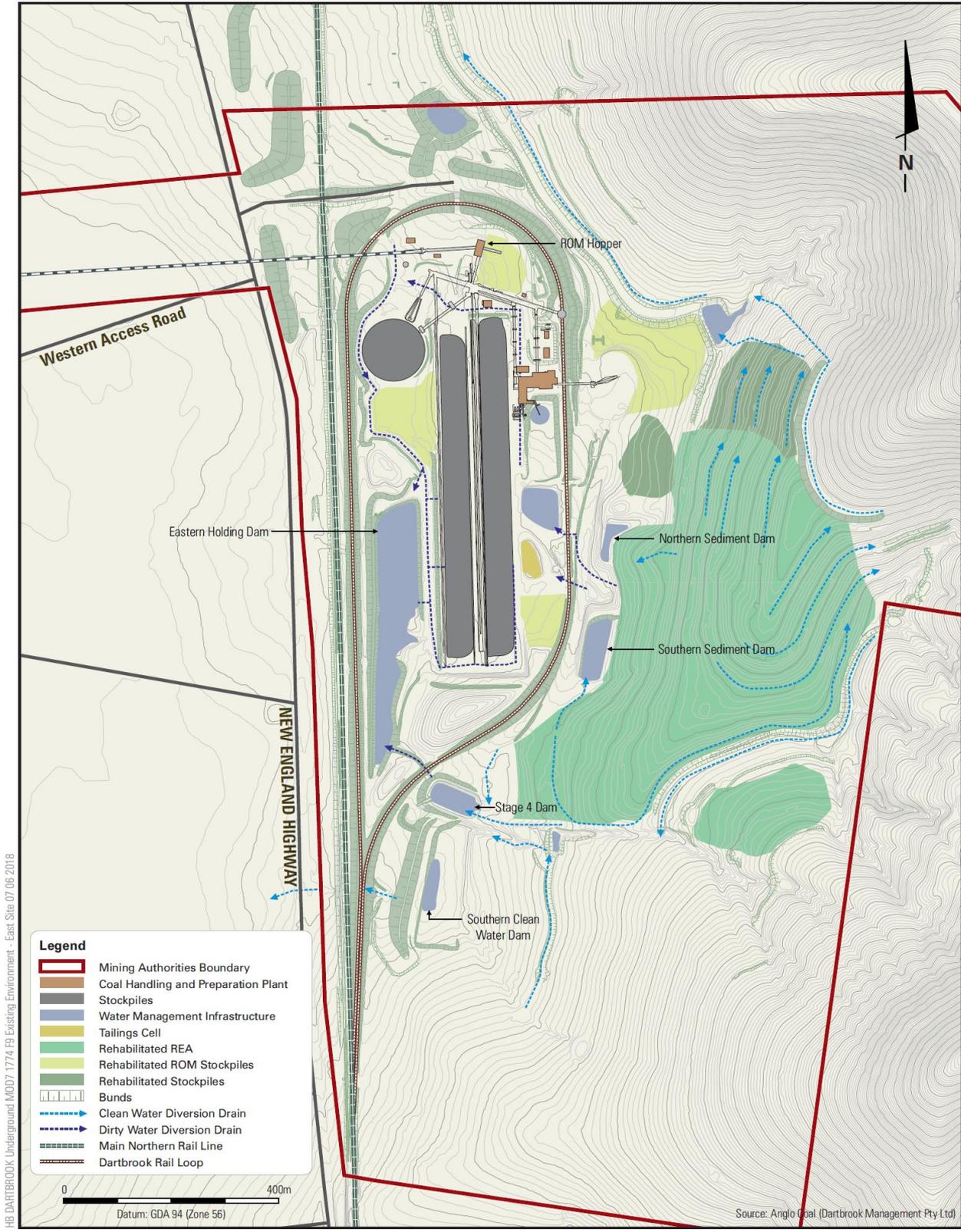
HB DARTBROOK Underground M007 Post RIS 1774 F1 Conceptual Development Layout 07 11 2018

DARTBROOK MINE



Conceptual Development Layout

Figure 1: Development Layout



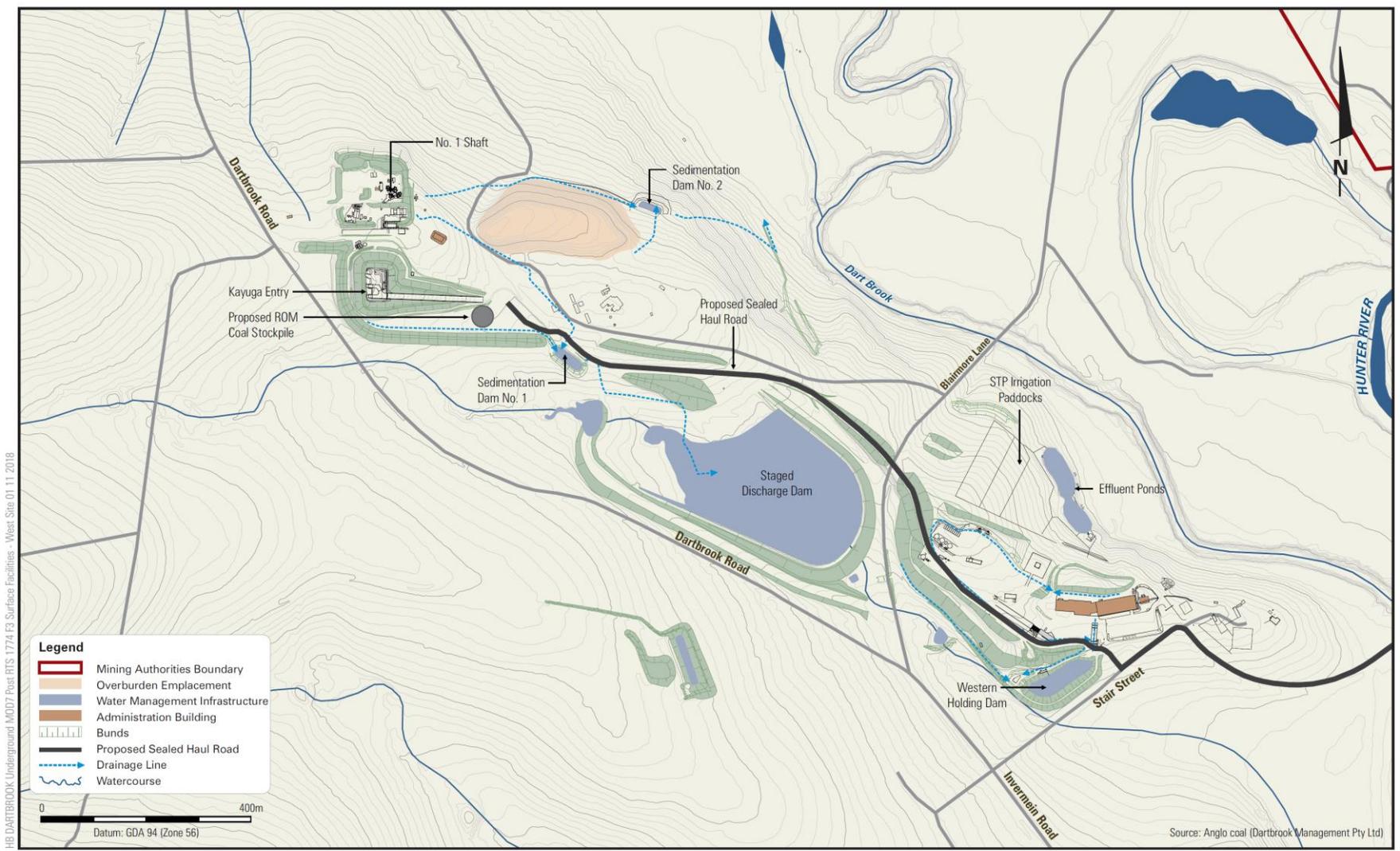
HB DARTBROOK Underground MOD7 1774 F9 Existing Environment - East Site 07 06 2018

DARTBROOK MINE



Existing East Site Infrastructure

Figure 2: Surface facilities – East Site



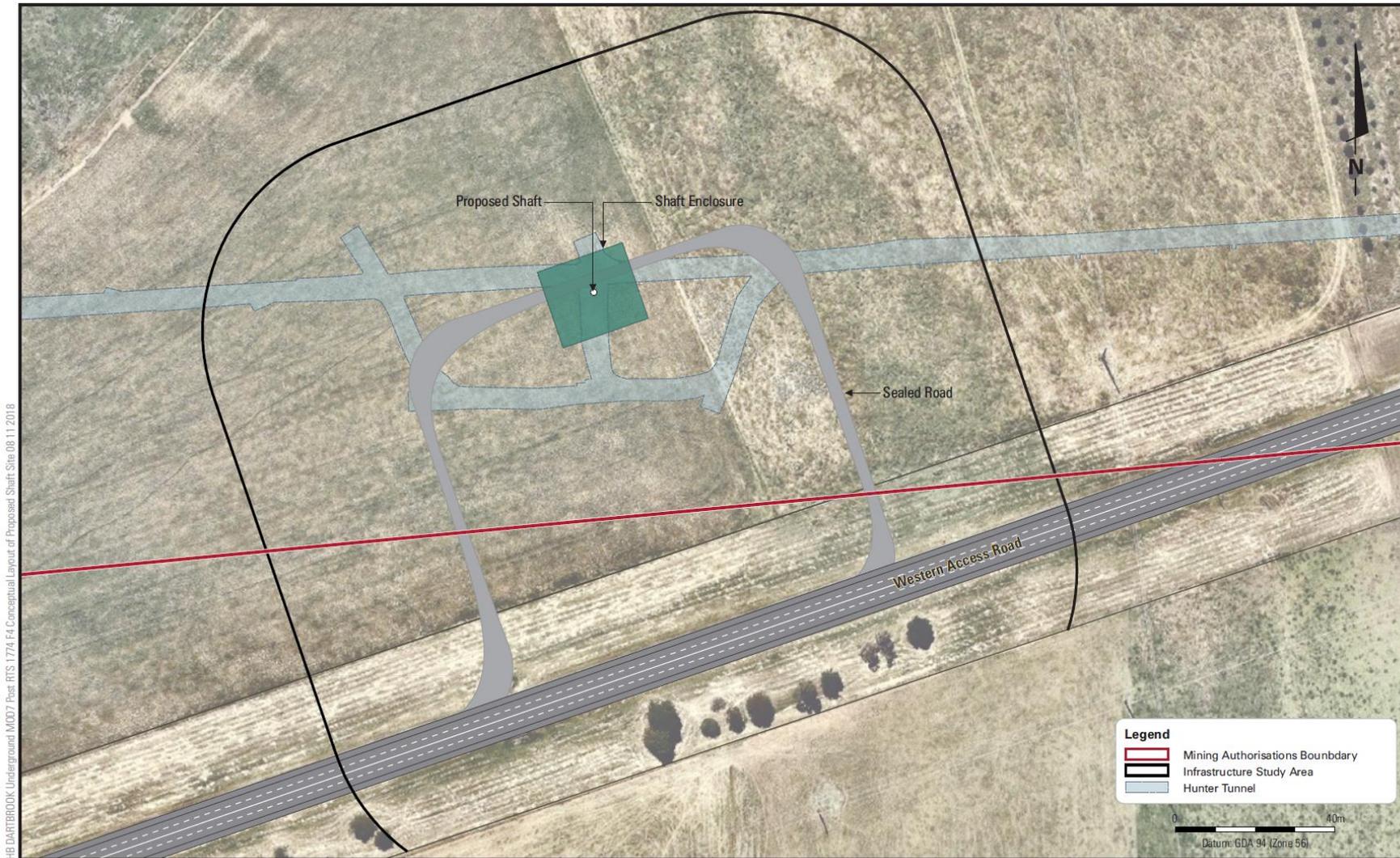
HB DARTBROOK Underground MOD7 Post RTS 1774 F3 Surface Facilities - West Site 01 11 2018

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Surface Facilities - West Site



Figure 3: Surface facilities – West Site

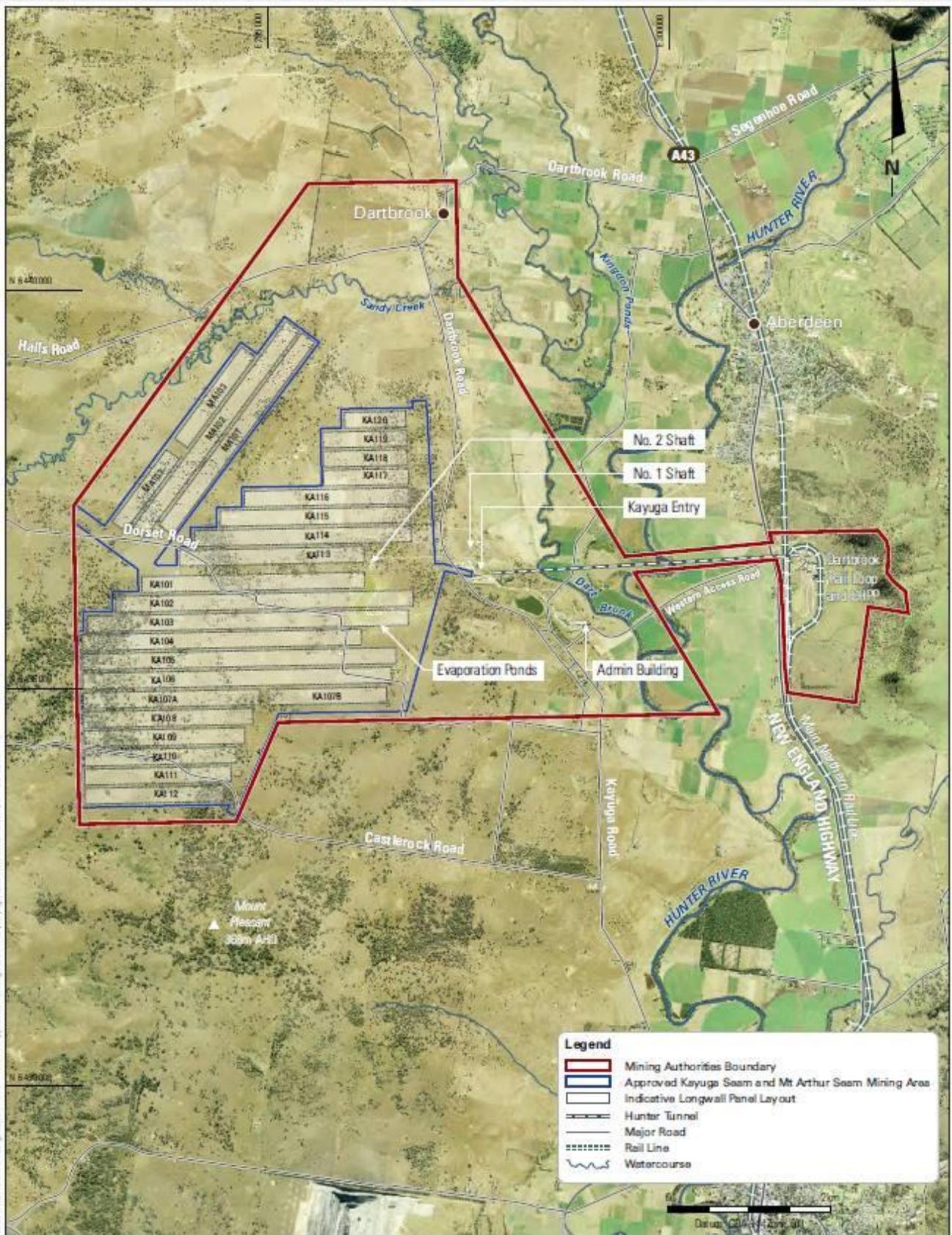


DARTBROOK MINE

Conceptual Layout of New Shaft Site

Figure 4: Surface facilities – New Shaft Site

Appendix 3 - Underground Workings



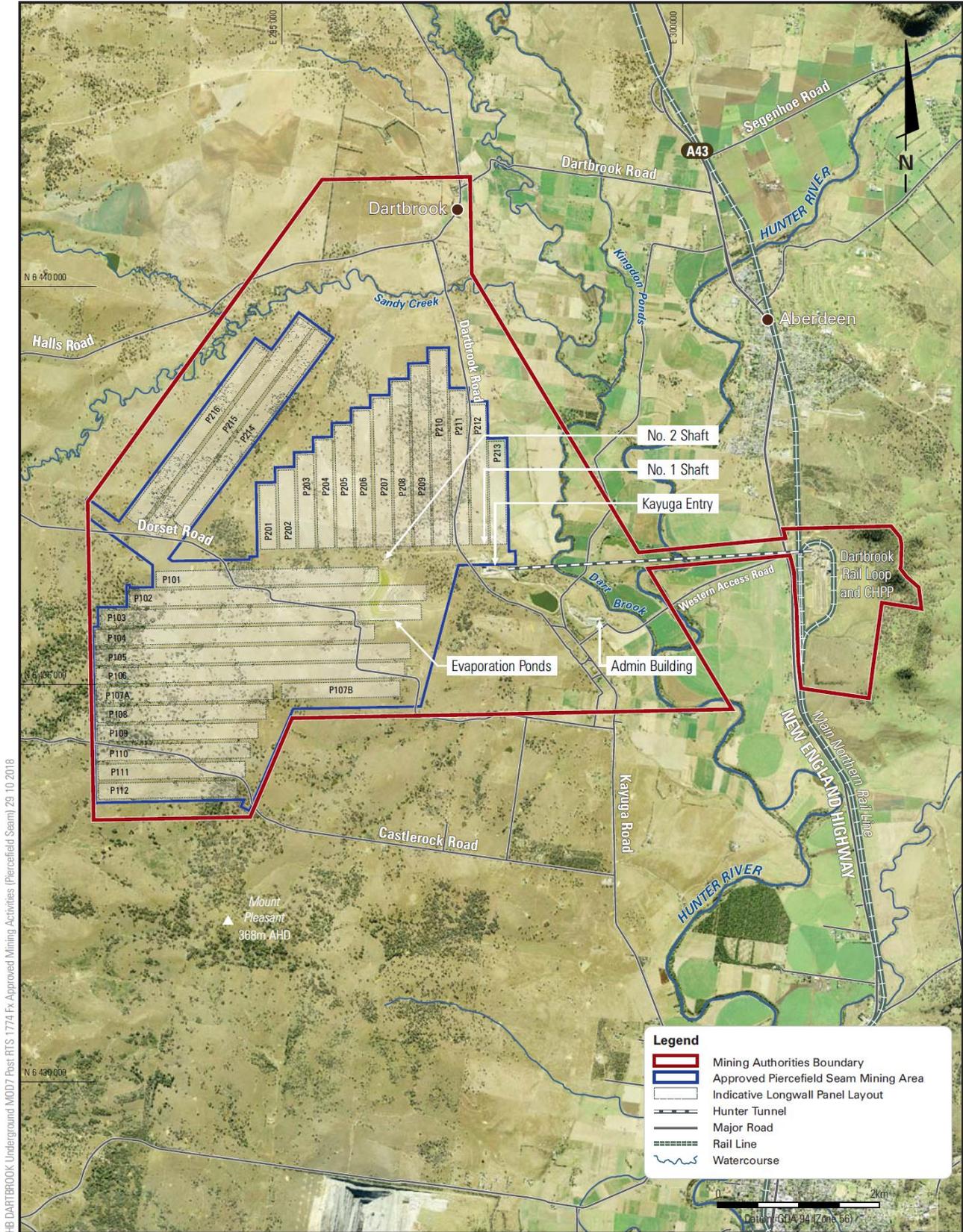
DARTBROOK MINE

Hansen Bailey



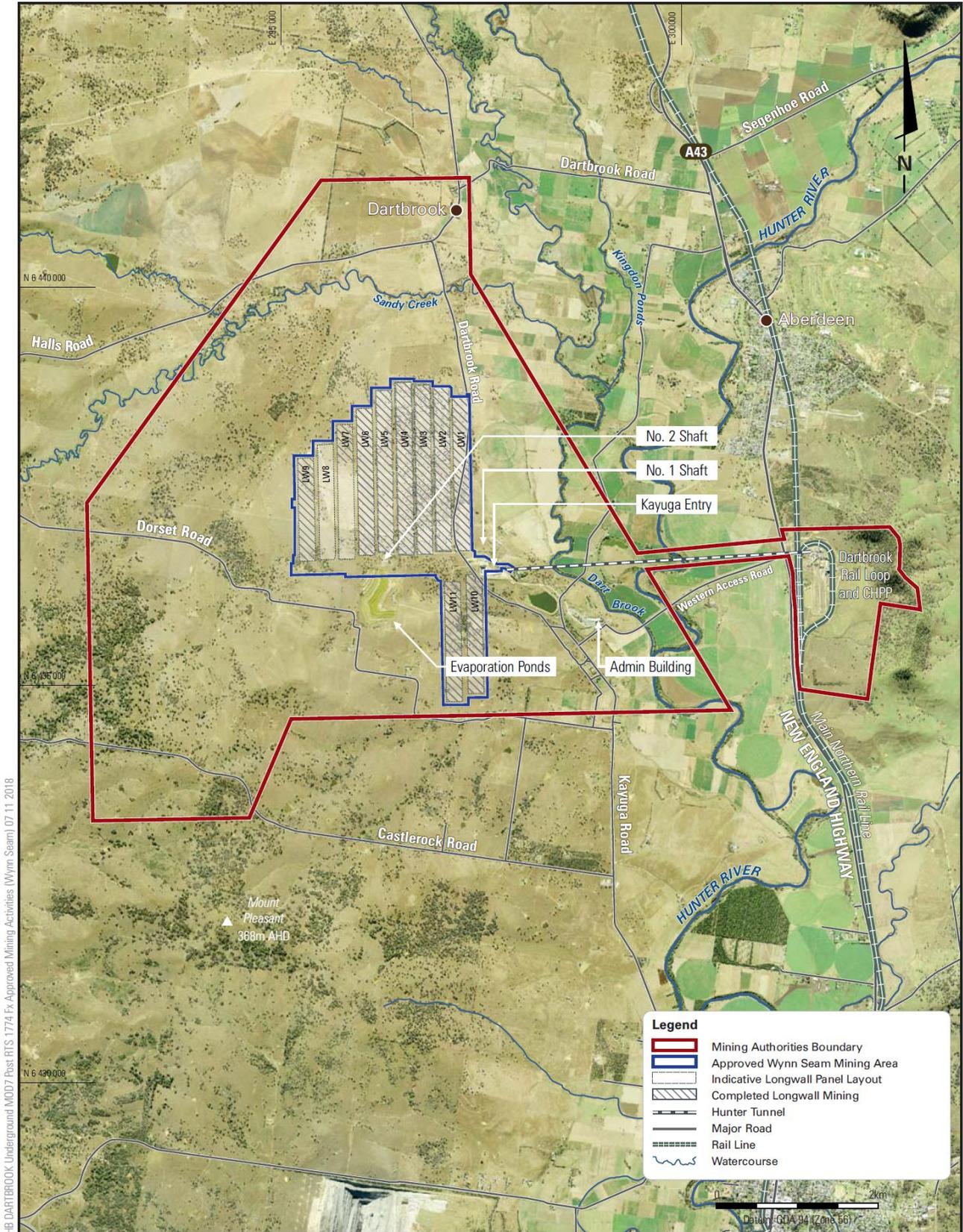
Approved Mining Activities (Kayuga and Mt Arthur Seams)

Figure 5: Approved Longwall Mine Plan – Kayuga and Mt Arthur Seams



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Figure 6: Approved Longwall Mine Plan – Piercefield Seam



HE DARTBROOK Underground MOD7 Post-RTS 1774 Ex-Approved Mining Activities (Wynn Seam) 07.11.2018

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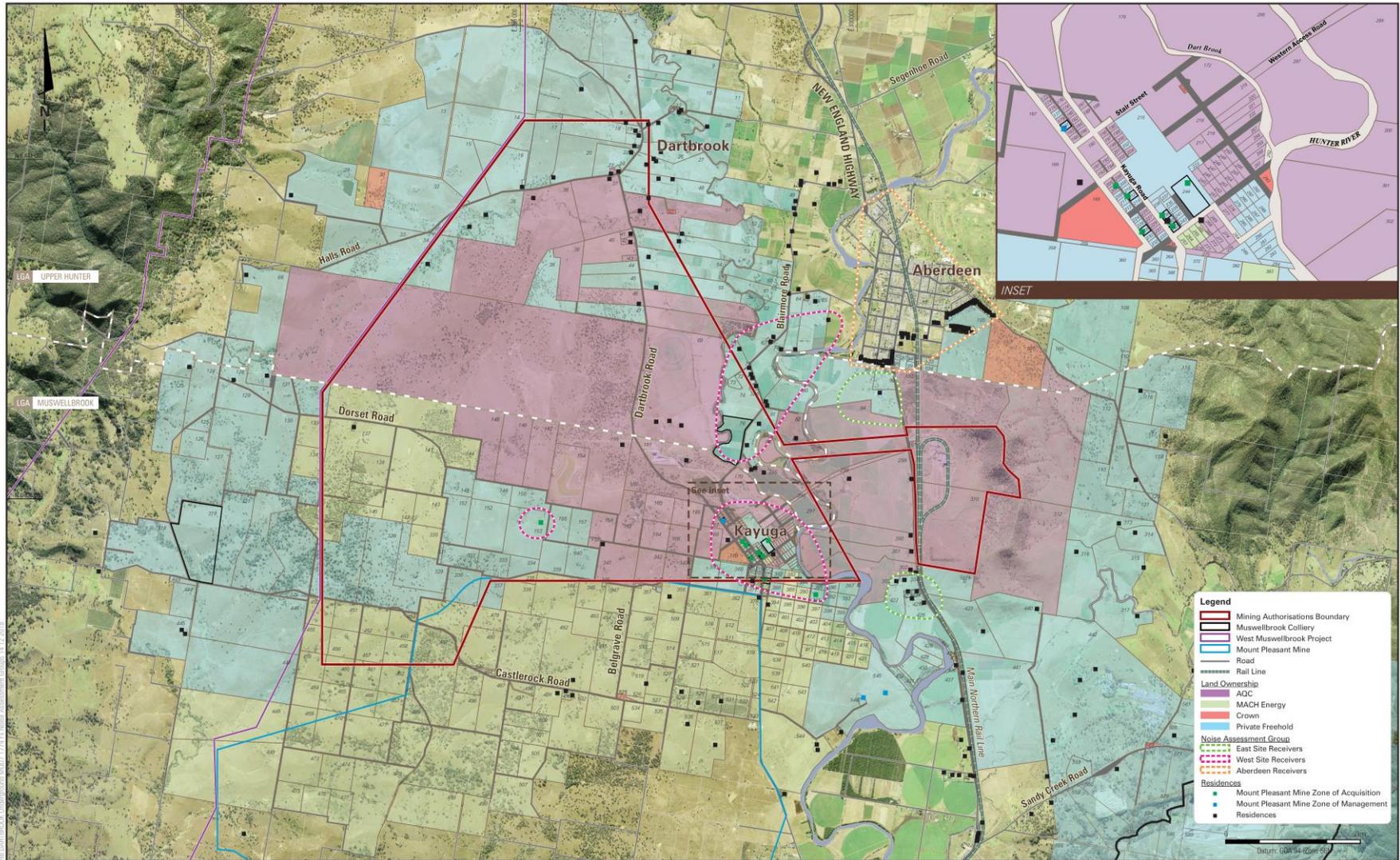


Approved Mining Activities (Wynn Seam)

Figure 7: Approved Longwall Mine Plan – Wynn Seam



### Appendix 4 - Receiver Zones and Locations



DARTBROOK MINE  
Noise Assessment Groups

Figure 9: Receiver Zones and Locations

## Appendix 5 - General Terms of Applicant's VPA Offer

### Components of Proposed Planning Agreement with MSC

Description of Contribution	Quantity	Purpose of Contribution
Levy on coal production	\$0.068 per tonne of product coal extracted from within the Muswellbrook LGA	Funding for the provision of public infrastructure and services within the Muswellbrook LGA. This cents per tonne rate will be indexed annually according to the Consumer Price Index (CPI).
Contribution of funding toward an Environmental Officer	\$10,000 per annum	Funding toward an Environmental Officer, who will be responsible for environmental matters associated with development in the Muswellbrook LGA. Noting that the same condition is inserted in proposed UHSC VPA. This annual financial contribution will be indexed annually according to the Consumer Price Index (CPI).
Training of Apprentices	Target of two apprentices at any given time with preference given to residents of Muswellbrook & Upper Hunter Shire LGA's	To assist in building a skilled labour force within the Muswellbrook & Upper Hunter Shire LGAs. Same condition proposed in UHSC VPA.
Revision of the Muswellbrook Western Roads Strategic Traffic Study (1997)	Cost of revising the relevant aspects of the study and road upgrades relevant to the modification's contribution	To reimburse MSC for a revision to the relevant aspects of the Western Roads Strategic Traffic Study (as is relevant to the proposed Modification to DA 231-7-2000 to incorporate the traffic generated by the Modification). Contribute to road upgrades relevant to the modification's traffic contribution.

### Components of Proposed Planning Agreement with UHSC

Description of Contribution	Quantity	Purpose of Contribution
Community Enhancement Fund	\$100,000 per annum payable in quarterly instalments commencing twelve (12) months after the date of approval of MOD 7 to DA 231-7-2000.	Funding for the provision of public infrastructure and services within the Upper Hunter LGA particularly focusing on the Aberdeen Area and its surrounds. This payment will be indexed annually according to the Consumer Price Index (CPI).
Contribution of funding toward an Environmental Officer	\$10,000 per annum	Funding toward an Environmental Officer, who will be responsible for environmental matters associated with development in the Upper Hunter LGA. Noting that the same condition is inserted in the proposed Muswellbrook Shire VPA. This annual financial contribution will be indexed annually according to the Consumer Price Index (CPI).
Training of Apprentices	Target of two apprentices at any given time with preference given to residents of Upper Hunter & Muswellbrook LGAs.	To assist in building a skilled labour force within the Upper Hunter & Muswellbrook LGAs. Same condition inserted in proposed MSC VPA.

71. Update the Index in Schedule 2 to reflect the changes made by this instrument.