

# Notice of Modification

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

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



David Johnson  
Commission Member  
Planning Assessment Commission

Sydney

December 2015

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### SCHEDULE 1

The project approval (08\_0212) for the New Berrima Shale Quarry Project, granted by the Deputy Director-General, Development Assessment and Systems Performance as delegate of the Minister for Planning and Infrastructure on 6 July 2012.

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### SCHEDULE 2

1. In the List of Definitions delete the definitions for "Department", "Director-General", "DRE", "NOW", "OEH" and "SCA", and insert the following in alphabetical order:

Department	Department of Planning and Environment
DPI – Water	Department of Primary Industries – Water
DRE	Division of Resources and Energy of the NSW Department of Industry
EA (MOD 1)	Environmental Assessment titled ' <i>Environmental Assessment to Support a Section 75W Modification of PA08_0212 for the New Berrima Clay/Shale Quarry</i> ', dated May 2015 and prepared by RW Corkery & Co Pty Limited, including the Response to Submissions document dated September 2015 and additional information dated 30 October 2015, both prepared by RW Corkery & Co Pty Limited
Incident	A set of circumstances that: <ul style="list-style-type: none"><li>▪ causes or threatens to cause material harm to the environment; and/or</li><li>▪ breaches or exceeds the limits or performance measures/criteria in this approval</li></ul>
Minister	Minister for Planning, or delegate
OEH	NSW Office of Environment and Heritage
Secretary	Secretary of the Department, or nominee
Visibility Barriers	The Northern, Central and Southern Visibility Barriers shown on Figure 1 in Appendix A
2. Delete all references to "Director-General" and replace with "Secretary", except in condition 33 of Schedule 3.
3. Delete all references to "NOW" and replace with "DPI – Water".
4. Delete all reference to "SCA" and replace with "WaterNSW".
5. Delete all reference to "amenity bunds" and replace with "Visibility Barriers"
6. In condition 2 of Schedule 2, delete all words after "EA;" (except the notes), and replace with:
  - (b) EA (MOD 1);

- (c) statement of commitments; and
- (d) conditions of this approval.

- 7. In condition 5 of Schedule 2:
  - a) delete the date “31 March 2042” and replace with “31 December 2045”; and
  - b) in the note, insert the words “or DRE” at the end of the first sentence.
- 8. In condition 6 of Schedule 2 delete the number “645” and replace with “640” and in the note, insert the words “or EA (MOD 1)” after “EA”.
- 9. Insert the following after condition 3 of Schedule 3:

**Visibility Barrier and Stockpile Dimensions**

3A. The Visibility Barriers and surplus overburden stockpile (refer Figure 1 Appendix A) must be constructed to meet the dimensions specified in Table 1A, unless the Secretary agrees otherwise.

*Table 1A – Visibility Barriers and Surplus Overburden Stockpile Dimensions*

<b>Structure</b>	<b>Height</b>	<b>Base Width (m)</b>	<b>Length (m)</b>	<b>Surface Area (ha)</b>
Central Barrier ( <i>minimum</i> )	675 (m AHD)	30 - 45	420	1.5
Northern Barrier ( <i>minimum</i> )	672 (m AHD)	35 - 50	160	0.7
Southern Barrier ( <i>minimum</i> )	4 metres above the natural land surface	20	350	0.7
Overburden Stockpile ( <i>maximum</i> )	683 (m AHD)	-	-	-

- 10. In Table 2 in condition 6 of Schedule 3, add the following column after the third column:

<b>Construction</b>
7 am – 5 pm
8 am – 1 pm
None

- 11. In condition 13 of Schedule 3, delete “730m” and replace with “515 metres”.
- 12. Insert the following condition after condition 18 of Schedule 3:

**Groundwater Monitoring**

18A. The Proponent shall install 3 pairs of nested piezometers prior to the quarry pit floor reaching 660 m AHD, in consultation with DPI – Water and to the satisfaction of the Secretary.

- 13. Insert the following condition after condition 19 of Schedule 3:

19A. Prior to transporting any product from the site, the Proponent shall establish a 0.68 ha tree screen adjacent to the Northern Visibility Barrier, as shown on Figure 1 in Appendix A. The screen shall include native plant species from the *Southern Highlands Shale Woodland Endangered Ecological Community*.

- 14. Delete condition 22 of Schedule 3 and the associated heading.

- 15. In condition 24 of Schedule 3, after the existing paragraph, insert the following:

“If the Council undertakes or proposes to undertake a superior treatment of this intersection upgrade, then this condition may be fulfilled by the Proponent paying a monetary contribution to the Council equivalent to the cost of the upgrades specified under this condition, as assessed by a qualified independent valuer or quantity surveyor appointed by the Secretary. The costs of the valuation are to be paid by the Proponent.

Any dispute over the interpretation of this condition or a satisfactory valuation can be referred by any party to the Secretary for resolution. The decision of the Secretary in any such dispute shall be final.”

- 16. In condition 25 of Schedule 3, after the words “to this approval” insert the following: “to the satisfaction of the Secretary”.
- 17. In condition 33 of Schedule 3:
  - a) delete “Director-General” and replace with “DRE”;
  - b) delete the word “generally”; and
  - c) delete “EA” and replace with “EA (MOD 1)”.

18. In Table 6 in condition 33 of Schedule 3:

a) insert the following row after the row beginning "Surface Infrastructure":

Quarry Walls	Final slopes of 1:3 (vertical : horizontal), except the southwestern wall of Bench 1 Vegetated with native endemic flora species to be consistent with surrounding landscape and to minimise visual impacts
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b) delete "Director-General" and replace with "DRE"; and

c) after the word "grazing", insert "or other agricultural activities".

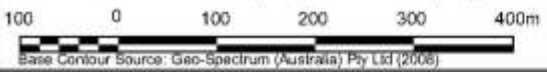
19. Delete conditions 36 and 37 of Schedule 3 and the associated heading.

20. In condition 4 of Schedule 5, delete the date 'July 2013' and replace with 'December 2016'.

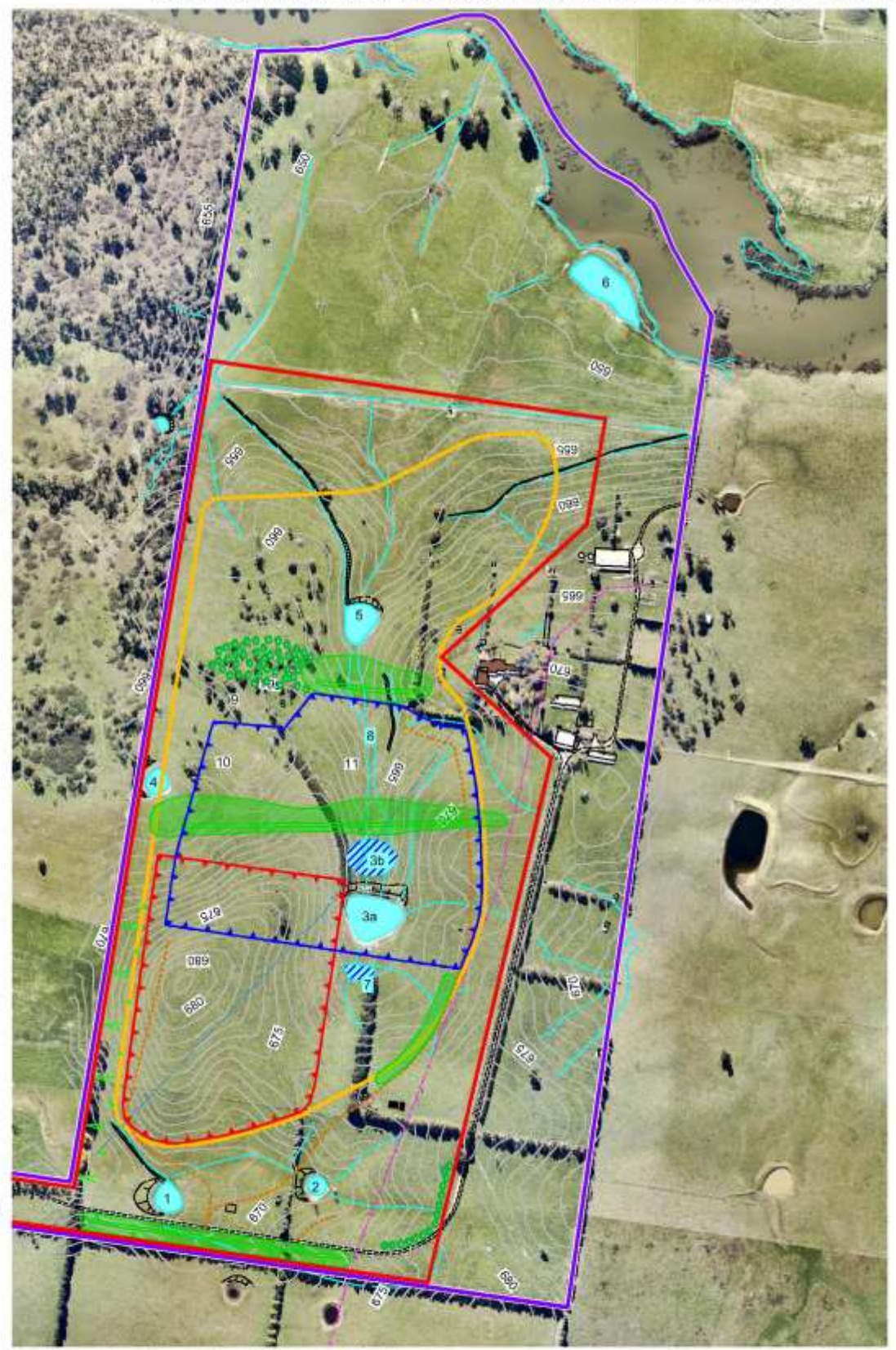
21. Delete Figures 1, 2, 4 and 5 (except their titles) from Appendix A and replace with the following.



SCALE 1:7 500 (A3) / 1:10 000 (A4)

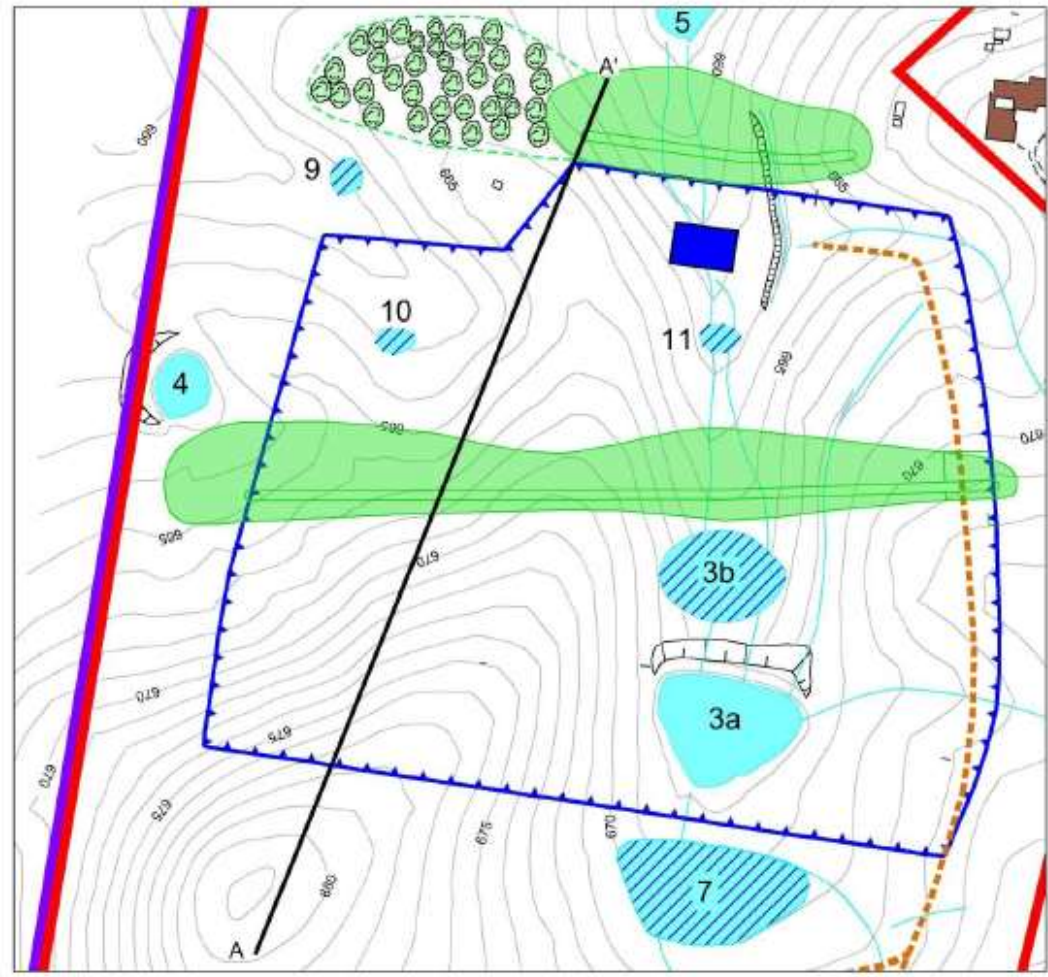
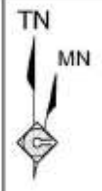


- REFERENCE**
- Property Boundary
  - Project Site Boundary
  - Approved Limit of Extraction
  - Limit of Extraction
  - Clay/Shale Resource Boundary
  - Contour (m AHD)(Interval = 1m)
  - Watercourse / Drainage Line
  - Existing Dam (and Reference No.)
  - Proposed Dam (and Reference No.)
  - Unsealed Road / Track
  - Proposed Access Road
  - Residence / Building
  - Existing Power Line
  - Existing Telephone Line
  - Existing Trees
  - Proposed Visibility Barrier
  - Proposed Tree Screen

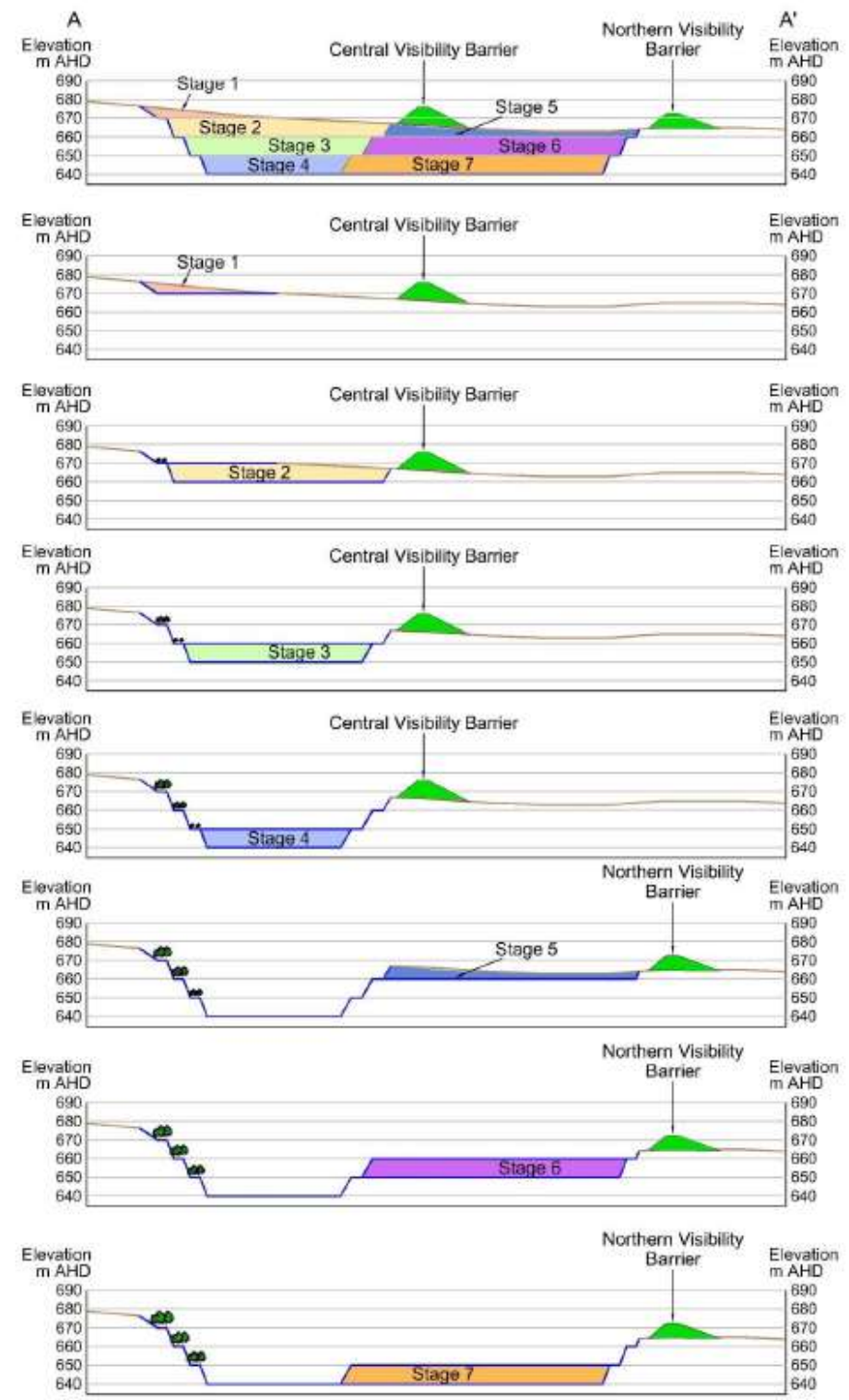


Base Photograph Source: Neamap - Date of Photography: 22 May 2014

Figure 2.2 - Amended SITE LAYOUT



- |                                   |                       |                                  |
|-----------------------------------|-----------------------|----------------------------------|
| <b>REFERENCE</b>                  |                       |                                  |
| Property Boundary                 | Project Site Boundary | Contour (m AHD)(Interval = 1m)   |
| Modified Extraction Area Boundary | 670m Bench            | Existing Dam (and Reference No.) |
| 660m Bench                        | 650m Bench            | Proposed Dam (and Reference No.) |
|                                   |                       | Unsealed Road / Track            |
|                                   |                       | Proposed Access Road             |



Stage 1  
Stage 2  
Stage 3  
Stage 4  
Stage 5  
Stage 6  
Stage 7

SCALE 1:3 500 (A3)  
0 50 100 150m

Base Map Source: Geo-Spectrum (Australia) Pty Ltd - Date of Photography: 26 August 2008

Figure 2.6  
EXTRACTION STAGES

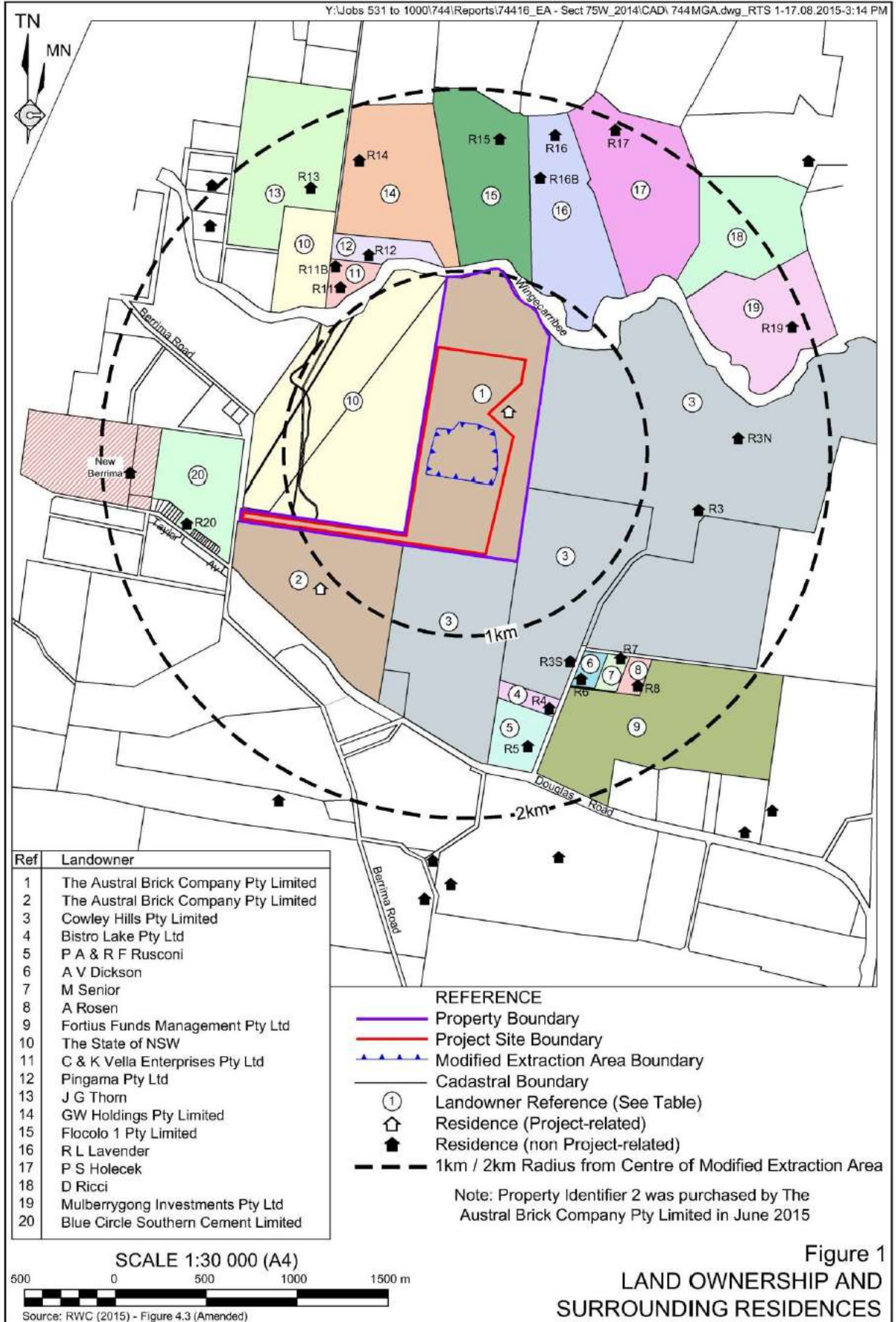
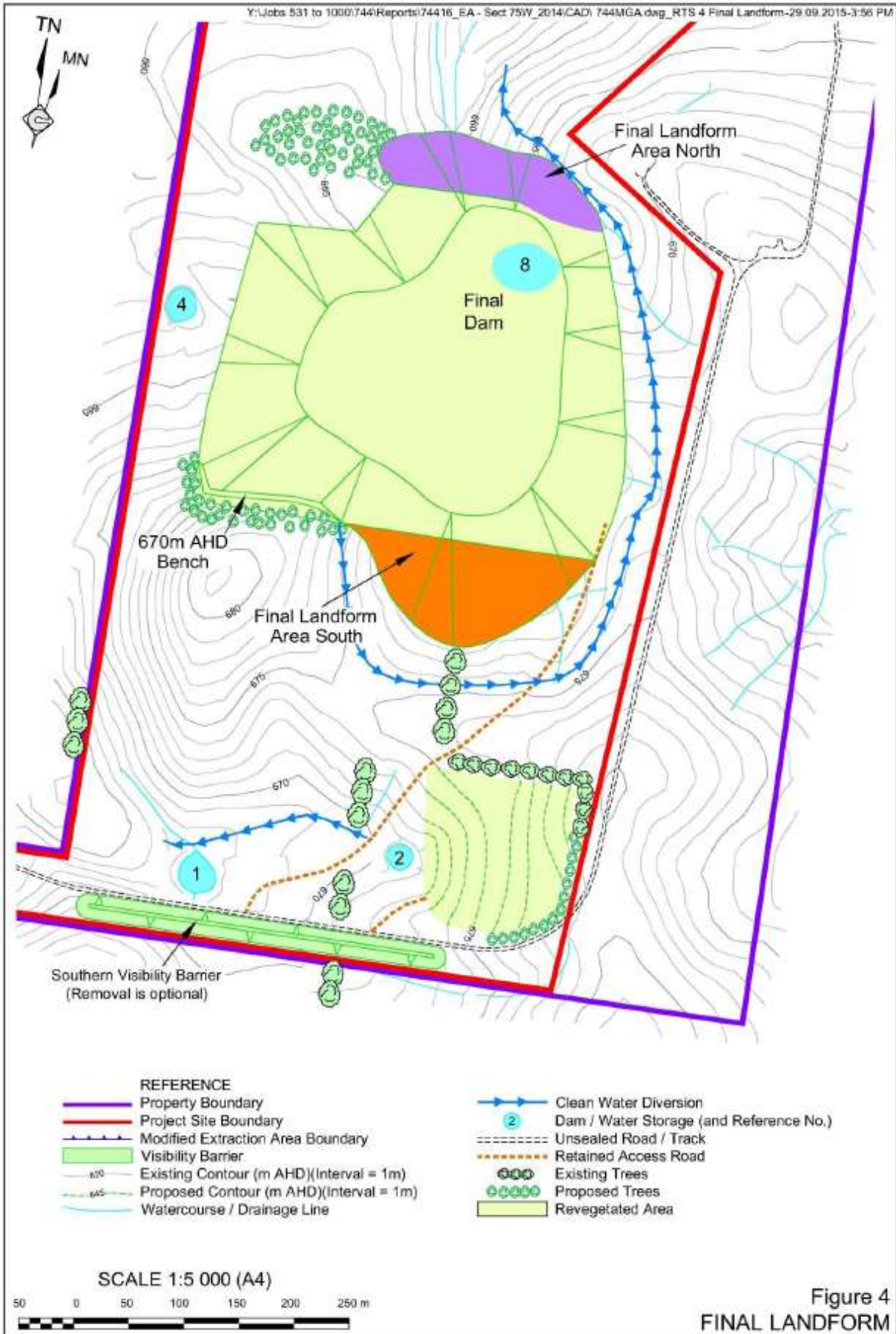


Figure 1  
LAND OWNERSHIP AND  
SURROUNDING RESIDENCES



22. Delete the table in Appendix B and replace with the following table.

Desired Outcome	Action	Timing
<b>1. Area of Activities and Operations</b>		
All approved activities are undertaken in the area(s) nominated on the approved plans and figures (unless moved slightly to avoid individual trees).	1.1 Survey and mark the boundaries of the areas of disturbance on the ground.	Prior to any vegetation clearing.
Satisfaction of the requirement of NSW Department of Industry for production data.	1.2 Provide annual production data to NSW Department of Industry - Resources & Energy (and include in the AEMR).	Annually (July).
<b>2. Operating Hours</b>		
Management of operations in accordance with the approved operating hours.	2.1 Design and implement a Notification Protocol to alert all potentially affected residents of the intention to undertake activities outside of normal hours of operation.	During operations.
	2.2 Institute a complaints telephone line for the reporting of complaints (if any) on activities undertaken outside of normal hours of operation.	During operations.
	2.3 Maintain a Complaints Register to record complaints received and actions taken by the Proponent to address the complaints.	During operations.
<b>3. Traffic</b>		
Minimisation of traffic impacts, including road safety.	3.1 Seal the last 400m of the Quarry Access Road from the entrance to the Quarry.	During the construction periods.
	3.2 Cover all loads.	Ongoing.
	3.3 Ensure truck drivers adhere to the existing Austral Bricks Drivers Code of Conduct which identifies the required safety and courtesy requirements for drivers travelling to and from all Austral Bricks quarries.	Ongoing.
	3.4 Adopt all safety procedures during the Berrima Road / access driveway intersection construction and incorporate in the Section 138 Permit sought under the Roads Act 1993.	During the construction periods.
<b>4. Surface Water</b>		
Minimisation of potential impacts on surface water quality and supply of the local watercourse system, particularly the Wingecarribee River.	4.1 Ensure early and progressive revegetation of visibility barriers and rehabilitation of completed extraction areas.	Ongoing.
	4.2 Use of any water sourced from the sedimentation basins for dust suppression within the upslope catchment of a sedimentation basin.	As required.
	4.3 Install sediment control fencing around the visibility barriers under construction and other areas of exposed soil until vegetation has been established.	As required.



Desired Outcome	Action	Timing	
<b>4. Surface Water (Cont'd)</b>			
Minimisation of potential impacts on surface water quality and supply of the local watercourse system, particularly the Wingecarribee River. (Cont'd)	4.4	Construct and operate various surface water management controls such as diversion structures and sedimentation basins in accordance with the Water Management Plan.	During the construction periods.
	4.5	Armour potential scour points (e.g. channel inlets/outlets and bends) with rock.	During the construction periods
	4.6	Inspect diversion structures monthly and within 24 hours following any rain event that generates flow in the drains to identify areas of erosion, scour or damage. Repair any problem areas and/or take appropriate stabilising action.	Ongoing.
<b>5. Noise</b>			
Minimisation of the noise impacts attributable to extraction and transportation of clay /shale product from the Quarry.	5.1	Retain the existing tree screen on the eastern side of the extraction area.	Ongoing.
	5.2	Regularly service all equipment to ensure sound power levels of each item remains at or below that nominated for noise modelling purposes.	Ongoing.
	5.3	Ensure all earth-moving equipment are fitted with mid-frequency band reversing alarms.	Ongoing.
<b>6. Flora</b>			
Minimisation of the spread of weeds, on and off Site.	6.1	Quick establishment of a selected cover crop.	During the construction periods.
	6.2	Spray weeds with an authorised herbicide.	As required.
	6.3	Ensure all earthmoving equipment is appropriately cleaned prior to being brought to the Quarry for each campaign.	Prior to each campaign.
<b>7. Visual Amenity</b>			
Reduce visible amenity impacts.	7.1	Plant trees screenings at the eastern side of the surplus overburden stockpile area to screen stockpiles from the east.	During the construction periods
	7.2	Commence progressive rehabilitation of completed faces and all other completed disturbed areas as soon as possible after completion of extraction. Rehabilitation of the southern extraction area wall would be very advanced (13-18 years) and protect against views of extraction faces during Stages 5 to 7.	Ongoing.
<b>8. Air Quality</b>			
Limit the generation of dust and other emissions from Quarry activities.	8.1	Construct vegetated visibility barriers to provide barriers to minimise the spread of dust from the Quarry.	During the construction periods
	8.2	Commence progressive rehabilitation of all disturbed areas as soon as possible after the completion of excavation in that area.	Ongoing.
	8.3	Use water truck to routinely spray unsealed roads, tracks and stockpile areas.	Ongoing, if required.
	8.4	Cover and effectively seal tailgates of trucks leaving the Quarry.	Ongoing.

Desired Outcome	Action	Timing
<b>8. Air Quality (Cont'd)</b>		
Limit the generation of dust and other emissions from Quarry activities. (Cont'd)	8.5 Prohibit all vehicles and machinery from idling unnecessarily.	Ongoing.
	8.6 Maintain all vehicles and machinery in accordance with manufacturers' specifications.	Ongoing.
	8.7 Amend extraction practices as required during adverse wind conditions to minimise the generation and spread of dust from the Quarry.	As required.
	8.8 Minimise drop heights between front-end loader buckets and truck trays through operator training and education on the management of dust.	Ongoing.
	8.9 Apply dust suppressants (e.g. Gluon or TerraControl) on unsealed roads used for product transport.	In the event that sufficient water is not available on Site for dust suppression.
<b>9. Soils, Land Capability and Agricultural Sustainability</b>		
Conservation of topsoil resources.	9.1 Strip all available topsoil to a depth of approximately 0.15m from the surface of each extraction stage.	Ongoing.
	9.2 Wherever practicable, place stripped topsoil directly onto the constructed visibility barriers or areas prepared and awaiting rehabilitation.	Ongoing.
	9.3 Stockpile topsoil around the perimeter of the surplus overburden stockpile area for later reclamation if no areas are available. Limit topsoil stockpiles to no more than 2.0m in height to minimise adverse impacts upon the biological activity of the topsoil.	Ongoing.
	9.4 Broadcast a pasture seed mix to assist with temporary stabilisation if topsoil stockpiles are likely to remain for extended periods.	As required.
	9.5 Avoid excessive handling of soil during the stripping and stockpiling operation and handling when the soils are wet to protect soil structure.	Ongoing.
	9.6 Restrict driving of machinery on the topsoil stockpiles, as well as the respread soil, to maximise soil aggregation and prevent compaction, particularly when the stockpiles are moist.	Ongoing.
	9.7 Place silt-stop fencing or similar immediately down-slope of stockpiles and visibility barriers where required, until a stable vegetation cover is established.	During the construction periods

Desired Outcome	Action	Timing
<b>9. Soils, Land Capability and Agricultural Sustainability (Cont'd)</b>		
Minimise the potential for soil contamination.	9.8 Restrict all refuelling and vehicle maintenance activities to designated areas which are either sealed, bunded or located with access to spill control kits.	Ongoing.
	9.9 Complete regular housekeeping and maintenance of vehicle maintenance areas.	Ongoing.
<b>10. Heritage</b>		
Comply with the provisions of the <i>National Parks and Wildlife Act 1974</i> (as amended).	10.1 Instruct employees, earthmoving contractors, subcontractors, machine operators and their representatives, whether working in the survey area or elsewhere, that in the event of any bone or stone artefacts, or discrete distributions of shell, or any objects of cultural association, being unearthed during earthmoving, work would cease immediately in the area of the find.	Ongoing.
	10.2 Immediately report the find to the Office of Environment and Heritage (OEH) and the relevant Local Aboriginal Land Councils.	As required.
	10.3 In the event that any bone cannot be clearly identified by a qualified archaeologist as being of animal remains, inform the police of its discovery, inform OEH, and inform officials and/or their representatives of the Illawarra Local Aboriginal Land Council, Wodi Wodi Elders Corporation, and Korewal Elouera, Jerrungarugh.	As required.
	10.4 Do not recommence work in the area of the find, until both the police (if unidentified bone has been found) and those officials or representatives have given their permission to do so.	As required.

23. Update the page numbering on the Table of Contents page as required to reflect the above changes.