

Notice of Modification

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

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



Alan Coutts
Member of the Commission



Professor Zada Lipman
Member of the Commission



Peter Cochrane
Member of the Commission

Sydney

27 August 2018

SCHEDULE 1

The project approval (MP 08_0182) granted by the Land and Environment Court for Ashton Coal Mine – SEOC Project on 17 April 2015.

SCHEDULE 2

1. In the list of definitions, delete the terms “DRE”, “Minister”, “MSB”, “NOW”, “Offset Strategy”, “Project” and “Southern Conservation Area” and their definitions and insert the following terms and definitions in alphabetical order:

Biodiversity Offset Strategy	The conservation and enhancement program outlined in Table 15, described in the EA, and depicted conceptually in Figure 8 of Appendix 5
Dol Water	Department of Industry – Crown Lands and Water Division
DRG	Division of Resources and Geoscience within the Department
EA (Mod 1)	The modification application dated 19 January 2017, letter prepared for Ashton Coal Operations Pty Limited (ACOL) by MinterEllison and dated 9 December 2015, and the Response to Submissions Report titled <i>Ashton Coal Mine – South East Open Cut Project Approval, Administrative Modification of Conditions</i> , prepared by ACOL and dated March 2018
Minister	NSW Minister for Planning (or delegate)
Project	The development as described in the project application and in the documents listed in condition 2 of Schedule 2
SA NSW	Subsidence Advisory NSW (formerly the Mine Subsidence Board)
Secretary	Planning Secretary under the EP&A Act or nominee
Southern Conservation Area	The conservation area established under development consent DA 309-11-2001-i for the Ashton Coal Project, as indicated in Figure 9 of Appendix 6 (see area labelled 'Biodiversity and Aboriginal Heritage Conservation Area')
2. Delete all references to “DRE” and replace with “DRG”.
3. Delete all references to “NOW” and replace with “Dol Water”.
4. Delete all references to “MSB” and replace with “SA NSW”.
5. Delete all references to “Director-General” and “Director-General of Planning and Infrastructure” and replace with “Secretary”.
6. In condition 2 of Schedule 2:
 - a) after the word “EA” in sub-paragraph (a) insert “, EA (Mod 1) and the project layout”;
 - b) at the end of sub-paragraph (b) insert the word “and”;
 - c) at the end of sub-paragraph (c) delete the words “; and” and replace with a fullstop;
 - d) delete sub-paragraph (d); and
 - e) in the first bullet point in the notes delete the word “general”;

7. In the condition titled "Property 130 and 182" of Schedule 3, in the first paragraph delete "(a) 2A." and replace with "2A. (a)".
8. Delete all references to "shall" and replace with "must", except:
 - a. in conditions 3 and 5A of Schedule 2;
 - b. the second occurrence in condition 1 of Schedule 3;
 - c. in sub paragraphs (i) and (iv) in condition 2A(c) of Schedule 3;
 - d. condition 8 of Schedule 3; and
 - e. the second and fifth occurrences in condition 8 of Schedule 4.
9. After condition 2 of Schedule 2, insert the following:

2A. The Proponent must carry out the project in accordance with the conditions of this approval.
10. In condition 9 of Schedule 2:
 - a) in the first bullet point in the notes, delete the term "4A" and replace with "6"; and
 - b) in the third bullet point in the notes, delete the last sentence and replace with the following:

Under section 21 of the Coal Mine Subsidence Compensation Act 2017, the Proponent is required to obtain the Chief Executive of SA NSW's approval before carrying out certain development in a Mine Subsidence District.
11. In condition 12 of Schedule 2:
 - a. delete the word 'The' in the first sentence and insert "Prior to commencing construction of the project within the existing 132 kV and 66 kV transmission line alignment shown on Figure 4 in Appendix 2, the";
 - b. after the words "66 kV transmission lines within the" delete the word "alignment" and replace with "proposed alignment corridor";
 - c. delete the words "the relevant plan" and replace with "Figure 4";
 - d. after the second occurrence of "Appendix 2" insert ", unless otherwise agreed with the Secretary."
 - e. after the second occurrence of the words "the Proponent must," insert the words "to the satisfaction of the Secretary"; and
 - f. at the end of sub-paragraph (c) delete the words "to the satisfaction of the Secretary".
12. In conditions 1, 5, 7 and 25 of Schedule 3 and conditions 6 and 7 of Schedule 4, delete all references to "conditions 7 – 8" and replace with "conditions 8 – 9".
13. In Table 9 of condition 22 of Schedule 3, replace the footnote reference 'a' in the first row, third column with footnote reference 'b'.
14. In condition 39 of Schedule 3, delete the first reference to "The" and" insert the following "Within 12 months of carrying out any development work, the".
15. In condition 53 of Schedule 3:
 - a. in sub-paragraph (a) delete the words "to the satisfaction of the RMS" and replace with "in consultation with the RMS and to the satisfaction of the Secretary"; and
 - b. delete sub-paragraph (c) and replace with the following:

(c) design and construct the conveyor bridge over the New England Highway to the satisfaction of the RMS, prior to the commencement of mining operations (excluding overburden removal required for construction of the environmental bund and site infrastructure);
16. In Appendix 2,
 - a. after the first figure insert "**Figure 1: SEOC project general layout**";
 - b. after the second figure insert the following "**Figure 2: SEOC project Year 3 general layout**";
 - c. after the third figure insert the following "**Figure 3: SEOC project Year 9 general layout**"; and
 - d. after the fourth figure insert the following "**Figure 4: SEOC project transmission line realignment corridor and transmission line route**".
17. In Appendix 3:
 - a. in the fourth column of the row beginning "C1" delete the word "Where" and replace with "Upon commencement of development of the Project where";
 - b. in the fourth column of the row beginning "D2" delete the word "Where" and replace with "Upon commencement of development of the Project where";
 - c. in the fourth column of the row beginning "O8" delete the words "Within 3 years of Project Approval" and replace with "Within 12 months of commencing mining operations, subject to land ownership authority";
 - d. in the fourth column of the row beginning "Q1" delete the words "Within 3 years of Project Approval" and replace with "To be prepared prior to commencing mining operations. To be implemented within 12 months of commencing mining operations, subject to land ownership authority";
 - e. in the fourth column of the row beginning "Q2" delete the words "Within 3 years of Project Approval" and replace with "Within 12 months of commencing mining operations, subject to land ownership authority";

- f. in the fourth column of the row beginning "X3" delete the word "Progressively" and replace with "Within 12 months of commencing mining operations, subject to land ownership authority";
 - g. in the fourth column of the row beginning "Z1" delete the words "Within 5 years of Project Approval" and replace with "Within 12 months of commencing mining operations".
- 18. In Appendix 4:
 - a. after the first figure insert "**Figure 5:** *Land ownership Camberwell, 31 July 2012*";
 - b. after the second figure insert "**Figure 6:** *Land ownership of Camberwell and surrounding area, 31 July 2012*".
- 19. In Appendix 5:
 - a. after the figure insert "**Figure 7:** *SEOC rehabilitation plan Year 18*"
 - b. insert the following figure and caption"

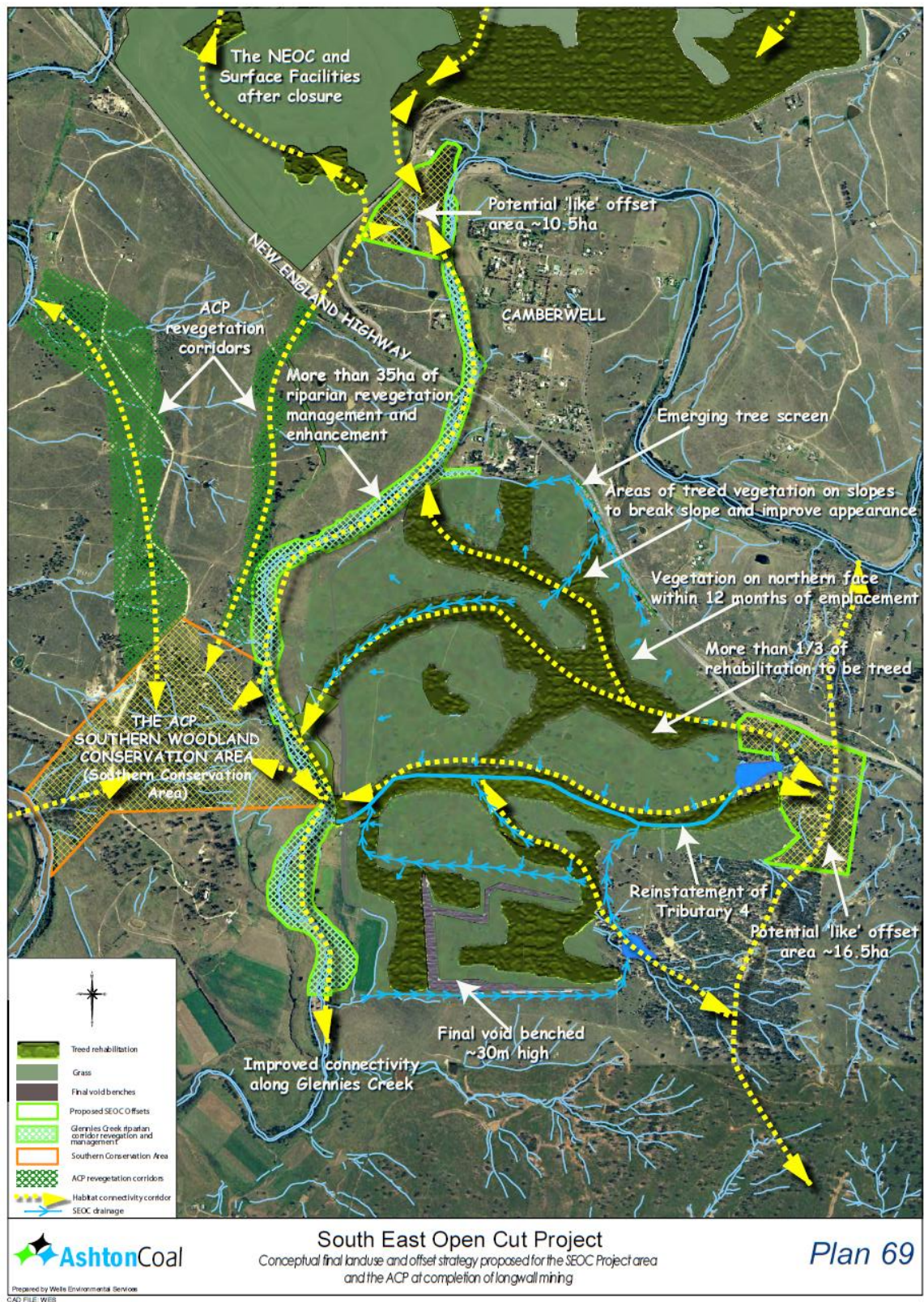
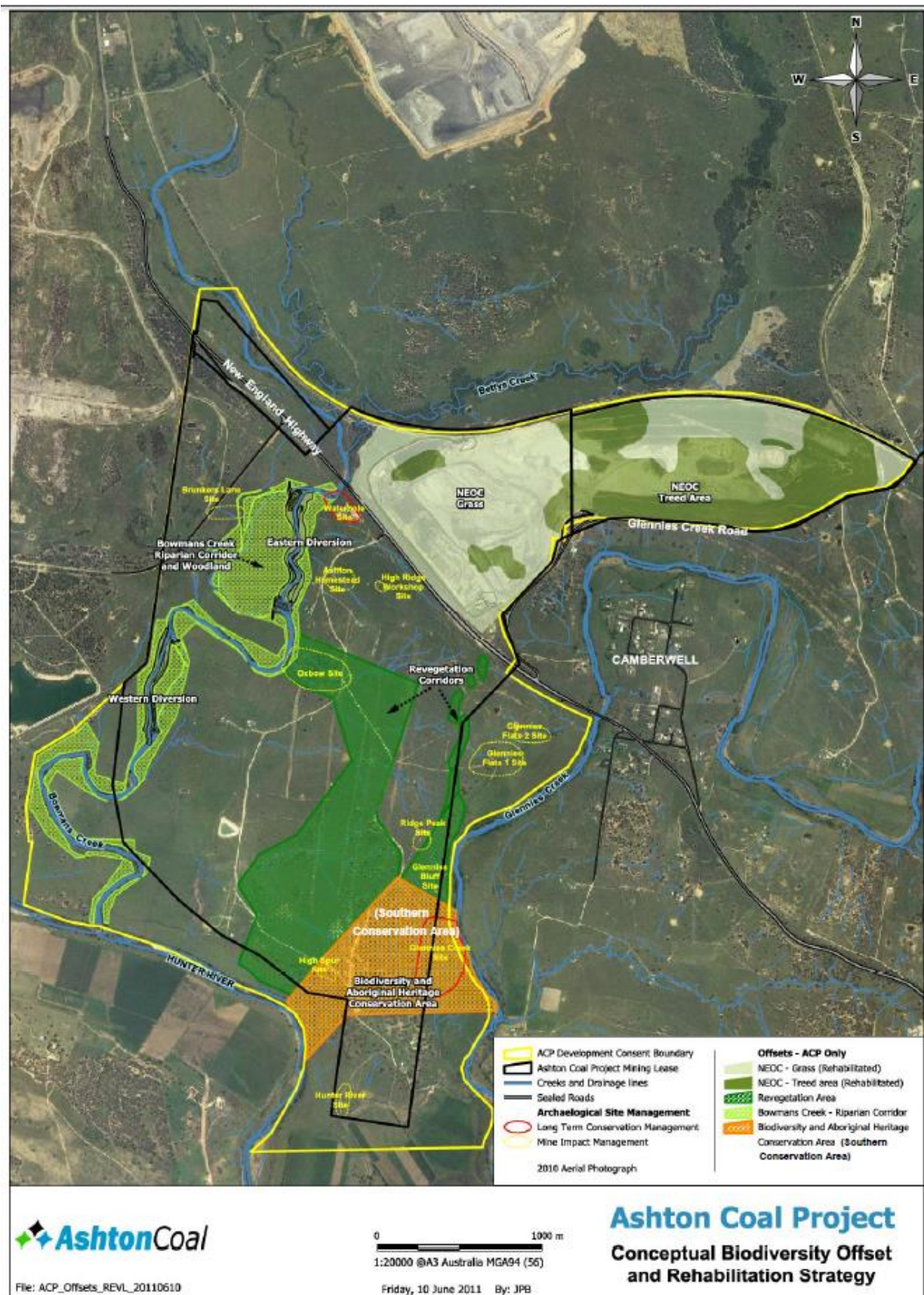


Figure 8: SEOC project Biodiversity Offset Strategy

20. In Appendix 6:

- a. Delete the first figure and insert the following figure and caption;



“Figure 9: Ashton Coal Project’s Biodiversity Offset and Rehabilitation Strategies (including the Southern Conservation Area) showing Aboriginal sites”

b. after the second figure insert **“Figure 10: SEOC Aboriginal sites”**

21. Adjust Table of Contents to reflect changed page numbers.