

APPROVAL

Coal & Allied residential subdivision, Wallarah Peninsula NSW (EPBC 2008/4419)

This decision is made under sections 130(1) and 133 of the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act).

Proposed action

person to whom the approval is granted

Coal & Allied Operations Pty Ltd
ACN: 000 023 656

proposed action

The subdivision and residential development of approximately 101 hectares of land owned by Coal & Allied Operations Pty Ltd on the Wallarah Peninsula at Gwandalan, Catherine Hill Bay and Nords Wharf to create up to 935 dwellings and associated infrastructure. The dedication of approximately 849 hectares of land to the New South Wales Government for permanent conservation is included as part of the action, as described in the referral documentation submitted on 20 August 2008.

Approval

relevant controlling provisions

The decision to approve has effect for:

- Listed threatened species and communities (sections 18 & 18A)

conditions of approval

This approval is subject to the conditions specified below.

expiry date of approval

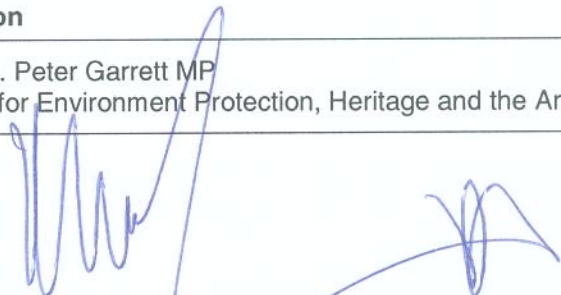
This approval has effect until 2039.

Person authorised to make decision

name and position

The Hon. Peter Garrett MP
Minister for Environment Protection, Heritage and the Arts

signature



date of decision

23rd March 2010

ANNEXURE 1

Conditions attached to the approval for Gwandalan developable area and conservation area.

- A1. The person taking the action must undertake the action in accordance with the conditions of this approval and as described in the referral documentation dated 20 August 2008. Where the referral documentation and these conditions are contradictory, these conditions shall prevail to the extent of the contradiction.
- A2. Prior to any commencement of works, the person taking the action must dedicate the approximate 206 ha of land identified as the Gwandalan conservation area to the NSW Government to be conserved in perpetuity.
- A3. The person taking the action must develop a management plan that:
- (a) ensures the long term management for conservation and viability of the *Angophora inopina* population in the northern section of the buffer zone on the eastern side of Kanangra Drive (refer to the map at Figure 2); and
 - (b) identifies actions for managing the long term impacts on the *A. inopina* population in the northern section of the buffer zone from the adjacent residential areas.

The plan must be approved in writing by the Minister prior to commencement of works. The approved plan must be implemented.

- A4. The person taking the action must develop a management plan that:
- (a) provides for monitoring of the impacts of mineral exploration and extraction on the viability of the *A. inopina* in the Gwandalan conservation area;
 - (b) identifies measures of viability that are critical thresholds which indicate a reduction in viability of the *A. inopina* in the Gwandalan conservation area which, once exceeded, will trigger a requirement for the person proposing to take the action to put in place management actions to address any reduction in viability; and
 - (c) identifies measures of viability that are critical thresholds which, once exceeded, will trigger a requirement for the person proposing take the action to source an additional area containing viable *A. inopina* to compensate for the impacts that the development in the Gwandalan developable area will have on *A. inopina*.

The plan must be approved in writing by the Minister prior to commencement of works. The approved plan must be implemented.

- A5. In order to minimise any potential impacts on the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) listed threatened species and suitable habitat that is known to, or likely to occur in the Gwandalan conservation area, a management and monitoring plan must be developed to address the following interface management issues between the Gwandalan developable area and the Gwandalan conservation area:
- (a) pedestrian access arrangements;
 - (b) edge effects due to disturbance of adjacent areas;
 - (c) procedures for identifying and conserving, hollow bearing and old growth habitat trees in the Gwandalan developable area;
 - (d) sediment and erosion control measures;
 - (e) water quality and quantity;
 - (f) domestic animals;
 - (g) spread of exotic and invasive species; and
 - (h) foreshore rehabilitation.

The plan must be approved in writing by the Minister prior to commencement of works. The approved plan must be implemented.

- A6. In order to minimise the potential impacts on the EPBC Act listed threatened species and suitable habitat that is known to, or likely to occur in the Gwandalan conservation area, the person proposing to take the action must develop a Stormwater Management Plan which ensures that stormwater discharged from the Gwandalan developable area meets the objective reductions set out in the October 2007 draft *Managing Urban Stormwater: environmental targets*, Department of Environment and Climate Change NSW.

The plan must be approved in writing by the Minister prior to commencement of works. The approved plan must be implemented.

- A7. Within ten calendar days of commencement of the works, the person taking the action must advise the Department in writing of the actual date of commencement.
- A8. Within three months of every 12 month anniversary of the commencement of the works, the person taking the action must submit to the Department an annual report addressing compliance with the conditions of this approval, including measures taken to implement the management plans required by this approval. Annual reports must be provided until the Minister is satisfied and the Department advises in writing that the proponent has complied with all conditions of the approval.
- A9. If the person taking the action wishes to carry out any activity otherwise than in accordance with the plans, reports or strategies referred to in condition numbers A3, A4, A5 and A6 the person taking the action must submit for the Minister's approval a revised version of any such plan, report or strategy. If the Minister approves such a revised plan, report or strategy, that plan, report or strategy must be implemented in place of the plan, report or strategy originally approved.
- A10. If the Minister believes that it is necessary or desirable for the better protection of listed threatened species and communities to do so, the Minister may request that the person taking the action make specified revisions to the plans, reports or strategies approved pursuant to condition numbers A3, A4, A5 and A6 and submit the revised plan, report or strategy for the Minister's approval. The person taking the action must comply with any such request. The revised approved plan, report or strategy must be implemented.
- A11. If, at any time after 5 years from the date of this approval, the Minister notifies the person taking the action in writing that the Minister is not satisfied that there has been substantial commencement of the action, the action must not thereafter be commenced without the written agreement of the Minister.
- A12. The person taking the action must maintain accurate records substantiating all activities associated with or relevant to the above conditions of approval, including measures taken to implement the management plans required by this approval, and make them available upon request to the Department. Such records may be subject to audit by the Department or an independent auditor in accordance with section 458 of the EPBC Act, or used to verify compliance with the conditions of approval. Summaries of audits will be posted on the Departments website. The results of audits may also be publicised through the general media.

Definitions:

Commencement of works: Undertaking of any activity identified below under the definition of works.

Gwandalan conservation area: The area identified as conservation land (marked green) on the map at Figure 1.

Gwandalan developable area: The area identified as developable land (marked blue) on the map at Figure 1.

Department: The Australian Government Department responsible for the *Environment Protection and Biodiversity Conservation Act 1999*.

Minister: The Minister responsible for the *Environment Protection and Biodiversity Conservation Act 1999*.

Substantial commencement: the commencement of works.

Works: Includes any preparatory works required to be undertaken including clearing vegetation, the erection of any onsite temporary structures and the use of heavy equipment for the purpose of breaking the ground for buildings or infrastructure. Works excludes any activity required to be undertaken to fulfil the requirements of condition numbers A2, A3, A4 and A5 above.

ANNEXURE 2

Conditions attached to the approval for Catherine Hill Bay developable area and conservation area.

- B1. The person taking the action must undertake the action in accordance with the conditions of this approval and as described in the referral documentation dated 20 August 2008. Where the referral documentation and these conditions are contradictory, these conditions shall prevail to the extent of the contradiction.
- B2. Prior to any commencement of works, the person taking the action must dedicate the approximate 527 ha of land identified as the Catherine Hill Bay conservation area to the NSW Government to be conserved in perpetuity.
- B3. In order to minimise any potential impacts on the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) listed threatened species and suitable habitat that is known to, or is likely to occur in the Catherine Hill Bay conservation area, a management and monitoring plan must be developed to address the following interface management issues between the Catherine Hill Bay developable area and the Catherine Hill Bay conservation area:
- (a) pedestrian access arrangements;
 - (b) edge effects due to disturbance of adjacent areas;
 - (c) procedures for identifying and conserving, hollow bearing and old growth habitat trees in the Catherine Hill Bay developable area;
 - (d) sediment and erosion control measures;
 - (e) water quality and quantity;
 - (f) domestic animals; and
 - (g) spread of exotic and invasive species.

The plan must be approved in writing by the Minister prior to commencement of works. The approved plan must be implemented.

- B4. In order to minimise the potential impacts on the EPBC Act listed threatened species and suitable habitat that is known to, or likely to occur in the Catherine Hill Bay Conservation area, the person proposing to take the action must prepare Stormwater Management Plans which ensure that stormwater discharged from the Catherine Hill Bay developable area meets the objective reductions set out in the October 2007 draft *Managing Urban Stormwater: environmental targets, Department of Environment and Climate Change NSW*.

The plan must be approved in writing by the Minister prior to commencement of works. The approved plan must be implemented

- B5. Within ten calendar days of commencement of the works, the person taking the action must advise the Department in writing of the actual date of commencement.
- B6. Within three months of every 12 month anniversary of the commencement of the works, the person taking the action must submit to the Department an annual report addressing compliance with the conditions of this approval, including measures taken to implement the management plans required by this approval. Annual reports must be provided until the Minister is satisfied and the Department advises in writing that the proponent has complied with all conditions of the approval.
- B7. If the person taking the action wishes to carry out any activity otherwise than in accordance with the plans, reports or strategies referred to in condition numbers B3 and B4 the person taking the action must submit for the Minister's approval a revised version of any such plan, report or strategy. If the Minister approves such a revised plan, report or strategy, that plan, report or strategy must be implemented in place of the plan, report or strategy originally approved.

- B8. If the Minister believes that it is necessary or desirable for the better protection of listed threatened species and communities to do so, the Minister may request that the person taking the action make specified revisions to the plans, reports or strategies approved pursuant to condition numbers B3 and B4 and submit the revised plan, report or strategy for the Minister's approval. The person taking the action must comply with any such request. The revised approved plan, report or strategy must be implemented.
- B9. If, at any time after 5 years from the date of this approval, the Minister notifies the person taking the action in writing that the Minister is not satisfied that there has been substantial commencement of the action, the action must not thereafter be commenced without the written agreement of the Minister.
- B10. The person taking the action must maintain accurate records substantiating all activities associated with or relevant to the above conditions of approval, including measures taken to implement the management plans required by this approval and make them available upon request to the Department. Such records may be subject to audit by the Department or an independent auditor in accordance with section 458 of the EPBC Act, or used to verify compliance with the conditions of approval. Summaries of audits will be posted on the Department's website. The results of audits may also be publicised through the general media.

Definitions:

Catherine Hill Bay conservation area: The area identified as conservation land (marked green) on the map at Figure 3.

Catherine Hill Bay developable area: The area identified as developable land (marked blue) on the Map at Figure 3.

Commencement of works: Undertaking of any activity identified below under the definition of works.

Department: The Australian Government Department responsible for the *Environment Protection and Biodiversity Conservation Act 1999*.

Minister: The Minister responsible for the *Environment Protection and Biodiversity Conservation Act 1999*.

Substantial commencement: the commencement of works.

Works: Includes any preparatory works required to be undertaken including clearing vegetation, the erection of any onsite temporary structures and the use of heavy equipment for the purpose of breaking the ground for buildings or infrastructure. Works excludes any activity required to be undertaken to fulfil the requirements of condition numbers B2, B3 and B4 above.

ANNEXURE 3

Conditions attached to the approval for Nords Wharf developable area and conservation area

- C1. The person taking the action must undertake the action in accordance with the conditions of this approval and as described in the referral documentation dated 20 August 2008. Where the referral documentation and these conditions are contradictory, these conditions shall prevail to the extent of the contradiction.
- C2. Prior to any commencement of works, the person taking the action must dedicate the approximate 116 ha of land identified as the Nords wharf conservation area to the NSW Government to be conserved in perpetuity.
- C3. In order to minimise any potential impacts on the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) listed threatened species and suitable habitat that is known to, or likely to occur in the Nords wharf conservation area, a management and monitoring plan must be developed to address the following interface issues between Nords Wharf developable area and Nords Wharf conservation area:
- (a) pedestrian access arrangements;
 - (b) edge effects due to disturbance of adjacent areas;
 - (c) procedures for identifying and conserving, hollow bearing and old growth habitat trees in the Nords Wharf developable area;
 - (d) sediment and erosion control measures;
 - (e) water quality and quantity;
 - (f) domestic animals; and
 - (g) spread of exotic and invasive species.

The plan must be approved in writing by the Minister prior to commencement of works. The approved plan must be implemented.

- C4. In order to minimise the potential impacts on the EPBC Act listed threatened species and suitable habitat that is known to, or likely to occur in the Nords Wharf conservation area, the person proposing to take the action must prepare Stormwater Management Plans which ensure that stormwater discharged from the Nords wharf developable area meets the objective reductions set out in the October 2007 draft *Managing Urban Stormwater: environmental targets, Department of Environment and Climate Change NSW*.

The plan must be approved in writing by the Minister prior to commencement of works. The approved plan must be implemented.

- C5. Within ten calendar days of commencement of the works, the person taking the action must advise the Department in writing of the actual date of commencement.
- C6. Within three months of every 12 month anniversary of the commencement of the works, the person taking the action must submit to the Department an annual report addressing compliance with the conditions of this approval, including measures taken to implement the management plans required by this approval. Annual reports must be provided until the Minister is satisfied and the Department advises in writing that the proponent has complied with all conditions of the approval.
- C7. If the person taking the action wishes to carry out any activity otherwise than in accordance with the plans, reports or strategies referred to in condition numbers C3 and C4 the person taking the action must submit for the Minister's approval a revised version of any such plan, report or strategy. If the Minister approves such a revised plan, report or strategy, that plan, report or strategy must be implemented in place of the plan, report or strategy originally approved.

- C8. If the Minister believes that it is necessary or desirable for the better protection of listed threatened species and communities to do so, the Minister may request that the person taking the action make specified revisions to the plans, reports or strategies approved pursuant to condition numbers C3 and C4 and submit the revised plan, report or strategy for the Minister's approval. The person taking the action must comply with any such request. The revised approved plan, report or strategy must be implemented.
- C9. If, at any time after 5 years from the date of this approval, the Minister notifies the person taking the action in writing that the Minister is not satisfied that there has been substantial commencement of the action, the action must not thereafter be commenced without the written agreement of the Minister.
- C10. The person taking the action must maintain accurate records substantiating all activities associated with or relevant to the above conditions of approval, including measures taken to implement the management plans required by this approval and make them available upon request to the Department. Such records may be subject to audit by the Department or an independent auditor in accordance with section 458 of the EPBC Act, or used to verify compliance with the conditions of approval. Summaries of audits will be posted on the Department's website. The results of audits may also be publicised through the general media.

Definitions:

Commencement of works: Undertaking of any activity identified below under the definition of works.

Department: The Australian Government Department responsible for the *Environment Protection and Biodiversity Conservation Act 1999*.

Minister: The Minister responsible for the *Environment Protection and Biodiversity Conservation Act 1999*.

Nords Wharf conservation area: The area identified as land (marked green) on the map at Figure 4.

Nords Wharf developable area: The area identified as developable land (marked blue) on the map at Figure 4.

Substantial commencement: the commencement of works.

Works: Includes any preparatory works required to be undertaken including clearing vegetation, the erection of any onsite temporary structures and the use of heavy equipment for the purpose of breaking the ground for buildings or infrastructure. Works excludes any activity required to be undertaken to fulfil the requirements of condition numbers C2, C3 and C4.

FIGURE 1

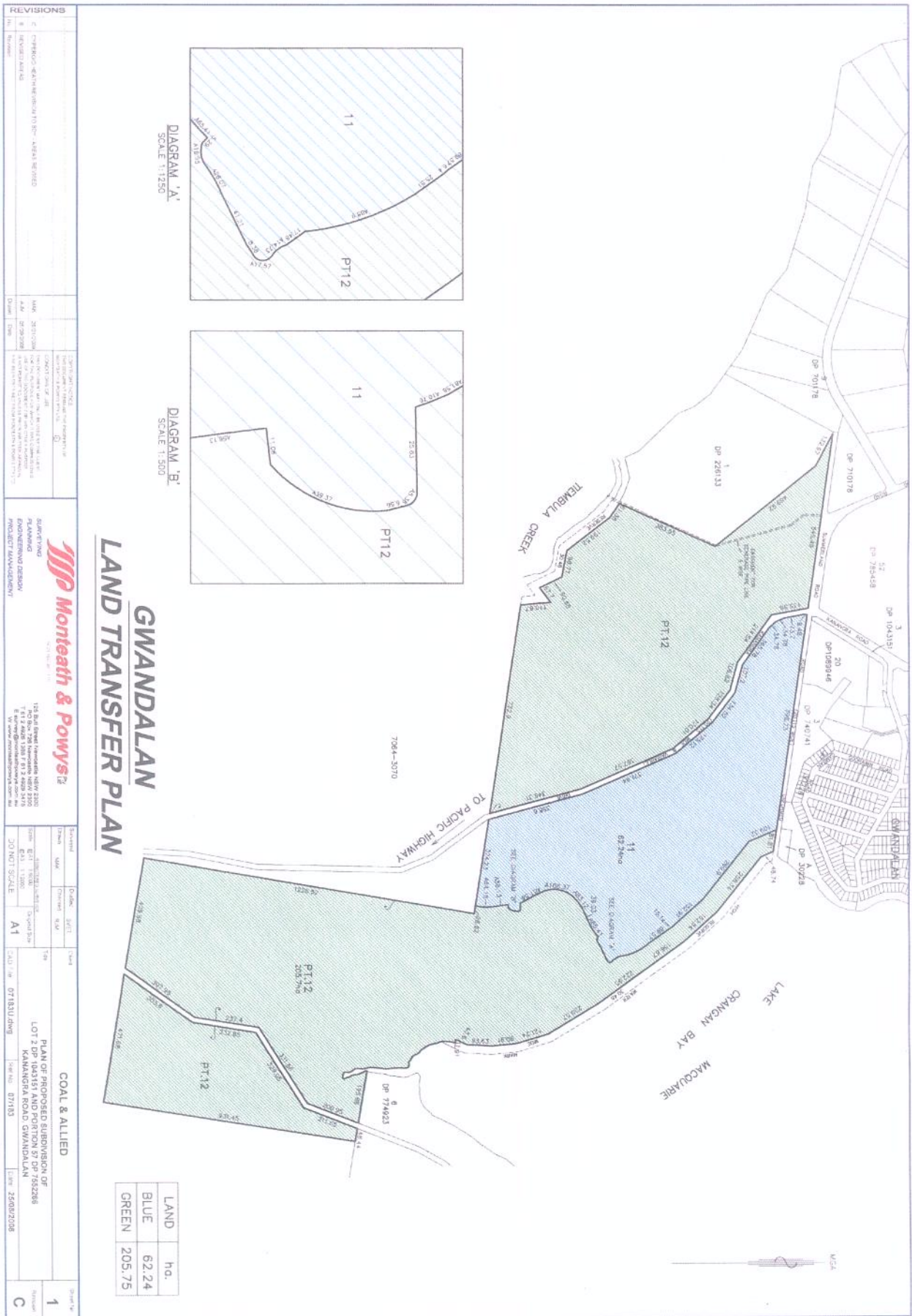


FIGURE 2

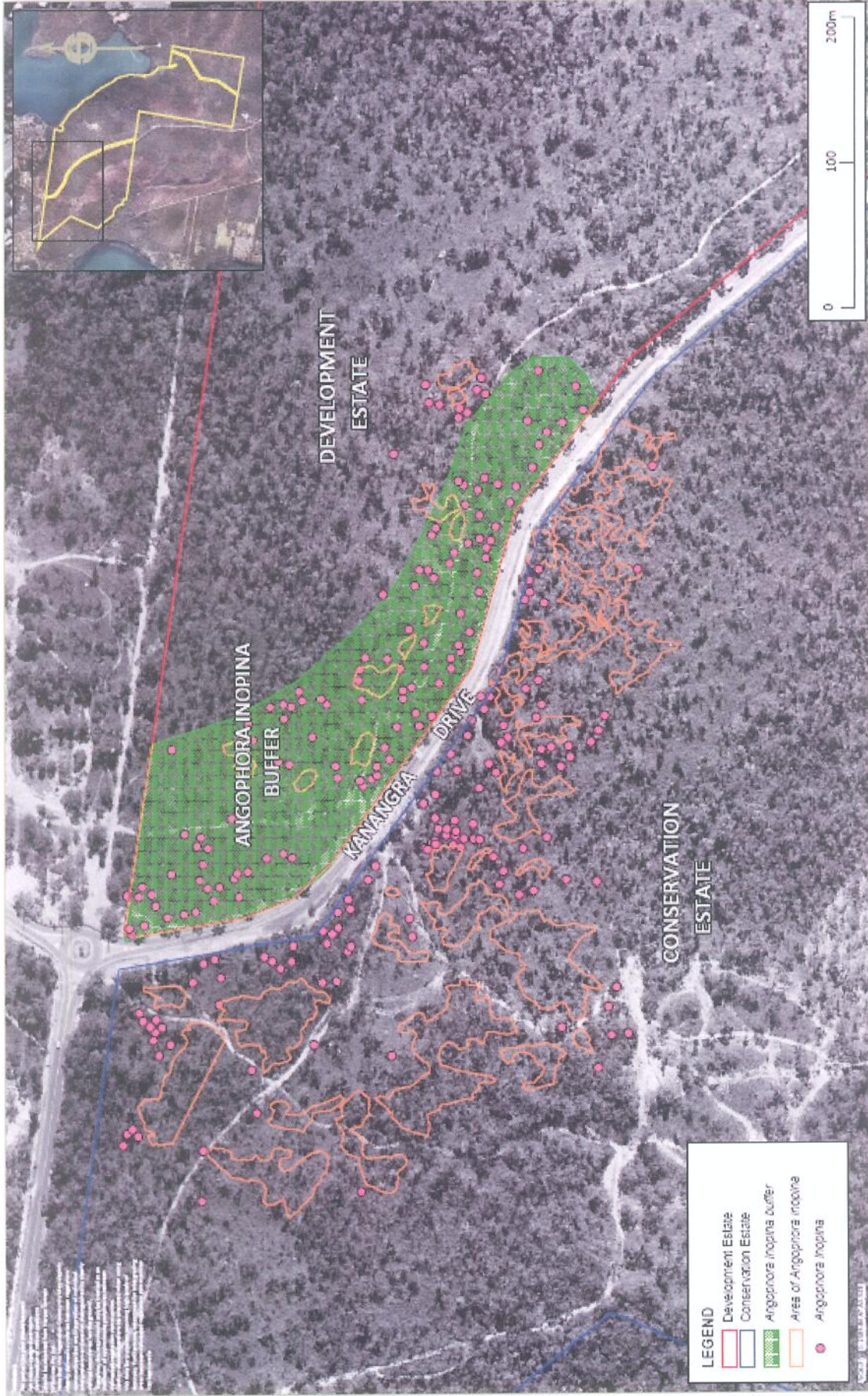


FIGURE 3

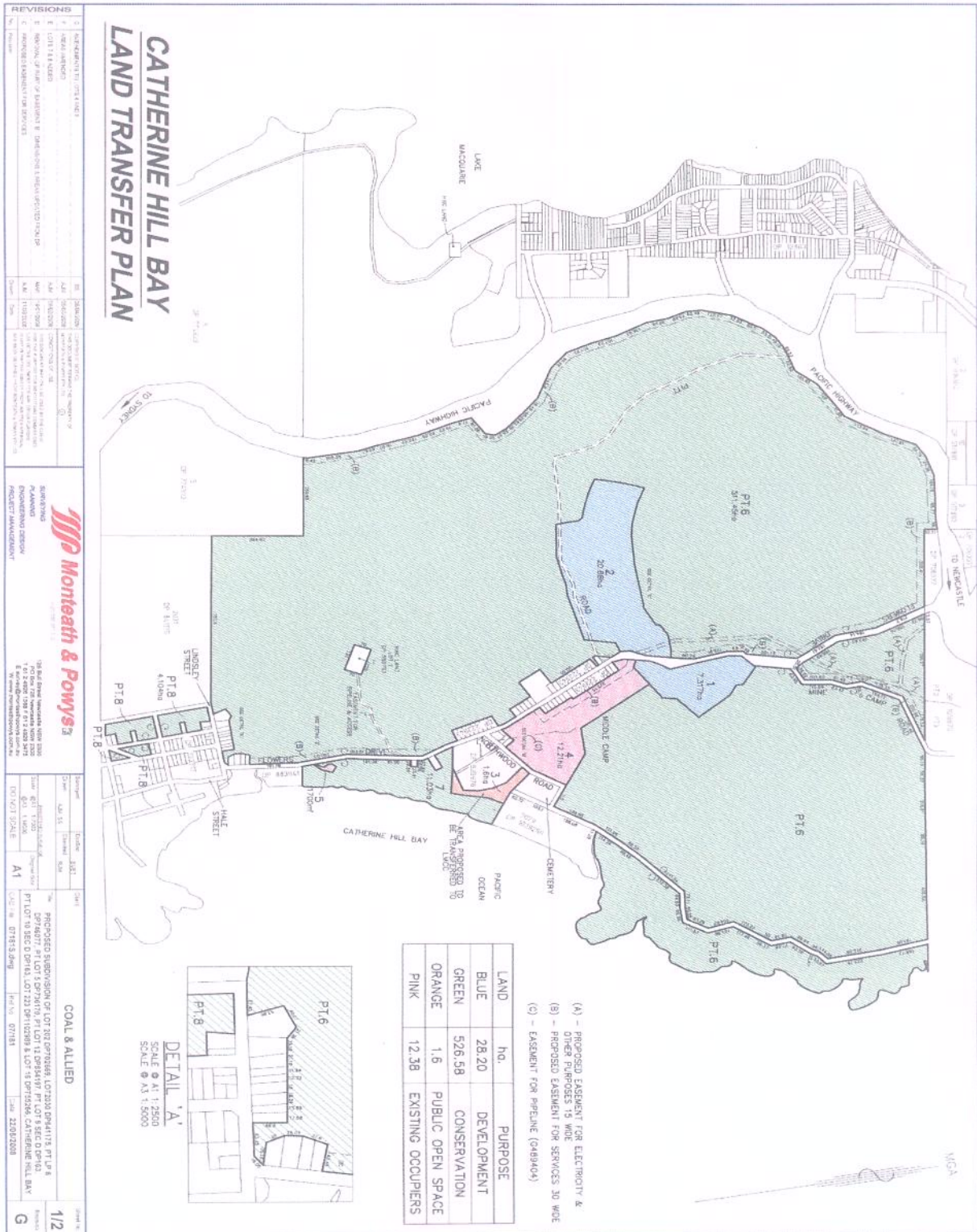


FIGURE 4

