



APPROVAL

Marulan South Limestone Mine Extension Project, Marulan South, NSW (EPBC 2015/7521)

This decision is made under sections 130(1) and 133(1) of the *Environment Protection and Biodiversity Conservation Act 1999* (Cth) (the EPBC Act). Note that section 134(1A) of the EPBC Act applies to this approval, which provides in general terms that if the approval holder authorises another person to undertake any part of the action, the approval holder must take all reasonable steps to ensure that the other person is informed of any conditions attached to this approval, and that the other person complies with any such condition.

Details

Person to whom the approval is granted (approval holder)	Boral Cement Limited
ACN or ABN of approval holder	008 528 523
Action	To expand an existing limestone and clay mining operation (Consolidated Mining Lease No. 16) and construct and operate mine-related infrastructure, for up to 30 years in Marulan South, 10 kilometres southeast of Marulan Village [See EPBC Act referral 2015/7521, subject to the variation request received on 22 September 2021].

Approval decision

My decision on whether or not to approve the taking of the action for the purposes of the controlling provision for the action is as follows.

Controlling Provisions

Listed Threatened Species and Communities	
Section 18	Approve
Section 18A	Approve

Period for which the approval has effect

This approval has effect until 31 August 2071.

Decision-maker

Name and position Kate Gowland, Acting Assistant Secretary, Environment Assessments (NSW, ACT) Branch

Signature

Date of decision

7/10/2021

Conditions of approval

This approval is subject to the conditions under the EPBC Act as set out in ANNEXURE A.

ANNEXURE A – CONDITIONS OF APPROVAL

Part A – Conditions specific to the action

Listed threatened species and ecological communities

The objective of conditions 1, 2 and 3 is to minimise and compensate for the impacts of the action on **protected matters**.

1. Within the **development footprint**, the approval holder must not **clear** more than:
 - a. 80.7 hectares of **White Box-Yellow Box-Blakely's Red Gum Grassy Woodland and Derived Native Grassland**;
 - b. 132.4 hectares of **Koala habitat**; or
 - c. 140.3 hectares of **Large-eared Pied Bat habitat**.

Clearing may only

be undertaken where shown within the **development footprint** as '**White Box-Yellow Box-Blakely's Red Gum Grassy Woodland and Derived Native Grassland**' on the map at Attachment 2, where shown within the **development footprint** as '**Koala habitat**' on the map at Attachment 3, and where shown within the **development footprint** as '**Large-eared Pied Bat habitat**' on the map at Attachment 4.

2. To compensate for the **clearance** of **White Box-Yellow Box-Blakely's Red Gum Grassy Woodland and Derived Native Grassland, Koala habitat** and **Large-eared Pied Bat habitat**, the approval holder must **retire credits** prior to the **commencement of the action**, as specified:
 - a. 935 ecosystem **credits** for **White Box-Yellow Box-Blakely's Red Gum Grassy Woodland and Derived Native Grassland**;
 - b. 2,454 species **credits** for **Koala**; and
 - c. 3,836 species **credits** for **Large-eared Pied Bat**.
3. The approval holder must comply with the **State development consent** conditions A2, A5, B51, B52, B53, B54, B55, B56, B76, B78, B79, B80, B81 and B82.

Part B – Standard administrative conditions

Notification of date of commencement of the action

4. The approval holder must notify the **Department** in writing of the date of **commencement of the action** within 10 **business days** after the date of **commencement of the action**.
5. If the **commencement of the action** does not occur within 5 years from the date of this approval, then the approval holder must not **commence the action** without the prior written agreement of the **Minister**.

Compliance records

6. The approval holder must maintain accurate and complete **compliance records**.

7. If the **Department** makes a request in writing, the approval holder must provide electronic copies of **compliance records** to the **Department** within the timeframe specified in the request.

Note: **Compliance records** may be subject to audit by the **Department** or an independent auditor in accordance with section 458 of the **EPBC Act**, and or used to verify compliance with the conditions. Summaries of the result of an audit may be published on the **Department's** website or through the general media.

Annual compliance reporting

8. The approval holder must prepare a **compliance report** for each 12 month period following the date of **commencement of the action**, or as otherwise agreed in writing by the **Minister**. The approval holder must:
 - a. publish each **compliance report** on the **website** within 60 **business days** following the relevant 12 month period
 - b. notify the **Department** by email that a **compliance report** has been published on the **website** and provide the weblink for the **compliance report** within 5 **business days** of the date of publication
 - c. keep all **compliance reports** publicly available on the **website** until this approval expires
 - d. exclude or redact **sensitive ecological data** from **compliance reports** published on the **website**
 - e. where any **sensitive ecological data** has been excluded from the version published, submit the full **compliance report** to the **Department** within 5 **business days** of publication.

Note: **Compliance reports** may be published on the **Department's** website.

Reporting non-compliance

9. The approval holder must notify the **Department** in writing of any: **incident** or non-compliance with the conditions. The notification must be given as soon as practicable, and no later than 2 **business days** after becoming aware of the **incident** or non-compliance. The notification must specify:
 - a. any condition which is or may be in breach
 - b. a short description of the **incident** and/or non-compliance
 - c. the location (including co-ordinates), date, and time of the **incident** and/or non-compliance. In the event the exact information cannot be provided, provide the best information available.
10. The approval holder must provide to the **Department** the details of any **incident** or non-compliance with the conditions or commitments made in **plans** as soon as practicable and no later than 10 **business days** after becoming aware of the **incident** or non-compliance, specifying:
 - a. any corrective action or investigation which the approval holder has already taken or intends to take in the immediate future
 - b. the potential impacts of the **incident** or non-compliance
 - c. the method and timing of any remedial action that will be undertaken by the approval holder.

Independent audit

11. The approval holder must ensure that **independent audits** of compliance with the conditions are conducted as requested in writing by the **Minister**.
12. For each **independent audit**, the approval holder must:
 - a. provide the name and qualifications of the independent auditor and the draft audit criteria to the **Department**

- b. only commence the **independent audit** once the audit criteria have been approved in writing by the **Department**
 - c. submit an audit report to the **Department** within the timeframe specified in the approved audit criteria.
13. The approval holder must publish the audit report on the **website** within 10 **business days** of receiving the **Department's** approval of the audit report and keep the audit report published on the **website** until the end date of this approval.

Completion of the action

14. Within 20 **business days** after the **completion of the action**, the approval holder must notify the **Department** in writing and provide **completion data**.

Changes to State development consent

15. The approval holder must notify the **Department** in writing of any proposed change to the **State development consent** conditions referred to in these conditions within 10 **business days** of formally proposing a change or becoming aware of any proposed change where the proposed change would or is likely to alter or increase the impacts of the action on **protected matters**.
16. The approval holder must notify the **Department** in writing of any change to the conditions of the **State development consent** referred to in these conditions, for which notice was required to be given in accordance with condition 15 above, within 10 **business days** of a change to conditions being finalised.

Part C - Definitions

In these conditions, except where contrary intention is expressed, the following definitions are used:

Business day means a day that is not a Saturday, a Sunday or a public holiday in the state or territory of the action.

Clear/cleared/clearance/cleaning means the cutting down, felling, thinning, logging, removing, killing, destroying, poisoning, ringbarking, uprooting or burning of vegetation (but not including weeds – see the *Australian weeds strategy 2017 to 2027* for further guidance).

Commence the action/Commencement of the action means the first instance of any specified activity associated with the action including **clearing** and **construction**. **Commencement of the action** does not include minor physical disturbance necessary to:

- i. undertake pre-clearance surveys or monitoring programs
- ii. install signage and /or temporary fencing to prevent unapproved use of the project area
- iii. protect environmental and property assets from fire, weeds and pests, including installation of temporary fencing, and maintenance of existing surface access tracks
- iv. install temporary site facilities for persons undertaking pre-commencement activities so long as these are located where they have no impact on the **protected matters**
- v. undertaking geotechnical investigations if it causes only minor physical disturbance and is required well in advance of most site works to inform design.

Completion data means an environmental report and spatial data clearly detailing how the conditions of this approval have been met. The **Department's** preferred spatial data format is **shapefile**.

Completion of the action means the date on which all specified activities associated with the action have permanently ceased.

Compliance records means all documentation or other material in whatever form required to demonstrate compliance with the conditions of approval in the approval holder's possession or that are within the approval holder's power to obtain lawfully.

Compliance reports means written reports:

- i. providing accurate and complete details of compliance, **incidents**, and non-compliance with the conditions and the **plans**;
- ii. consistent with the **Department's Annual Compliance Report Guidelines (2014)**;
- iii. include a **shapefile** of any clearance of any **protected matters**, or their habitat, undertaken within the relevant 12 month period; and
- iv. annexing a schedule of all **plans** prepared and in existence in relation to the conditions during the relevant 12 month period.

Credit(s) means biodiversity credits under the *Biodiversity Conservation Act 2016 (NSW)*.

Construction means the erection of a building or structure that is or is to be fixed to the ground and wholly or partially fabricated on-site; the alteration, maintenance, repair or demolition of any building or structure; preliminary site preparation work which involves breaking of the ground (including pile driving); the laying of pipes and other prefabricated materials in the ground, and any associated excavation work; but excluding the installation of temporary fences and signage.

Department means the Australian Government agency responsible for administering the **EPBC Act**.

Development footprint means the area represented in the maps at Attachments 1a, 1b and 1c by the zones marked with black hatching and described in the legend as *The Project - Disturbance footprint*.

EPBC Act means the *Environment Protection and Biodiversity Conservation Act 1999 (Cth)*.

Impact (verb) means to cause any measurable direct or indirect disturbance or harmful change as a result of any activity associated with the action. **Impact** (noun) means any measurable direct or indirect disturbance or harmful change as a result of any activity associated with the action.

Incident means any event which has the potential to, or does, impact on one or more **protected matter(s)** other than as authorised by this approval decision.

Independent audit: means an audit conducted by an independent and **suitably qualified person** as detailed in the *Environment Protection and Biodiversity Conservation Act 1999 Independent Audit and Audit Report Guidelines (2019)*.

Koala means the animal species (*Phascolarctos cinereus - combined populations of QLD, NSW and the ACT*), listed as threatened under the **EPBC Act**.

Koala habitat means the area of habitat on the map at Attachment 3, which is represented by three colours coded as *Koala habitat - High, Moderate and Poor* as described in the map legend, and which overlaps with the hatched area defined in the map legend as *The Project - Disturbance footprint*.

Large-eared Pied Bat means the animal species (*Chalinolobus dwyeri*), listed as threatened under the **EPBC Act**.

Large-eared Pied Bat habitat means the area of habitat represented on the map at Attachment 4 by polygons of all the three colours designated in the map legend as *Large-eared Pied Bat habitat (High, Moderate and Poor)*.

Listed threatened species and ecological communities means threatened species and/or ecological communities listed under the **EPBC Act**.

Minister means the Australian Government Minister administering the **EPBC Act** including any delegate thereof.

Plan(s) means any of the documents required to be prepared, approved by the **Minister**, implemented by the approval holder and/or published on the **website** in accordance with these conditions (includes action management plans and/or strategies).

Protected matter(s) means a matter protected under a controlling provision in Part 3 of the **EPBC Act** for which this approval has effect.

Retire/retired/retirement – means to change the status of a **credit** such that the **credit** can no longer be bought or sold (*Biodiversity Conservation Act 2016 (NSW)*).

Sensitive ecological data means data as defined in the Australian Government Department of the Environment (2016) *Sensitive Ecological Data – Access and Management Policy V1.0*.

Shapefile means location and attribute information of the action provided in an Esri shapefile format. Shapefiles must contain '.shp', '.shx', '.dbf' files and a '.prj' file that specifies the projection/geographic coordinate system used. Shapefiles must also include an '.xml' metadata file that describes the shapefile for discovery and identification purposes.

State development consent means the NSW State development consent for the application number SSD 7009 approved on 19 August 2021.

Suitably qualified person means a person who has professional qualifications, training, skills and/or experience related to the nominated subject matter and can give authoritative independent assessment, advice and analysis on performance relative to the subject matter using the relevant protocols, standards, methods and/or literature.

Website means a set of related web pages located under a single domain name attributed to the approval holder and available to the public.

White Box-Yellow Box-Blakely's Red Gum Grassy Woodland and Derived Native Grassland means the ecological community of that name listed as critically endangered under the **EPBC Act**.

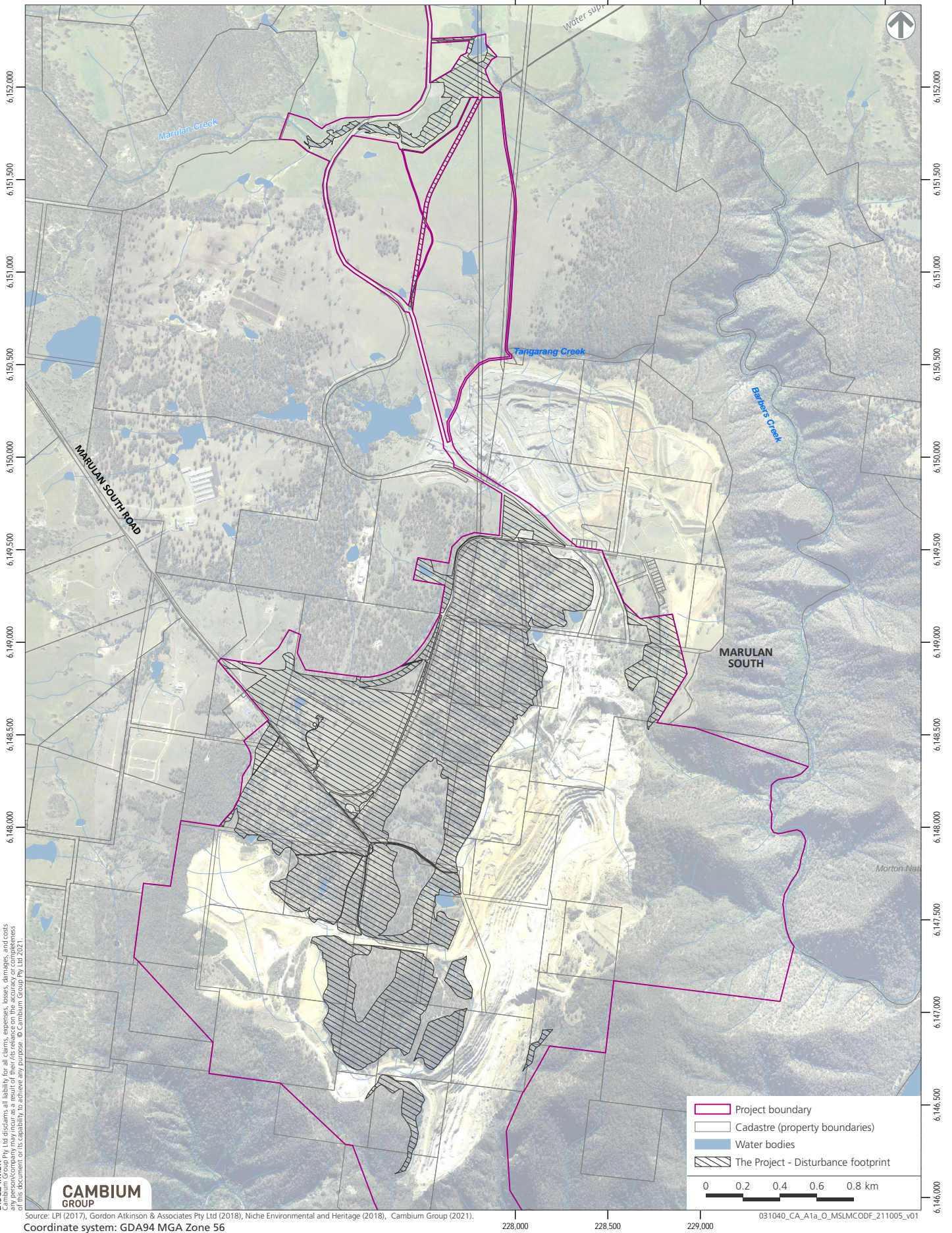
Attachment 1a

Overview - Marulan South limestone mine continued operations development footprint



MARULAN SOUTH LIMESTONE MINE CONTINUED OPERATIONS - SSD APPLICATION
COMMONWEALTH APPROVAL

228,000 228,500 229,000 229,500 230,000



DISCLAIMER
Cambium Group Pty Ltd disclaims all liability for all claims, expenses, losses, damages, and costs of this document or its capability to achieve any purpose. © Cambium Group Pty Ltd 2021.



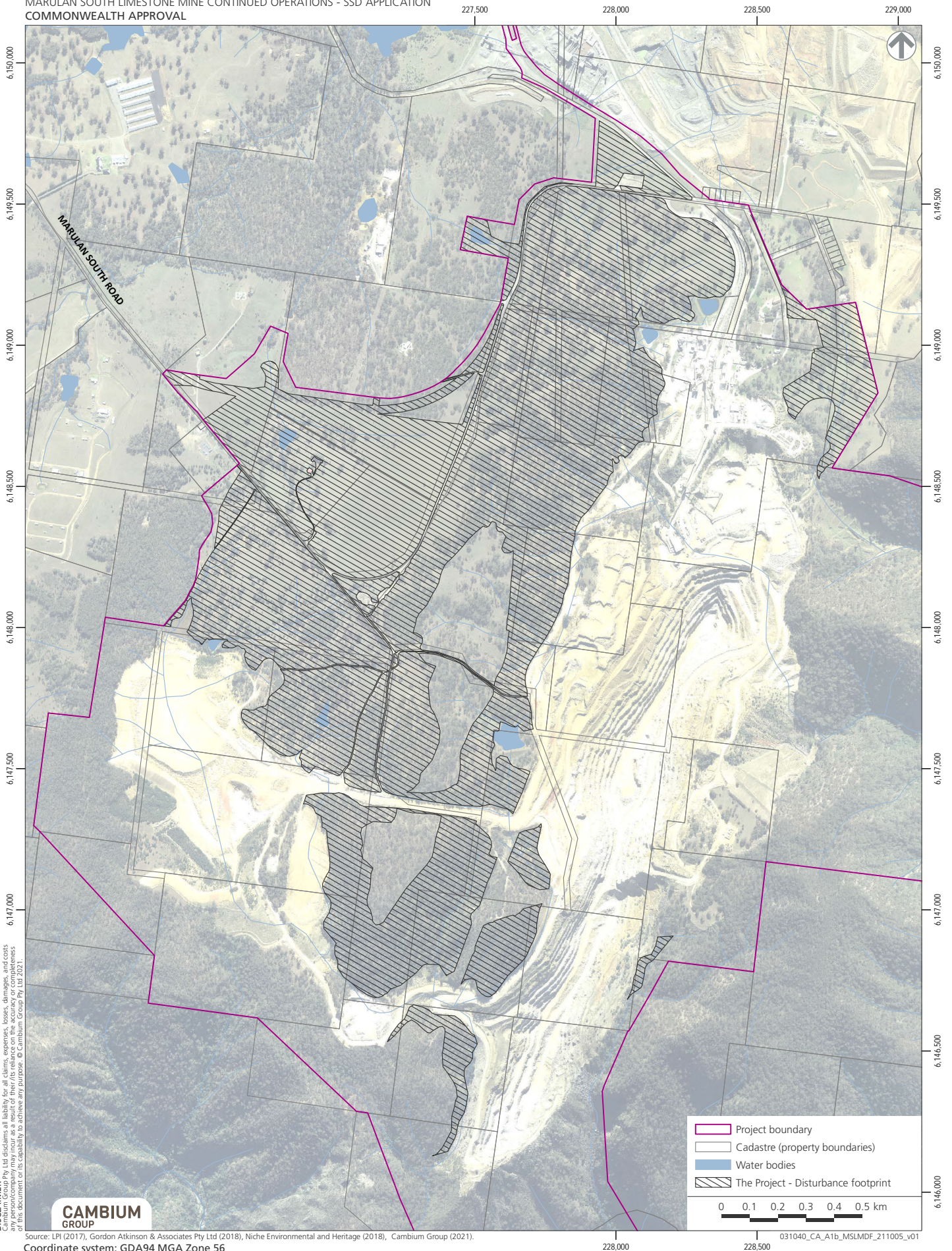
Source: LPI (2017), Gordon Atkinson & Associates Pty Ltd (2018), Niche Environmental and Heritage (2018), Cambium Group (2021).
Coordinate system: GDA94 MGA Zone 56

031040_CA_A1a_O_MSLMCOF_211005_v01

Attachment 1b
Marulan South limestone mine continued operations development footprint



MARULAN SOUTH LIMESTONE MINE CONTINUED OPERATIONS - SSD APPLICATION
 COMMONWEALTH APPROVAL



DISCLAIMER
 Cambium Group Pty Ltd disclaims all liability for all claims, expenses, losses, damages, and costs of this document or its capability to achieve any purpose. © Cambium Group Pty Ltd 2021.



Source: LPI (2017), Gordon Atkinson & Associates Pty Ltd (2018), Niche Environmental and Heritage (2018), Cambium Group (2021).
 Coordinate system: GDA94 MGA Zone 56

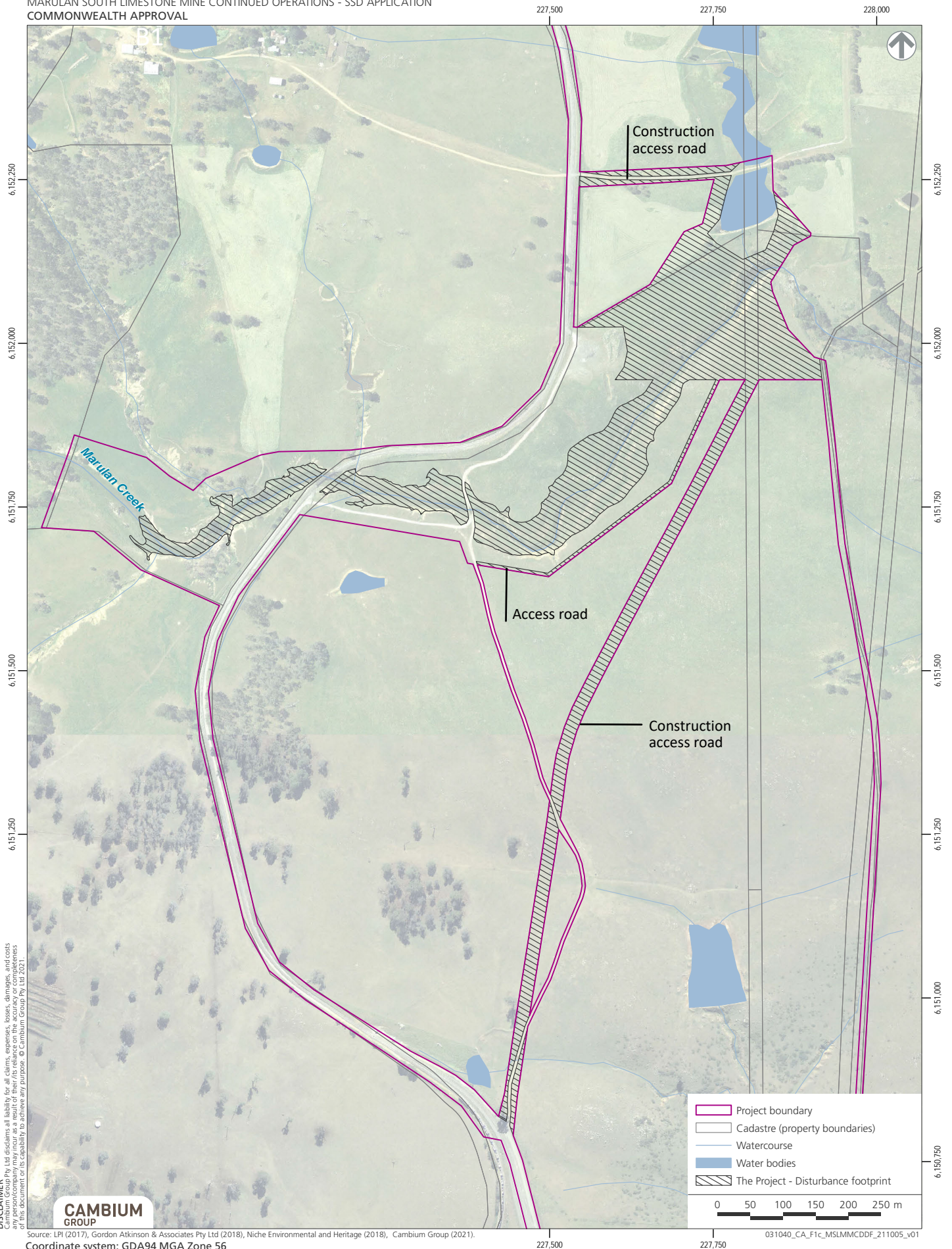
031040_CA_A1b_MSLMDF_211005_v01

Attachment 1c

Marulan South limestone mine continued operations Marulan Creek development footprint



MARULAN SOUTH LIMESTONE MINE CONTINUED OPERATIONS - SSD APPLICATION
COMMONWEALTH APPROVAL



DISCLAIMER
Cambium Group Pty Ltd disclaims all liability for all claims, expenses, losses, damages, and costs of this document or its capability to achieve any purpose. © Cambium Group Pty Ltd 2021.



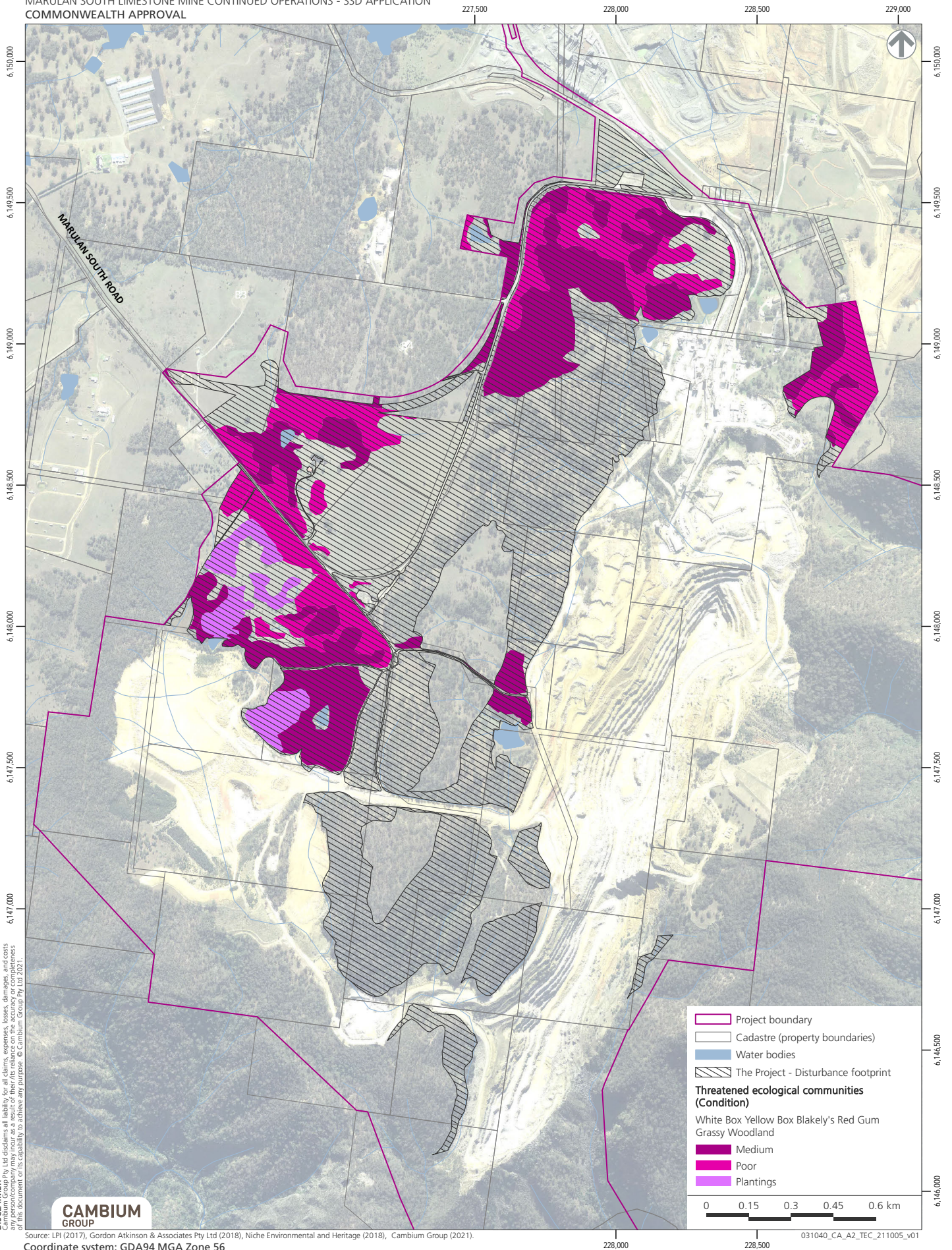
Source: LPI (2017), Gordon Atkinson & Associates Pty Ltd (2018), Niche Environmental and Heritage (2018), Cambium Group (2021).
Coordinate system: GDA94 MGA Zone 56

031040_CA_F1c_MSLMCMCDF_211005_v01

Attachment 2

Location of the White Box Yellow box Blakely's Red Gum Woodland and derived native grasslands in the development footprint

MARULAN SOUTH LIMESTONE MINE CONTINUED OPERATIONS - SSD APPLICATION
COMMONWEALTH APPROVAL



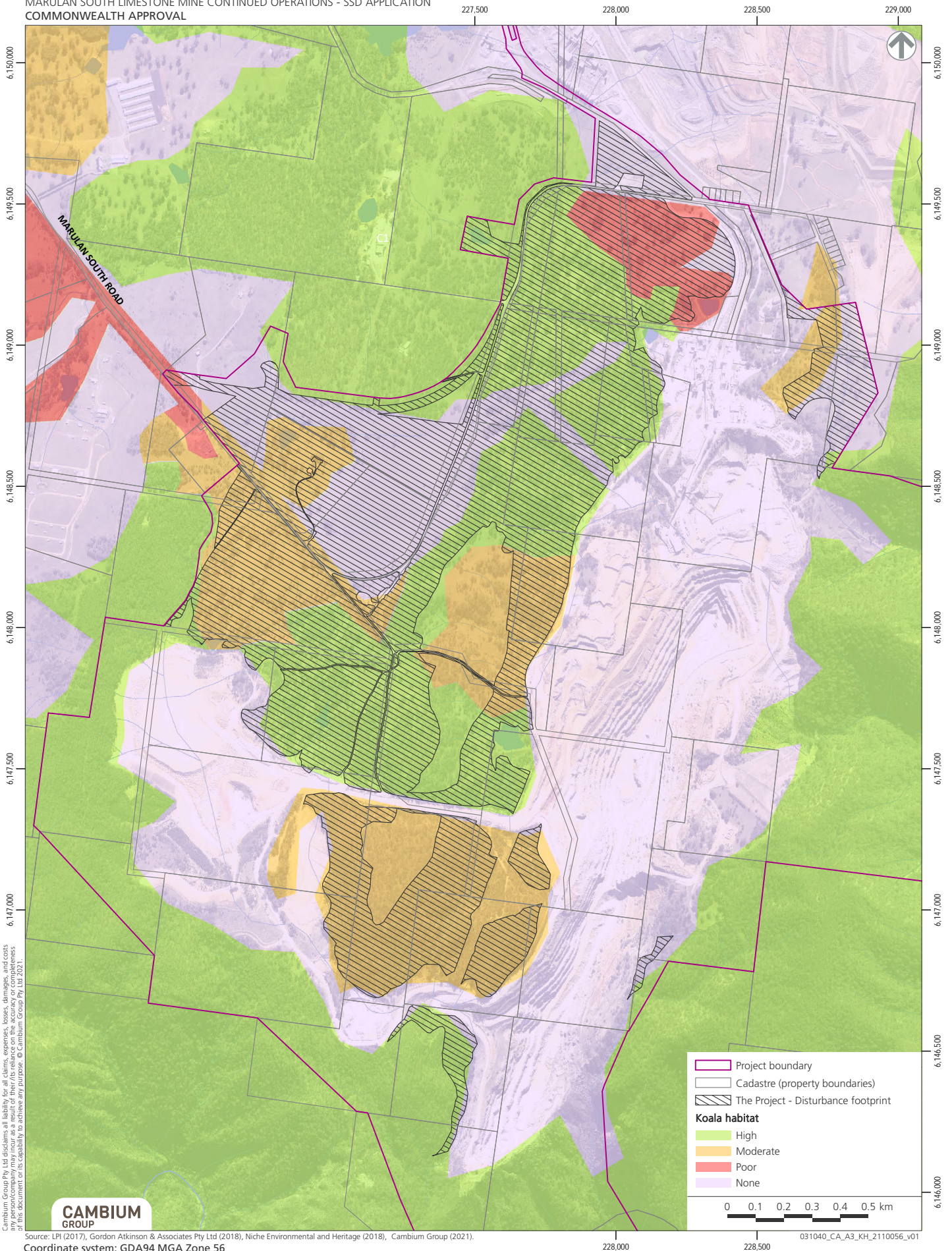
DISCLAIMER
Cambium Group Pty Ltd disclaims all liability for all claims, expenses, losses, damages, and costs of this document or its capability to achieve any purpose. © Cambium Group Pty Ltd 2021.



Attachment 3
Location of Koala habitat in the development footprint



MARULAN SOUTH LIMESTONE MINE CONTINUED OPERATIONS - SSD APPLICATION
 COMMONWEALTH APPROVAL



Cambium Group Pty Ltd disclaims all liability for all claims, expenses, losses, damages, and costs of this document or its capability to achieve any purpose. © Cambium Group Pty Ltd 2021.

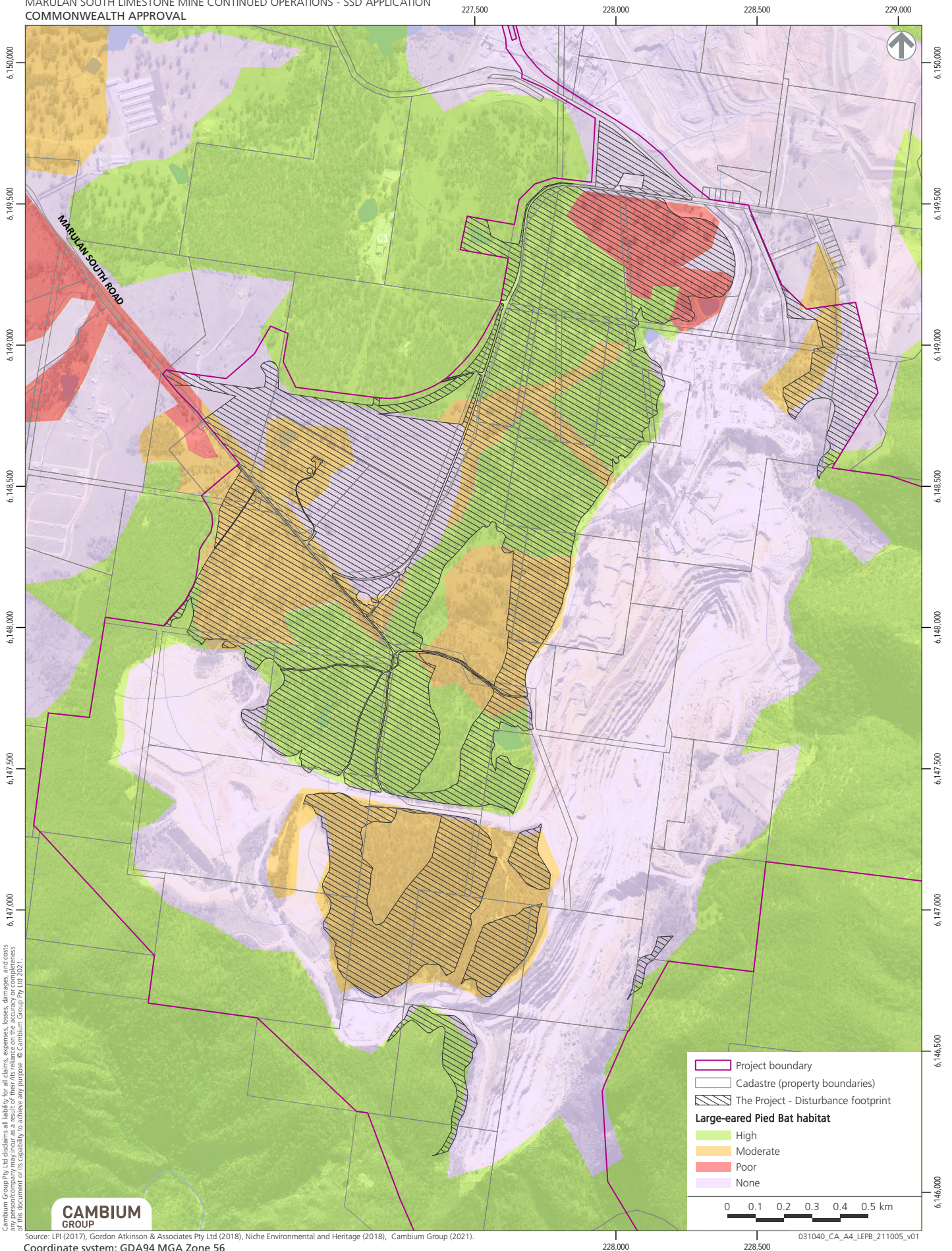
Source: LPI (2017), Gordon Atkinson & Associates Pty Ltd (2018), Niche Environmental and Heritage (2018), Cambium Group (2021).
 Coordinate system: GDA94 MGA Zone 56

031040_CA_A3_KH_2110056_v01

Attachment 4
Location of Large-eared Pied Bat habitat in the development footprint



MARULAN SOUTH LIMESTONE MINE CONTINUED OPERATIONS - SSD APPLICATION
 COMMONWEALTH APPROVAL



Cambium Group Pty Ltd disclaims all liability for all claims, expenses, losses, damages, and costs of this document or its capability to achieve any purpose. © Cambium Group Pty Ltd 2021.