

Planning Agreement

Cowal Gold Operations
Underground Development
(Development Application No. SSD 10367)

Evolution Mining (Cowal) Pty Ltd

and

Bland Shire Council

Planning Agreement

Cowal Gold Operations Underground Development

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Details

Parties

Name **Bland Shire Council**
ABN 13 251 814 087
Short form name **BSC**
Notice details PO Box 21, West Wyalong, NSW, 2671

Phone: 02 6975 4700

Fax: 02 6972 2145

Email: council@blandshire.nsw.gov.au

Attention: The General Manager

Name **Evolution Mining (Cowl) Pty Limited**
ABN 75 007 857 598
ACN 007 857 598
Short form name **Developer**
Notice details PO Box 210, West Wyalong, NSW, 2671

Phone: 02 6975 4700

Fax: 02 6975 4740

Email: John.Penhall@evolutionmining.com

Attention: The Company Secretary

Background

- A Evolution Mining (Cowl) Pty Limited (the Developer) is the owner and operator of the Cowl Gold Operations (CGO).
- B CGO is an existing open-cut gold mine near Lake Cowl which has been operational since 2005. The Developer is authorised by a development consent granted under the Act to carry out mining operations at CGO until 31 December 2040 and to process ore at a rate of up to 9.8 million tonnes per annum.
- C On 30th September 2021 the Developer received an additional development consent (the Development Consent) under the Act for the construction and operation of an underground mine (the Project) at CGO. The Project will provide access to mine ore from underground sources.
- D Condition A9 of the Development Consent requires the Developer to enter into a Planning Agreement with Bland Shire Council (BSC) for the Development.
- E The Development will be carried out within the Bland Shire LGA.
- F The Developer and BSC have agreed to enter into a Planning Agreement whereby the Developer agrees to provide, and BSC agrees to use, the Development Contributions in accordance with the terms and conditions of this Agreement.

Agreed terms

1. Defined terms & interpretation

1.1 Defined terms

The meaning of capitalised terms and the provisions relating to the interpretation of this Agreement are as follows:

Act means the *Environmental Planning and Assessment Act 1979* (NSW).

Agreement means this Planning Agreement including any schedules.

Approval means any consent, modification, certificate, licence, permit, approval or other requirement of any Authority having jurisdiction in connection with the activities contemplated by this Agreement.

Authority means any government, semi-governmental, statutory, administrative, fiscal or judicial body, department, commission, authority, tribunal or agency.

Business Day means any day except for a Saturday, Sunday, or bank or public holiday in New South Wales.

Cash Rate means the interest rate determined by the Reserve Bank of Australia which banks pay to borrow funds from other banks in the money market on an overnight basis. For the avoidance of doubt, the term Cash Rate has the same meaning as that adopted by the Reserve Bank of Australia.

Change in Control means a change in ownership, directly or indirectly, of more than 50% of the voting shares of the Developer-

Commencement Date means the date on which this Agreement comes into operation in accordance with clause 4.

CPI means the All-Groups Consumer Price Index applicable to Sydney published by the Australian Bureau of Statistics.

Council means BSC.

Development means the Cowal Gold Operations Underground Development as described in the "EIS" referred to and defined in the Development Consent (and as modified by the conditions of the Development Consent). The Development Consent and the "EIS are publicly available on the NSW Planning Portal Major Projects website (www.planningportal.nsw.gov.au/major-projects/project/21361).

Development Application has the same meaning as in section 1.4 of the Act.

Development Consent means the consent granted under the Act on 30th September 2021 to Development Application Number SSD 10367 for the Development by a delegate of the NSW Minister for Planning and Public Spaces.

Development Contributions means the financial contributions to be made by the Developer for a public purpose in accordance with clause 5 of this Agreement.

GST has the same meaning as in the GST Law.

GST Law has the same meaning given to that term in *A New Tax System (Goods and Services Tax) Act 1999* (Cth) and any other Act or regulation relating to the imposition or administration of the GST.

Interest Rate means the rate which is the Cash Rate as set by the Reserve Bank of Australia as at the date that payments fall due, plus a margin of 2% per annum.

Land means the land subject to this Planning Agreement as listed, described and depicted in Schedule 2

Law means:

- (a) the common law including principles of equity;
- (b) the requirements of all statutes, rules, ordinances, codes, regulations, proclamations and by-laws; and
- (c) any Approval, including any condition or requirement under it.

LGA means Local Government Area.

LRS means the NSW Land Registry Services or any other Authority replacing it.

Mining Operations has the same meaning as in the Development Consent.

Modification means a modification of the Development Consent under the Act that would result in changes to the Development.

Party means a party to this Agreement, including their successors and assigns.

Planning Agreement has the same meaning as in section 7.1 of the Act.

Project has the same meaning as Development.

Register means the Torrens Title register maintained under the *Real Property Act 1900* (NSW).

Regulation means the *Environmental Planning and Assessment Regulation 2000* (NSW).

Reserve Bank of Australia means Australia's central bank as constituted under the *Reserve Bank Act 1959* (Cth).

Roads Maintenance Contributions means the portion of the Development Contributions to be used for or allocated towards the maintenance of roads in the Bland Shire LGA impacted by the Development and listed in Schedule 4, focussed on the main sealed access road.

Term means from the Commencement Date of the Planning Agreement until the cessation of Mining Operations authorised by the Development Consent.

1.2 Interpretation

In this Agreement, except where the context otherwise requires:

- (a) the singular includes the plural and vice versa, and a gender includes other genders;
- (b) another grammatical form of a defined word or expression has a corresponding meaning;
- (c) a reference to a clause, paragraph, schedule or annexure is to a clause or paragraph of, or schedule or annexure to, this Agreement, and a reference to this Agreement includes any schedule or annexure;
- (d) Schedule 3 to this Agreement is not intended to be used to assist in construing this Agreement;
- (e) a reference to a document or instrument includes the document or instrument as novated, altered, supplemented or replaced from time to time;
- (f) a reference to A\$, \$A, dollar or \$ is to Australian currency;
- (g) a reference to time is to Sydney, NSW, Australia time;

- (h) a reference to a party is to a party to this Agreement, and a reference to a party to a document includes the party's executors, administrators, successors and permitted assigns and substitutes;
- (i) a reference to a person includes a natural person, partnership, body corporate, association, governmental or local authority or agency or other entity;
- (j) a reference to a statute, ordinance, code or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them;
- (k) the meaning of general words is not limited by specific examples introduced by including, for example or similar expressions;
- (l) any agreement, representation, warranty or indemnity by two or more Parties (including where two or more persons are included in the same defined term) binds them jointly and severally;
- (m) any agreement, representation, warranty or indemnity in favour of two or more Parties (including where two or more persons are included in the same defined term) is for the benefit of them jointly and severally;
- (n) a rule of construction does not apply to the disadvantage of a party because the party was responsible for the preparation of this Agreement or any part of it; and
- (o) if a day on or by which an obligation must be performed or an event must occur is not a Business Day, the obligation must be performed or the event must occur on or by the next Business Day.

1.3 Headings

Headings are for ease of reference only and do not affect interpretation.

2. Planning Agreement under the Act

The Parties agree that this Agreement is a Planning Agreement governed by Subdivision 2 of Division 7.1 of Part 7 of the Act and made in accordance with the requirements of condition A9 of the Development Consent.

3. Application of this Agreement

This Agreement applies to the Land and to the Development.

4. Operation of this Agreement

This Agreement operates if:

- (a) the Development Consent is in force; and
- (b) the Agreement is entered into as required by clause 25C of the Regulation.

5. Development Contributions

(a) Subject to this Agreement, the Developer is to make the following Development Contributions in respect of the Development:

- (i) Payment of the Community Enhancement Contributions in accordance with the following terms:

- (A) To BSC, an initial sign-on payment of \$250,000, payable within thirty days of the Commencement Date.
 - (B) To BSC, after payment (a)(i)(A) above, \$200,000 on each subsequent anniversary date until the cessation of Mining Operations authorised by the Development Consent.
 - (C) To BSC, a once-off \$25,000 to assist in funding the development of a Council Housing Strategy, payable within 30 days of the Commencement Date.
 - (D) a minimum (when averaged over five-year tranches) of \$150,000 per annum for direct community support and sponsorships in the Bland Shire, commencing from the Commencement Date. An overview of how this category of contributions will be determined and managed is provided in Schedule 6.
- (ii) Payment of the Road Maintenance Contributions in accordance with the following terms:
- (A) To BSC, a sum of \$60,000 per annum, the first payment being made within thirty days of the Commencement Date.
 - (B) Each of the subsequent annual payments shall be made on the anniversary date of the Commencement Date until the cessation of Mining Operations authorised by the Development Consent.
 - (C) For the avoidance of doubt, the abovementioned payment is in addition to payments previously agreed in the Memorandum of Understanding between the Developer and the three local councils of Bland, Forbes and Lachlan, which provides \$50,000 per annum (plus CPI) for each council for the general repair and maintenance of local roads.
- (b) The quantum for the portion of the year between the anniversary date and the cessation of Mining Operations authorised by the Development Consent will be calculated pro-rata.
 - (c) The contributions are deemed to be paid when cleared funds are deposited by means of electronic funds transfer into the bank account nominated by BSC.
 - (d) All the above-mentioned payments are subject to CPI. The payments shall be indexed according to the CPI at the Commencement Date.
 - (e) The Developer agrees to pay interest to BSC on any amount of the financial contributions from 28 days after they become due for payment, during the period that they remain unpaid, on demand, or at times determined by BSC, calculated on daily balances. The rate to be applied to each daily balance is the Interest Rate (adjusted to be a daily interest rate).
 - (f) BSC will liaise with the Developer in respect of the allocation of the financial contributions paid to BSC for community enhancement projects, programs or activities.
 - (g) Where the Developer has contributed financially towards projects, programs, activities, etc, BSC agrees to publicly acknowledge the Developer, should it so desire, by way of published media release or social media.
 - (h) BSC agrees to provide an annual performance report to the Developer which specifies how the abovementioned Development Contributions have been allocated, managed and accounted for.

6. Indexation of Development Contributions

Where this Agreement provides that an amount is to be increased by CPI, then the amount will be increased in accordance with the following formula:

$$A = B \times C/D$$

Where:

A = the indexed amount at the time the payment is to be made.

B = the contribution amount or rate stated in the Agreement.

C = the CPI most recently published before the date of payment.

D = the CPI most recently published before the date of the Development Consent being 30th September 2021.

7. Dispute Resolution

7.1 No arbitration or court proceedings

If a dispute arises out of this Agreement (**Dispute**), a Party must comply with this clause 7 before starting arbitration or court proceedings (except proceedings for interlocutory or other urgent relief). However, this clause 7 does not apply if the Dispute relates to clause 11 of this Agreement.

7.2 Notification

- (a) A Party claiming a Dispute has arisen must give the other Party to the Dispute notice setting out details of the Dispute. The Dispute Notice must:
- (i) be in writing;
 - (ii) include or be accompanied by reasonable particulars of the Dispute including:
 - (A) a brief description of the circumstances in which the Dispute arose;
 - (B) references to any provisions of this Agreement and acts, errors or omissions of any person, relevant to the Dispute; and
 - (C) where applicable, the financial quantum in dispute and if not precisely known, the best estimate available.

7.3 Parties to resolve Dispute

During the 30 days after a notice is given under clause 7.2 (or longer period if the Parties to the Dispute agree in writing), each Party to the Dispute must use its reasonable efforts to resolve the Dispute. If the Parties cannot resolve the Dispute within that period, they must refer the Dispute to a mediator if one of them so requests.

7.4 Mediation

- (a) If the parties cannot resolve the Dispute within the 30 days after a notice is given under clause 7.2 (or longer period if the Parties to the Dispute agree in writing), they must refer the Dispute to an accredited mediator if one of them so requests and the parties must mediate the Dispute in accordance with the Mediation Rules of the Resolution Institute.
- (b) If the parties do not agree on a mediator, either party may request an appropriate employee of the Resolution Institute to select the mediator and determine the mediator's remuneration, the costs of which must be borne equally by the parties.

- (c) The parties commit to adopting a spirit of goodwill and compromise, with an equal sharing of power, to reach a resolution within 60 days.

7.5 Confidentiality

Any information or documents disclosed by a Party under this clause 7:

- (a) must be kept confidential; and
- (b) may only be used to attempt to resolve the Dispute.

7.6 Costs

Each Party to a Dispute must pay its own costs of complying with this clause 7. The Parties to the Dispute must equally pay the costs of any mediator.

7.7 Termination of process

- (a) A Party to a Dispute may terminate the dispute resolution process by giving notice to the other Party after it has complied with clauses 7.1 to 4.
- (b) Clauses 7.5 and 7.6 survive termination of the dispute resolution process.

7.8 Breach of this clause

If a Party to a Dispute breaches this clause 7, the other Party to the Dispute does not have to comply with those clauses in relation to the Dispute.

8. Enforcement

- (a) Without limiting any other remedies available to the Parties, this Agreement may be enforced by any Party in any Court of competent jurisdiction, subject to clause 7.
- (b) Nothing in this Agreement prevents:
 - (i) a Party from bringing proceedings in any Court to enforce any aspect of this Agreement or any matter to which this Agreement relates; and
 - (ii) BSC from exercising any function under the Act or any other Law relating to the enforcement of any aspect of this Agreement or any matter to which this Agreement relates.

9. Termination

- (a) This Agreement will terminate:
 - (i) on the declaration by a court of competent jurisdiction that the Development Consent is invalid; or
 - (ii) at the end of the Term.
- (b) In the event of termination of this Agreement, any funds that have been paid by the Developer as Development Contributions prior to termination:
 - (i) can continue to be expended in accordance with the terms of this Agreement; and
 - (ii) are not refundable by BSC to the Developer.

10. Force Majeure

- (a) The Developer's obligations in this Agreement will be suspended (including the calculation of time) for the length of time that such obligations are genuinely affected by

any event, circumstance or combination of events or circumstances occurring after the Commencement Date that:

- (i) are not within the Developer's reasonable control;
 - (ii) the occurrence or effect of which the Developer could not have avoided through compliance with its obligations under this Agreement and the exercise of due diligence; and
 - (iii) causes or results in the prevention or delay of the Developer from performing any of its obligations under this Agreement,
- (b) If the Developer is affected by a **Force Majeure Event**, it must:
- (i) notify BSC in writing as soon as reasonably possible of the details of the Force Majeure Event, the date of commencement and expected duration of the Force Majeure Event and an estimate of time required to enable the Developer to resume full performance of its obligations;
 - (ii) use all reasonable efforts to mitigate the effect upon its performance of this Agreement and to fulfil its obligations under this Agreement;
 - (iii) keep BSC informed of the steps being taken to mitigate the effect of the Force Majeure Event upon its performance of this Agreement; and
 - (iv) when the period for which its obligations affected by a Force Majeure Event cease, recommence performance of all its affected obligations under this Agreement.

11. Review of this Agreement

- (a) During the life of this Agreement, the Parties agree to act in good faith and a spirit of co-operation to promptly review and, if necessary, amend or replace the Agreement if:
 - (i) There is any Modification;
 - (ii) A Change in Control occurs; or
 - (iii) The Development is placed in care and maintenance mode.
- (b) In the event that clause 11(a) is triggered and both Parties are unable to agree to amend or replace the Agreement, the Agreement shall remain in force.
- (c) No amendment or review of this Agreement will be of any force or effect unless it is in writing and signed by the Parties to this Agreement.
- (d) Regardless, during the life of the Project but no later than the final year of Mining Operations as authorised under the Development Consent, the Parties agree to discuss any future related development plans and if appropriate negotiate a replacement for, or an extension of, this Agreement as determined by circumstances at the time.
- (e) If a dispute relates to this clause 11, clause 7 of this Agreement does not apply.

12. No fetter

12.1 Discretion

This Agreement is not intended to operate to fetter, in any manner, the exercise of any statutory power or discretion of BSC, including but not limited to any statutory power or discretion of BSC relating to the assessment and determination of any Development Application related to the Development (all referred to in this Agreement as a **Discretion**).

12.2 No fetter

No provision of this Agreement is intended to constitute any fetter on the exercise of any Discretion. If, contrary to the operation of this clause, any provision of this Agreement is held by a court of competent jurisdiction to constitute a fetter on any Discretion, the Parties agree:

- (a) they will take all practical steps, including the execution of any further documents to ensure the objective of this clause is substantially satisfied;
- (b) in the event that clause 12.2(a) cannot be achieved without giving rise to a fetter on the exercise of a Discretion, the relevant provision is to be severed and the remainder of this Agreement has full force and effect; and
- (c) to endeavour to satisfy the common objectives of the Parties in relation to the provision of this Agreement, which is to be held to be a fetter to the extent that is possible, having regard to the relevant court judgment.

13. Notices

13.1 Notices

Any notice given under or in connection with this Agreement (**Notice**):

- (a) must be in writing and signed by a person duly authorised by the sender;
- (b) must be addressed as follows and delivered to the intended recipient by email, by hand, by prepaid post or by fax at the address or fax number below, or at the address or fax number last notified by the intended recipient to the sender after the date of this Agreement:

Name **Bland Shire Council**
PO Box 21, West Wyalong, NSW, 2671
Phone: 02 6975 4700

Fax: 02 6972 2145

Email: council@blandshire.nsw.gov.au

Attention: The General Manager

Name **Evolution Mining (Cowal) Pty Limited**
PO Box 210, West Wyalong, NSW, 2671
Phone: 02 6975 4700

Fax: 02 6975 4740

Email: John.Penhall@evolutionmining.com

Attention: The Company Secretary

- (c) is taken to be given and made:
 - (i) in the case of hand delivery, when delivered;
 - (ii) in the case of email, at the time the email becomes capable of being retrieved by the addressee;

- (iii) in the case of delivery by post, seven Business Days after the date of posting (if posted to an address in the same country) or ten Business Days after the date of posting (if posted to an address in another country); and
 - (iv) in the case of a fax, on production of a transmission report by the machine from which the fax was sent that indicates the fax was sent in its entirety to the recipient's fax number; and
- (d) if under clause 13.1(c) a Notice would be taken to be given or made on a day that is not a Business Day in the place to which the Notice is sent, or later than 4pm (local time), it is taken to have been given or made at the start of business on the next Business Day in that place.

14. GST

14.1 Defined GST terms

In this clause 14, words and expressions which are not defined in this Agreement but which have a defined meaning in the GST Law have the same meaning as in the GST Law.

14.2 GST to be added to amounts payable

If GST is payable on a taxable supply made under, by reference to or in connection with this Agreement, the Party providing the consideration for that Taxable Supply must also pay the GST Amount as additional consideration. This clause does not apply to the extent that the consideration for the Taxable Supply is expressly agreed to be GST inclusive, unless otherwise expressly stated, prices or other sums payable or consideration to be provided under or in accordance with this Agreement are exclusive of GST.

14.3 Tax invoice

If a Party is liable for GST on any payments made under this Agreement, the other Party must issue a tax invoice (or an adjustment note) to the liable party for any GST payable under this Agreement within seven days of a written request. The tax invoice (or adjustment note) must include the particulars required by the GST Law to obtain an input tax credit for that GST.

14.4 GST obligations to survive termination

This clause 14 will continue to apply after expiration of termination of this Agreement.

15. General

15.1 Cost of preparing the Planning Agreement

The Developer shall pay BSC \$10,000 for the professional fees and costs incurred by it in negotiating and preparing this Agreement, including GST within 30 days of the Commencement Date.

15.2 Relationship between Parties

- (a) Nothing in this Agreement:
 - (i) constitutes a partnership between the Parties; or
 - (ii) except as expressly provided, makes a Party an agent of another Party for any purpose.
- (b) A Party cannot in any way or for any purpose:
 - (i) bind another Party; or
 - (ii) contract in the name of another Party.

- (c) If a Party must fulfil an obligation and that Party is dependent on another Party, then that other Party must do each thing reasonably within its power to assist the other in the performance of that obligation.

15.3 Time for doing acts

- (a) If the time for doing any act or thing required to be done or a notice period specified in this Agreement expires on a day other than a Business Day, the time for doing that act or thing or the expiration of that notice period is extended until the following Business Day.
- (b) If any act or thing required to be done is done after 5pm on the specified day, it is taken to have been done on the following Business Day.

15.4 Further assurances

Each Party must promptly execute all documents and do all other things reasonably necessary or desirable to give effect to the arrangements recorded in this Agreement.

15.5 Variation

A provision of this Agreement can only be varied by a later written document executed by or on behalf of all Parties.

15.6 Counterparts

This Agreement may be executed in any number of counterparts. All counterparts taken together constitute one instrument.

15.7 Entire Agreement

The contents of this Agreement constitute the entire Agreement between the Parties and supersede any prior negotiations, representations, understandings or arrangements made between the Parties regarding the subject matter of this Agreement, whether orally or in writing.

15.8 Invalidity

- (a) A word or provision must be read down if:
 - (i) this Agreement is void, voidable, or unenforceable if it is not read down;
 - (ii) this Agreement will not be void, voidable or unenforceable if it is read down; and
 - (iii) the provision is capable of being read down.
- (b) A word or provision must be severed if:
 - (i) despite the operation of clause 15.8(a), the provision is void, voidable or unenforceable if it is not severed; and
 - (ii) this Agreement will be void, voidable or unenforceable if it is not severed.
- (c) The remainder of this Agreement has full effect even if clause 15.8(b)(i) or 15.8(b)(ii) applies.

15.9 Waiver

A right or remedy created by this Agreement cannot be waived except in writing signed by the Party entitled to that right. Delay by a Party in exercising a right or remedy does not constitute a waiver of that right or remedy, nor does a waiver (either wholly or in part) by a Party of a right operate as a subsequent waiver of the same right or of any other right of that Party.

15.10 Governing law and jurisdiction

- (a) The Laws applicable in New South Wales govern this Agreement.

- (b) The Parties submit to the non-exclusive jurisdiction of the courts of New South Wales and any courts competent to hear appeals from those courts.

Schedule 1 –Requirements under Section 7.4 of the Act

The Parties acknowledge and agree that the table set out below provides for certain terms, conditions and procedures for the purpose of this Agreement complying with the Act.

Requirement under the Act	This Agreement
Planning instrument and/or development application – [Section 7.4(1)]. The Developer has:	
(a) sought a change to an environmental planning instrument	No.
(b) made, or proposes to make, a development application	Yes.
(c) entered into an agreement with, or is otherwise associated with, a person, to whom paragraph (a) or (b) applies	No.
Dedication of land, monetary contribution or material public benefit towards a public purpose – [Section 7.4(1)]	See clause 5 of this Agreement.
Description of the land to which this Planning Agreement applies - [Section 7.4(3)(a)]	The land listed, described and depicted in Schedule 2 of this Agreement.
Description of the development to which this Planning Agreement applies – [Section 7.4(3)(b)]	See the definition of Development in clause 1.1 of this Agreement and the Background.
The scope, timing and manner of delivery of Development Contributions required by this document – [Section 7.4(3)(c)]	See clause 5 of this Agreement.
Applicability of Section 7.11 (an amenity or services contribution) and Section 7.12 (a fixed development levy) of the Act – [Section 7.4(3)(d)]	This Agreement does not exclude the application of sections 7.11 or 7.12 to the Development. However, the Development Consent does not include a condition pursuant to these sections.
Applicability of section 7.24 (a special infrastructure contribution) of the Act – [Section 7.4(3)(d)]	This Agreement does not exclude the application of section 7.24 to this Development. However, the Development Consent does not include a condition pursuant to this section.
Consideration of benefits under this Agreement if section 7.11 applies – [Section 7.4(3)(e)]	Not Applicable as the Development Consent has been granted and is not subject to a condition pursuant to section 7.11.

Requirement under the Act	This Agreement
Mechanism for Dispute resolution – [Section 7.4(3)(f)]	See clause 7 of this Agreement.
Enforcement of this Agreement – [Section 7.4(3)(g)]	See clause 8 of this Agreement.
No obligation to grant consent or exercise functions – [Section 7.4(9)]	See clause 12 of this Agreement.

Schedule 2– Land to Which this Agreement Applies

LOT	DP	OWNERSHIP
23	753097	Evolution Mining (Cowal) Pty Limited
24	753097	Evolution Mining (Cowal) Pty Limited
2	530299	Evolution Mining (Cowal) Pty Limited
7001	1029713	Crown Land
7303	1143731	Crown Land

Schedule 3 Explanatory Note

Evolution Mining (Cowal) Pty Ltd

and

Bland Shire Council

Introduction

The purpose of this explanatory note is to provide a plain English summary to support the notification of the proposed Planning Agreement (**Agreement**) prepared under Subdivision 2 of Division 7.1 of Part 7 of the *Environmental Planning and Assessment Act 1979* (NSW) (**Act**). For the avoidance of doubt, this Explanatory Note does not form part of the Agreement, is not to be used to assist in construing the Agreement and does not bind any of the Parties.

This explanatory note has been prepared by BSC as required by clause 25E of the *Environmental Planning and Assessment Regulation 2000* (NSW). It will be exhibited with a copy of the Agreement when the Agreement is made available for inspection by the public in accordance with the Act, as specified by clause 25E of the Regulation.

Parties to the Agreement

The Parties to the Agreement are Bland Shire Council (**BSC**) and Evolution Mining (Cowal) Pty Ltd (**Developer**).

The Developer has made an offer to enter into the Agreement in connection with a State Significant Development Application (SSD-10367) for the development of the Cowal Gold Operations Underground Development (**Development Application**).

Description of the Subject Land

The Agreement applies to the land set out and described in Schedule 2 to the Planning Agreement (**Subject Land**).

Background

CGO is an existing open-cut gold mine near Lake Cowal near West Wyalong. It has been operating since 2005 under the authority of Ministerial Development Consent DA 14/98. It also operates under the authority of mining lease (**ML**) 1535 and ML 1791.

Description of the approved Development Application (Proposed Development)

On 30th September 2021 the Developer received development consent under the Act for the construction and operation of an underground mine (the **Project**) at Cowal Gold Operations (CGO). The existing Minister Development Consent DA 14.98 was also concurrently modified under the Act to facilitate the Project.

The Project will provide access to up to an additional 27 Mt of ore which will be extracted at a rate of up to 1.8 Mtpa until 2040. It is expected that around 1.8 million ounces of gold will be produced over the life of the Project.

Evolution has also separately received an additional development consent from Bland Shire Council for a purpose-built accommodation village in West Wyalong to accommodate and support the required construction and operational workforces for the Project.

Further information on the Proposed Development is explained in the Environmental Impact Statement and other relevant assessment documents for the Project, which are publicly available on the NSW Planning Portal Major Project website (www.planningportal.nsw.gov.au/major-projects/project/21361).

Summary of Objectives, Nature and Effect of the Agreement

The Agreement provides that the Developer will make the following development contributions:

1. Payment of the Community Enhancement Contributions in accordance with the following terms:
 - a) To BSC an initial sign-on payment of \$250,000, payable within thirty days of signing of this Agreement.
 - b) After payment (a)(i)(A) above, pay to BSC \$200,000 on each subsequent anniversary date until Mining Operations cease.
 - c) A once-off \$25,000 to BSC to assist in funding the development of a Council Housing Strategy. To be paid within 30 days of the signing of this Agreement.
 - d) A minimum of \$150,000 per annum (averaged over five-year tranches) for direct community support and sponsorships within the Bland Shire, commencing from the date of the signing of the Agreement. An overview of how this category of contributions will be determined and managed is provided in Schedule 5 to the Agreement.
2. Payment of the Road Maintenance Contributions in accordance with the following terms:
 - a) To BSC a sum of \$60,000 per annum, the first payment of which is due thirty days after signing this Agreement.
 - b) Each of the subsequent annual payments shall be made on the anniversary date of the signing of this Agreement until Mining Operations cease.
 - c) For the avoidance of doubt, the abovementioned payment is in addition to payments previously agreed in the Memorandum of Understanding between the Developer and the three local councils of Bland, Forbes and Lachlan, which provides \$50,000 per annum (plus CPI) for each council for the general repair and maintenance of local roads.

The quantum for the portion of the year between the anniversary date and the cessation of Mining Operations will be calculated pro-rata.

The contributions are deemed to be paid when cleared funds are deposited by means of electronic funds transfer into the bank account nominated by BSC.

All the above-mentioned payments are subject to CPI. The payments shall be indexed according to the CPI at the time the Agreement is signed.

The objective of the Planning Agreement is to facilitate the delivery of the development contributions to BSC for the provision of public benefits.

Assessment of Merits of Agreement

Purpose of the Agreement

In accordance with section 7.4, the development contributions the subject of the Agreement will be applied to public purposes that will ensure the provision of public benefits.

BSC has assessed the Agreement and holds the view that the provisions of the Agreement provide a reasonable means of achieving a public purpose(s).

This is because the development contributions that are the subject of the Agreement reflect that there are broad tangible and intangible environmental, social and economic costs arising from the Development, and the said contributions will assist BSC provide needed material public benefits to its communities, as well as addressing broader community social impacts.

How the Agreement Promotes the Elements of Council's Charter

The Agreement promotes a number of elements of Council's Charter under section 8 of the *Local Government Act 1993* (NSW). In particular, the Agreement, through the delivery of a public purpose(s) and material public benefit(s), allows BSC to:

- provide directly or on behalf of other levels of government, after due consultation, adequate, equitable and appropriate services and facilities for the community and to ensure that those services and facilities are managed efficiently and effectively;
- exercise community leadership;
- bear in mind that it is the custodian and trustee of public assets and to effectively plan for, account for and manage the assets for which it is responsible; and
- keep the local community and the State government (and through it, the wider community) informed about its activities.

The Impact of the Agreement on the Public or any Section of the Public

The Agreement will benefit the public and local communities through the delivery of a public purpose(s) and material public benefit(s).

How the Agreement Promotes the Public Interest

The Agreement promotes the public interest by committing the Developer to make monetary contributions towards a public purpose(s).

How the Agreement Promotes the Objects of the Act

Relevant objects of the Act supported and promoted by this Agreement include:

- to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources; and
- to promote the orderly and economic use and development of land.

The Agreement promotes these objects of the Act by requiring the Developer to make monetary contributions towards public purposes.

Requirements in relation to Construction, Occupation and Subdivision Certificates

Clause 5 of the Agreement sets out the timing for the payment of the development contributions.

The Agreement does not specify any requirements that must be complied with prior to the issue of any Subdivision Certificate, Construction Certificate or Occupation Certificate.

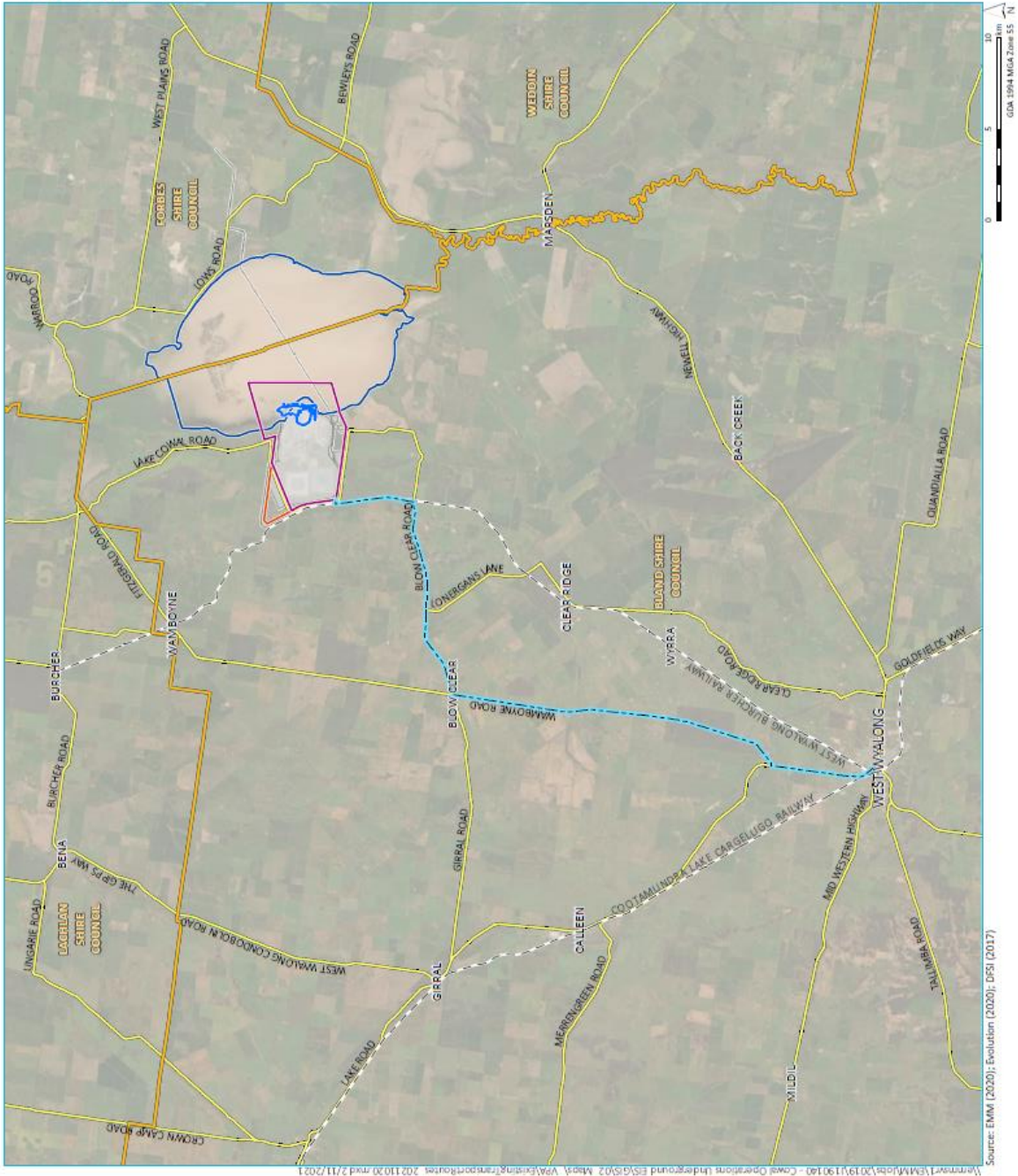
Interpretation of Agreement

This Explanatory Note is not intended to be used to assist in construing the Agreement.

Schedule 4 – Roads Subject to Road Maintenance

1. Ungarie Road from its intersection with the Mid-Western Highway to its intersection with Wamboyne Road.
2. Wamboyne Road from its intersection with the Ungarie Road to its intersection with Blow Clear Road.
3. Blow Clear Road from its intersection with Wamboyne Road to Boneham's Lane.
4. Boneham's Lane from its intersection from Blow Clear Road to the Mine Entrance.

A map of the abovementioned roads is provided below.



CGO transport routes within
Bland Shire Council

Evolution Mining
Cowal Gold Operations

Schedule 5 - Direct Community Support and Sponsorships

Overview

Evolution Mining is committed to working with the communities within the Bland Shire to leave a positive legacy so that these communities are better off overall.

Part of this commitment is to provide direct funding and sponsorships to organisations within the Bland Shire through participation in the various Evolution Mining Community Support Programs.

Community Engagement

Evolution Mining will engage with the Bland Shire Council on an annual basis to gain understanding and insight into current and emerging community needs. This understanding and insight will assist Evolution Mining prioritise annual funding with the various Evolution Community Support Programs.

At the commencement of each Financial Year, Evolution Mining will inform the Bland Shire Council of the assessment criteria for Evolution Mining's direct community funding.

Evolution Mining will ensure that its Community Support Programs and assessment criteria are:

- (a) communicated to the Bland Shire Council; and
- (b) advertised within the Bland Shire for the community more broadly,

on an annual basis.

Decision Making

Evolution Mining will allocate direct community financial support and sponsorships consistent with Evolution Mining's values and the objectives and eligibility criteria of its Community Support Programs as varied from time to time. The allocation of direct community support and sponsorships will be at Evolution Mining's absolute discretion.

Reporting

On or before the date nominated by Bland Shire Council each year, Evolution Mining will provide the Bland Shire Council with information on the past 5 financial year's direct community support and sponsorships including:

- (c) The name of the organisations receiving the benefit;
- (d) The approved use of the benefit; and
- (e) The amount provided.

Signing page

EXECUTED as a Deed.

SIGNED, SEALED AND DELIVERED by
Evolution Mining (Cowal) Pty Limited
ABN 75 007 857 598 in accordance with
section 127 of the *Corporations Act 2001* (Cth)
by:

Signature of director

Full name (PRINT)

Date

Signature of director/company secretary
(Please delete as applicable)

Full name (PRINT)

Date

SIGNED, SEALED AND DELIVERED
by the authorised delegate for **Bland Shire**
Council ABN 13 251 814 087
in accordance with a resolution of the
Council dated _____

Signature of authorised delegate

Full name (PRINT)

Date

Signature of witness

Full name of witness (PRINT)

Date