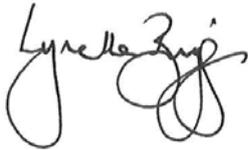


# Notice of Modification

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

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



Chair of the Commission

Sydney

1 December 2016

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### SCHEDULE 1

The development consent (DA 80/952) for the Glendell Open Cut Coal Mine and Associated Infrastructure, granted by the Minister for Planning and Environment on 2 May 1983.

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### SCHEDULE 2

1. Delete the Applicant name in Schedule 1 and replace with "Mt Owen Pty Limited".
2. Delete the Table of Contents and insert the following after Schedule 1:

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3. In the list of Definitions, delete the following definitions: "AEMR", "Applicant", "DECC", "Department", "Reasonable and Feasible", "Development", "Director-General", "DWE", "EA", "Land", "Mine Water", "Mining Operations", "Offset Strategy", "Response to Submissions" and "RTA" and insert the following definitions in alphabetical order:

Annual Review	The review required by condition 5 of schedule 5
Applicant	Mt Owen Pty Limited, or its successors, including any person/s who rely on this consent to carry out development that is subject to this consent
ARTC	Australian Rail Track Corporation Ltd
Conditions of this consent	Conditions contained in Schedules 2 to 5 inclusive
Department	Department of Planning and Environment
Development	The development described in the documents listed in condition 2(a) of schedule 2
DPI Water	Division of Water within the DPI
DRE	Division of Resources and Energy within the NSW Department of Industry
EA (Mod 2)	Environmental assessment for Modification 2 of DA 80/952, titled <i>Environmental Assessment for Modification of Glendell Mine Operations, Volumes 1-3</i> , dated August 2007 and prepared by Umwelt (Australia) Pty Limited, including the response to submissions document dated October 2007
EA (Mod 3)	Environmental assessment for Modification 3 of DA 80/952, titled <i>Glendell Mine 132 kV Powerline Relocation Modification 3 Environmental Assessment</i> , dated August 2016 and prepared by Hansen Bailey, including the response to submissions document dated September 2016
EPA	Environment Protection Authority
Feasible	Feasible relates to engineering considerations and what is practical to build or implement
Heritage Branch	Heritage Branch of OEH
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 consent</li> </ul>
Land	As defined in the EP&A Act, except for where the term is used in the noise and air quality conditions in Schedules 3 and 4 of this consent where it is defined to mean the whole of a lot, or contiguous lots owned

	by the same landowner, in a current plan registered at the Land Titles Office at the date of this consent
Material harm to the environment	Actual or potential harm to the health or safety of human beings or to ecosystems that is not trivial
Mine water	Water that accumulates within, or drains from, active mining areas, coal reject emplacement areas, tailings dams and infrastructure areas and any other areas where runoff may have come into contact with coal or carbonaceous material
Minimise	Reduce adverse impacts by implementing all reasonable and feasible mitigation measures
Mining operations	Includes the removal and emplacement of overburden and extraction, processing, handling, storage and transport of coal on site
Mitigation	Activities associated with reducing the impacts of the development
Mt Owen Complex	The combined operations of the Mt Owen, Ravensworth East and Glendell mines
OEH	Office of Environment and Heritage
Offset Strategy	The biodiversity conservation and enhancement strategy described in the documents listed in condition 2(a) of schedule 2, summarised in Table 11 and depicted conceptually in the figure in Appendix 5
Public infrastructure	Linear and related infrastructure that provides services to the general public, such as roads, railways, water supply, drainage, sewerage, gas supply, electricity, telephone, telecommunications, etc.
Reasonable	Reasonable relates to the application of judgement in arriving at a decision, taking into account: mitigation benefits, cost of mitigation versus benefits provided, community views and the nature and extent of potential improvements
Rehabilitation	The restoration of land disturbed by the development to a good condition, to ensure it is safe, stable and non-polluting
RMS	Roads and Maritime Services
Secretary	Secretary of the Department, or nominee

4. Delete all references to "Director-General" and replace with "Secretary".
5. Delete all references to "shall" and replace with "must", except in:
  - a) the second and fourth references in condition 10 of Schedule 4; and
  - b) condition 11 of Schedule 4.
6. Delete all references to "DECC" and replace with "EPA", except in:
  - a) condition 11 of Schedule 3, replace with "Secretary"; and
  - b) condition 44 of Schedule 3 and commitment 1.12.1 in Appendix 3, replace with "OEH".
7. Delete all references to "EA" and replace with "EA (Mod 2)".
8. Delete all references to "AEMR" and replace with "Annual Review".
9. Delete all references to "DWE" and replace with "DPI Water".
10. Delete all references to "RTA" and replace with "RMS".
11. Delete all reference to "NSW Heritage Office" and replace with "Heritage Branch".
12. Delete all references to "Energy Australia" and replace with "Ausgrid".
13. Delete condition 1 of Schedule 2, and insert the following:
  1. In addition to meeting the specific performance criteria established under this consent, the Applicant must implement all reasonable and feasible measures to prevent and/or minimise any material harm to the environment that may result from the construction, operation, or rehabilitation of the development.
14. Delete conditions 2 to 4 of Schedule 2, and insert the following:
  2. The Applicant must carry out the development:
    - (a) generally in accordance with the EA (Mod 2), EA (Mod 3) and the Development Layout Plan; and
    - (b) in accordance with the Statement of Commitments and the conditions of this consent.

*Notes:*

- *The Development Layout Plan is shown in Appendix 2.*
- *The Statement of Commitments is reproduced in Appendix 3.*

3. If there is any inconsistency between documents listed in condition 2(a) above, the most recent document shall prevail to the extent of the inconsistency. However, the conditions of this consent shall prevail to the extent of any inconsistency.
4. The Applicant must comply with any reasonable requirement/s of the Secretary arising from the Department's assessment of:
  - (a) any strategies, plans, programs, reviews, reports, audits or correspondence that are submitted in accordance with this consent (including any stages of these documents);
  - (b) any reviews, reports or audits commissioned by the Department regarding compliance with this consent; and
  - (c) the implementation of any actions or measures contained in these documents.
15. In condition 5 of Schedule 2, conditions 37 and 39 of Schedule 3 and commitment 1.11.5 in Appendix 3, delete all references to "DPI" and replace with "DRE".
16. In condition 6 of Schedule 2:
  - a) delete the words "a year"; and
  - b) after the words "from the site", insert "in any calendar year".
17. Delete conditions 8 and 9 of Schedule 2, including the headings.
18. After condition 12 of Schedule 2, insert the following:

#### **Demolition**

13. The Applicant must ensure that all demolition work undertaken in relation to the development is carried out in accordance with *AS 2601-2001: The Demolition of Structures*, or its latest version.

#### **Protection of Public Infrastructure**

14. Unless the Applicant and the applicable authority agree otherwise, the Applicant must:
  - (a) repair, or pay the full costs associated with repairing, any public infrastructure that is damaged by the development; and
  - (b) relocate, or pay the full costs associated with relocating, any public infrastructure that needs to be relocated as a result of the development.

*Note: This condition does not apply to any damage to public infrastructure subject to compensation payable under the Mine Subsidence Compensation Act 1961, or to damage to roads caused as a result of general road usage.*

#### **Transmission Line**

15. Prior to mining within 200 metres of the existing electrical 132 kilovolt transmission line, that traverses the site, the Applicant must:
  - (a) relocate the affected section of transmission line to a new alignment as shown conceptually in Appendix 2 (see blue easement) and to the satisfaction of Ausgrid;
  - (b) ensure that any aspects of the new transmission line that occur within or interact with the Main Northern Railway corridor are designed and constructed to the satisfaction of ARTC; and
  - (c) design, install and maintain any infrastructure within 40 metres of watercourses generally in accordance with DPI Water's *Guidelines for Controlled Activities on Waterfront Land*.

19. In condition 1 of Schedule 3, after Table 1, insert the following:

*Note: Lands titled 62 – Noble (b), 65 – Noble, Lot 13 DP 6830 – Gardner, Lot 12 DP 6830 – Noble and Lot 1 DP 770733 – Noble have been acquired and are now mine-owned.*

20. In condition 2 of Schedule 3, delete bullet points 2-4 in the 'Notes', and insert the following:

- *Lands titled 30 – Ninness, 33 – Peachey, 37c – Richards, 53 – Yates, 11 – Chisholm, 35 – Pugh, 20 – Foord, 21a & 21b – Merchant, 38 – Robertson, 6 – Bennett, 24 – Lopes, 4 – Standing, 40 – Smiles, 32 – Green and 44 – Stapleton have been acquired and are now mine-owned.*
- *Noise generated by the development is to be measured in accordance with the relevant requirements and exemptions (including certain meteorological conditions) of the NSW Industrial Noise Policy (as may be updated from time-to-time).*

21. After condition 5 of Schedule 3, insert the following:

#### **Construction Noise**

5A. The Applicant must manage noise associated with construction of the realigned transmission line, the removal of the redundant transmission line and any road works in accordance with the noise management levels defined in Table 2 of the *Interim Construction Noise Guideline*.

22. In condition 6 of Schedule 3, after 'Table 5', delete the 'Note', and insert the following:

*Notes to Tables 4-5:*

- *Noise generated by the development is to be measured in accordance with the notes presented below Table 2.*
- *Lands titled 6 – Bennett, 20 – Foord, 21a & 21b – Merchant, 24 – Lopes, 31 – Olofsson, 38 – Robertson have been acquired and are now mine-owned.*

23. In conditions 8, 19 and 23 of Schedule 3:

- delete the words "and implement" in the first sentence; and
- after the last paragraph, insert the following:

The Applicant must implement the approved program as approved from time to time by the Secretary.

24. Following condition 12 of Schedule 3, insert the following:

This condition does not apply to blasts that generate ground vibration of 0.5 mm/s or less at any residence on privately-owned land, or to blast misfires or blasts required to ensure the safety of the mine, its workers or the general public.

*Notes:*

- *For the purposes of this condition, a blast refers to a single blast event, which may involve a number of individual blasts fired in quick succession in a discrete area of the mine.*
- *For the avoidance of doubt, should an additional blast be required after a blast misfire, this additional blast and the blast misfire are counted as a single blast, for the purposes of calculating the maximum number of daily and weekly blasts under this condition.*

25. In condition 13(a) of Schedule 3, after the word "livestock, delete the semicolon and insert the words "from blasting impacts in the areas surrounding blasting operations; and".

26. In condition 15 of Schedule 3, delete the words after "development", and replace with:

"in consultation with Council and to the satisfaction of the Secretary.

The Applicant must implement the approved plan as approved from time to time by the Secretary."

27. In condition 18 of Schedule 3, delete the words "If the matter cannot be resolved within 21 days, the Director-General shall refer the matter to an Independent Dispute Resolution Process (see Appendix 8)."

28. Delete conditions 20 and 21 of Schedule 3, including the headings, and insert the following:

#### **Impact Assessment Criteria**

20. The Applicant must ensure that all reasonable and feasible avoidance and mitigation measures are employed so that particulate matter emissions generated by the development do not cause exceedances of the criteria listed in Tables 8, 9 and 10 at any residence on privately-owned land, except for the residences shown in Table 1 as being eligible for acquisition on request on the basis of air quality impacts.

*Table 8: Long term impact assessment criteria for particulate matter*

<b>Pollutant</b>	<b>Averaging period</b>	<b><sup>d</sup> Criterion</b>
Total suspended particulate (TSP) matter	Annual	<sup>a</sup> 90 µg/m <sup>3</sup>
Particulate matter < 10 µm (PM <sub>10</sub> )	Annual	<sup>a</sup> 30 µg/m <sup>3</sup>

*Table 9: Short term impact assessment criterion for particulate matter*

<b>Pollutant</b>	<b>Averaging period</b>	<b><sup>d</sup> Criterion</b>
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Particulate matter < 10 µm (PM <sub>10</sub> )	24 hour	<sup>b</sup> 50 µg/m <sup>3</sup>
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Table 10: Long term impact assessment criteria for deposited dust

<b>Pollutant</b>	<b>Averaging period</b>	<b>Maximum increase in deposited dust level</b>	<b>Maximum total deposited dust level</b>
<sup>c</sup> Deposited dust	Annual	<sup>b</sup> 2 g/m <sup>2</sup> /month	<sup>a</sup> 4 g/m <sup>2</sup> /month

Notes to Tables 8-10:

- *a Total impact (i.e. incremental increase in concentrations due to the development plus background concentrations due to all other sources).*
- *b Incremental impact (i.e. incremental increase in concentrations due to the development on its own).*
- *c Deposited dust is to be assessed as insoluble solids as defined by Standards Australia, AS/NZS 3580.10.1:2003: Methods for Sampling and Analysis of Ambient Air - Determination of Particulate Matter - Deposited Matter - Gravimetric Method.*
- *d Excludes extraordinary events such as bushfires, prescribed burning, dust storms, fire incidents or any other activity agreed to by the Secretary.*

29. In conditions 29, 39, 44 and 51 of Schedule 3:

- delete the words "and implement" in the first sentence; and
- after the last paragraph, insert the following:

The Applicant must implement the approved plan as approved from time to time by the Secretary.

30. In condition 32 of Schedule 3:

- in paragraph (a), delete all words after "requirements of", and insert instead "*Managing Urban Stormwater: Soils and Construction - Volume 1 and Volume 2E Mines and Quarries*, or its latest version"; and
- in paragraph (b), after the words "generate sediment", insert the words ", including activities on waterfront land (within 40 metres of a watercourse)".

31. In condition 36 of Schedule 3:

- delete both references to "Table 14" and replace with "Table 11";
- after the words "EA (Mod 2)", insert the words ", EA (Mod 3)"; and
- delete the words "170 ha" in Table 11 and replace with "174 ha".

32. In condition 37 of Schedule 3, delete the word "progressively".

33. After condition 37 of Schedule 3, insert the following:

37A. The Applicant must rehabilitate the site progressively as soon as reasonably practicable following disturbance. All reasonable and feasible measures must be taken to minimise the total area exposed for dust generation at any time. Interim stabilisation and temporary vegetation strategies must be employed when areas prone to dust generation cannot be permanently rehabilitated.

*Note: It is accepted that some parts of the site that are progressively rehabilitated may be subject to further disturbance at some later stage of the development.*

### **Pre-Clearance Survey**

37B. Prior to commencing any surface disturbance related to construction or maintenance of the realigned transmission line, including for service roads, the Applicant must ensure that a pre-clearance threatened species survey is undertaken by a suitably qualified expert.

If any additional threatened species, which may be adversely affected by the realigned transmission line, are identified during the pre-clearance survey, the Applicant must not undertake any associated surface disturbance until suitable offsets have been provided in accordance with OEH's *NSW Biodiversity Offsets Policy for Major Projects* (2016), to the satisfaction of the Secretary.

### **Revegetation & Compensatory Planting**

37C. The Applicant must:

- (a) plant and maintain, until established, 10 River Oak trees for every established River Oak tree that is removed or severely damaged during construction and maintenance of the realigned transmission line;
- (b) erect 2 nesting boxes for every identified tree hollow that is removed or severely damaged during the construction and maintenance of the realigned transmission line; and
- (c) replant or naturally regenerate, with a suitable mix of canopy, mid-storey and groundcover species, any temporarily cleared vegetation for the realigned transmission line that is classified as either Swamp Oak Forest or River Oak Forest, to the satisfaction of the Secretary.

*Notes:*

- *An established River Oak tree is considered to be two metres or greater in height.*
- *A severely damaged tree is considered to be one that is lopped to the extent that half or more of the crown biomass is lost.*

34. In condition 39(a) of Schedule 3, before the words “and Council”, insert the words “DPI, OEH”.

35. In condition 40 of Schedule 3:

- a) at the end of paragraph (g), delete the word “and”; and
- b) at the end of paragraph (h), delete the full stop and ‘Notes’ and replace with:
  - “,
  - (i) a description of riparian revegetation and maintenance works associated with the EA (Mod 3), that has been prepared generally in accordance with DPI Water’s *Guidelines for Controlled Activities on Waterfront Land*; and
  - (j) a description of revegetation and rehabilitation measures that would be implemented during the construction and maintenance of the realigned transmission line.”

36. In condition 43 of Schedule 3:

- a) after the words “bond with”, delete the words “either the DPI or”; and
- b) at the end of paragraph (b), delete the full stop and ‘Notes’ and replace with:
  - “,
  - to the satisfaction of the Secretary.

The calculation of the conservation and biodiversity bond must be submitted to the Department for approval at least 1 month prior to the lodgement of the bond.

The conservation and biodiversity bond must be reviewed and, if required, an updated bond must be lodged with the Department within 3 months of any of the following:

- (a) an approved revision of the Landscape Management Plan;
- (b) the completion of an Independent Environmental Audit in which recommendations relating to the implementation of the Landscape Management Plan have been made; or
- (c) in response to a request by the Secretary.

*Notes:*

- *If the Offset Strategy is completed generally in accordance with the performance and completion criteria of the Landscape Management Plan to the satisfaction of the Secretary, the Department will release the conservation and biodiversity bond.*
- *If the Offset Strategy is not completed generally in accordance with the performance and completion criteria of the Landscape Management Plan to the satisfaction of the Secretary, all or part of the conservation and biodiversity bond will be used to ensure the satisfactory completion of the relevant works.”.*

37. In condition 44(c) of Schedule 3, after the words “Aboriginal sites”, in both occurrences, insert the words “and potential archaeologically sensitive areas”.

38. In condition 50 of Schedule 3:

- a) delete “1995” and replace with “1997”; and
- b) at the end of paragraph (a), insert “or its latest version”.

39. Delete the second paragraph in condition 8 of Schedule 4.

40. In condition 10 of Schedule 4, insert the word “reasonable” after the words “bear the”.

41. Delete Schedule 5 and replace with the following:

**SCHEDULE 5  
ENVIRONMENTAL MANAGEMENT, REPORTING AND AUDITING**

**ENVIRONMENTAL MANAGEMENT**

**Adaptive Management**

1. The Applicant must assess and manage development-related risks to ensure that there are no exceedances of the criteria and/or performance measures in Schedule 3. Any exceedance of these criteria and/or performance measures constitutes a breach of this consent and may be subject to penalty or offence provisions under the EP&A Act or EP&A Regulation.

Where any exceedance of these criteria and/or performance measures has occurred, the Applicant must, at the earliest opportunity:

- (a) take all reasonable and feasible steps to ensure that the exceedance ceases and does not recur;
- (b) consider all reasonable and feasible options for remediation (where relevant) and submit a report to the Department describing those options and any preferred remediation measures or other course of action; and
- (c) implement remediation measures as directed by the Secretary, to the satisfaction of the Secretary.

**Environmental Management Strategy**

2. If the Secretary requires, the Applicant must prepare an Environmental Management Strategy for the development to the satisfaction of the Secretary. This strategy must:
  - (a) be submitted to the Secretary for approval prior to the commencement of development under this consent, unless the Secretary agrees otherwise;
  - (b) provide the strategic framework for the environmental management of the development;
  - (c) identify the statutory approvals that apply to the development;
  - (d) describe the role, responsibility, authority and accountability of all key personnel involved in the environmental management of the development;
  - (e) describe the procedures that would be implemented to:
    - keep the local community and relevant agencies informed about the operation and environmental performance of the development;
    - receive, handle, respond to, and record complaints;
    - resolve any disputes that may arise during the course of the development;
    - respond to any non-compliance;
    - respond to emergencies; and
  - (f) include:
    - copies of any strategies, plans and programs approved under the conditions of this consent; and
    - a clear plan depicting all the monitoring required to be carried out under the conditions of this consent.

The Applicant must implement the approved strategy as approved from time to time by the Secretary.

**Management Plan Requirements**

3. The Applicant must ensure that the management plans required under this consent are prepared in accordance with any relevant guidelines, and include:
  - (a) detailed baseline data;
  - (b) a description of:
    - the relevant statutory requirements (including any relevant approval, licence or lease conditions);
    - any relevant limits or performance measures/criteria;
    - the specific performance indicators that are proposed to be used to judge the performance of, or guide the implementation of, the development or any management measures;
  - (c) a description of the measures that would be implemented to comply with the relevant statutory requirements, limits, or performance measures/criteria;
  - (d) a program to monitor and report on the:
    - impacts and environmental performance of the development;
    - effectiveness of any management measures (see c above);
  - (e) a contingency plan to manage any unpredicted impacts and their consequences;
  - (f) a program to investigate and implement ways to improve the environmental performance of the development over time;
  - (g) a protocol for managing and reporting any:
    - incidents;
    - complaints;

- non-compliances with statutory requirements; and
  - exceedances of the impact assessment criteria and/or performance criteria; and
- (h) a protocol for periodic review of the plan.

*Note: The Secretary may waive some of these requirements if they are unnecessary or unwarranted for particular management plans.*

### **Relationships between Management Plans and Annual Review**

4. With the agreement of the Secretary, the Applicant may combine any strategy, plan, program or Annual Review required by this consent with any similar strategy, plan, program or Annual Review required for Mt Owen, Ravensworth East and Integra Underground mines, or any other adjoining operation in common ownership or management.

### **Annual Review**

5. By the end of March each year, or as otherwise agreed with the Secretary, the Applicant must submit a report to the Department reviewing the environmental performance of the development to the satisfaction of the Secretary. This review must:
- (a) describe the development (including any rehabilitation) that was carried out in the previous calendar year, and the development that is proposed to be carried out over the current calendar year;
  - (b) include a comprehensive review of the monitoring results and complaints records of the development over the previous calendar year, which includes a comparison of these results against the:
    - relevant statutory requirements, limits or performance measures/criteria;
    - monitoring results of previous years; and
    - relevant predictions in the documents listed in condition 2(a) of Schedule 2;
  - (c) identify any non-compliance over the past year, and describe what actions were (or are being) taken to ensure compliance;
  - (d) identify any trends in the monitoring data over the life of the development;
  - (e) identify any discrepancies between the predicted and actual impacts of the development, and analyse the potential cause of any significant discrepancies; and
  - (f) describe what measures will be implemented over the next year to improve the environmental performance of the development.

### **Revision of Strategies, Plans and Programs**

6. Within 3 months of:
- (a) the submission of an Annual Review under condition 5 above;
  - (b) the submission of an incident report under condition 9 below;
  - (c) the submission of an audit under condition 11 below; or
  - (d) any modification to the conditions of this consent (unless the conditions require otherwise);
- the Applicant must review the strategies, plans and programs required under this consent, to the satisfaction of the Secretary. Where this review leads to revisions in any such document, then within 4 weeks of the review the revised document must be submitted for the approval of the Secretary.

*Note: This is to ensure the strategies, plans and programs are updated on a regular basis, and incorporate any recommended measures to improve the environmental performance of the development.*

### **Updating & Staging Strategies, Plans or Programs**

7. The Applicant may at any time submit revised strategies, plans or programs for the approval of the Secretary. With the agreement of the Secretary, the Applicant may also submit any strategy, plan or program required by this consent on a staged basis.

With the agreement of the Secretary, the Applicant may prepare a revision or stage of any strategy, plan or program required under this consent without undertaking consultation with all parties nominated under the applicable condition in this consent.

#### *Notes:*

- While any strategy, plan or program may be submitted on a staged basis, the Applicant must ensure that the existing operations on site are covered by suitable strategies, plans or programs at all times.
- If the submission of any strategy, plan or program is to be staged, then the relevant strategy, plan or program must clearly describe the specific stage to which the strategy, plan or program applies, the relationship of this stage to any future stages, and the trigger for updating the strategy, plan or program.

## Community Consultative Community

8. The Applicant must operate a CCC for the development to the satisfaction of the Secretary. This CCC must be operated in general accordance with the *Guidelines for Establishing and Operating Community Consultative Committees for Mining Projects* (Department of Planning, 2007 or its latest version or replacement).

### Notes:

- *The CCC is an advisory committee. The Department and other relevant agencies are responsible for ensuring that the Applicant complies with this consent.*
- *In accordance with the guideline, the Committee should be comprised of an independent chair and appropriate representation from the Applicant, Council, recognised environmental groups and the local community.*
- *The CCC may be combined with similar committees established for the adjoining Mt Owen, Ravensworth East and Integra Underground mines.*

## REPORTING

### Incident Reporting

9. The Applicant must immediately notify the Secretary and any other relevant agencies of any incident. Within 7 days of the date of the incident, the Applicant shall provide the Secretary and any relevant agencies with a detailed report on the incident, and such further reports as may be requested.

### Regular Reporting

10. The Applicant must provide regular reporting on the environmental performance of the development on its website, in accordance with the reporting arrangements in any plans or programs approved under the conditions of this consent, and to the satisfaction of the Secretary.

## INDEPENDENT ENVIRONMENTAL AUDIT

11. By the end of December 2010, and every 3 years thereafter, unless the Secretary directs otherwise, the Applicant must commission and pay the full cost of an Independent Environmental Audit of the development. This audit must:
- (a) be conducted by a suitably qualified, experienced, and independent team of experts whose appointment has been endorsed by the Secretary;
  - (b) include consultation with the relevant agencies and the CCC;
  - (c) assess the environmental performance of the development and assess whether it is complying with the requirements in this consent and any relevant EPL or Mining Lease or necessary water licences (including any assessment, plan or program required under these approvals);
  - (d) review the adequacy of strategies, plans or programs required under the abovementioned approvals (including whether the development has met or is trended towards the progressive performance and completion criteria detailed in these strategies, plans or programs);
  - (e) recommend appropriate measures or actions to improve the environmental performance of the development, and/or any strategy, plan or program required under these approvals; and
  - (f) be conducted and reported to the satisfaction of the Secretary.

*Note: This audit team should be led by a suitably qualified auditor and include experts in any fields specified by the Secretary.*

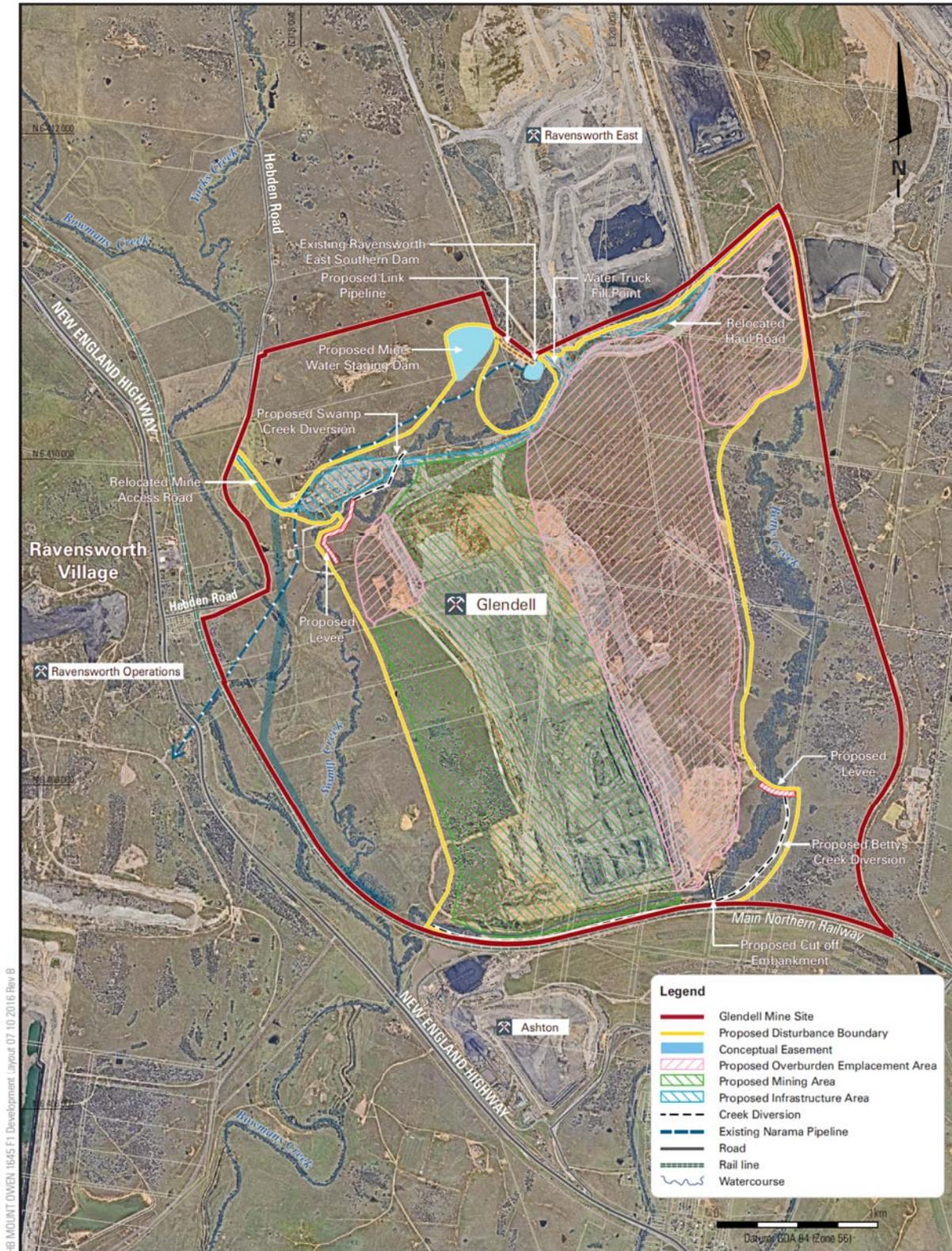
12. Within 12 weeks of commissioning of this audit, or as otherwise agreed by the Secretary, the Applicant must submit a copy of the audit report to the Secretary and any other NSW Government agency that request it, together with its response to any recommendations contained in the audit report and a timetable for the implementation of these recommendations, as required. The Applicant must implement the audit report recommendations, to the satisfaction of the Secretary.

## ACCESS TO INFORMATION

13. The Applicant must:
- (a) make copies of the following publicly available on its website:
    - the documents listed in condition 2(a) of Schedule 2;
    - current statutory approvals for the development;
    - approved strategies, plans or programs required under the conditions of this consent;
    - a comprehensive summary of the monitoring results of the development, reported in accordance with the specifications of any conditions of this consent, or any approved plans or programs;
    - a complaints register, which is to be updated monthly;

- minutes of CCC meetings;
  - the Annual Reviews of the development (for the last five years);
  - any independent environmental audit of the development, and the Applicant's response to the recommendations in any audit; and
  - any other matter required by the Secretary; and
- (b) keep this information up to date,  
to the satisfaction of the Secretary.

42. Delete the figure in Appendix 2: Development Layout Plan and replace with the following:



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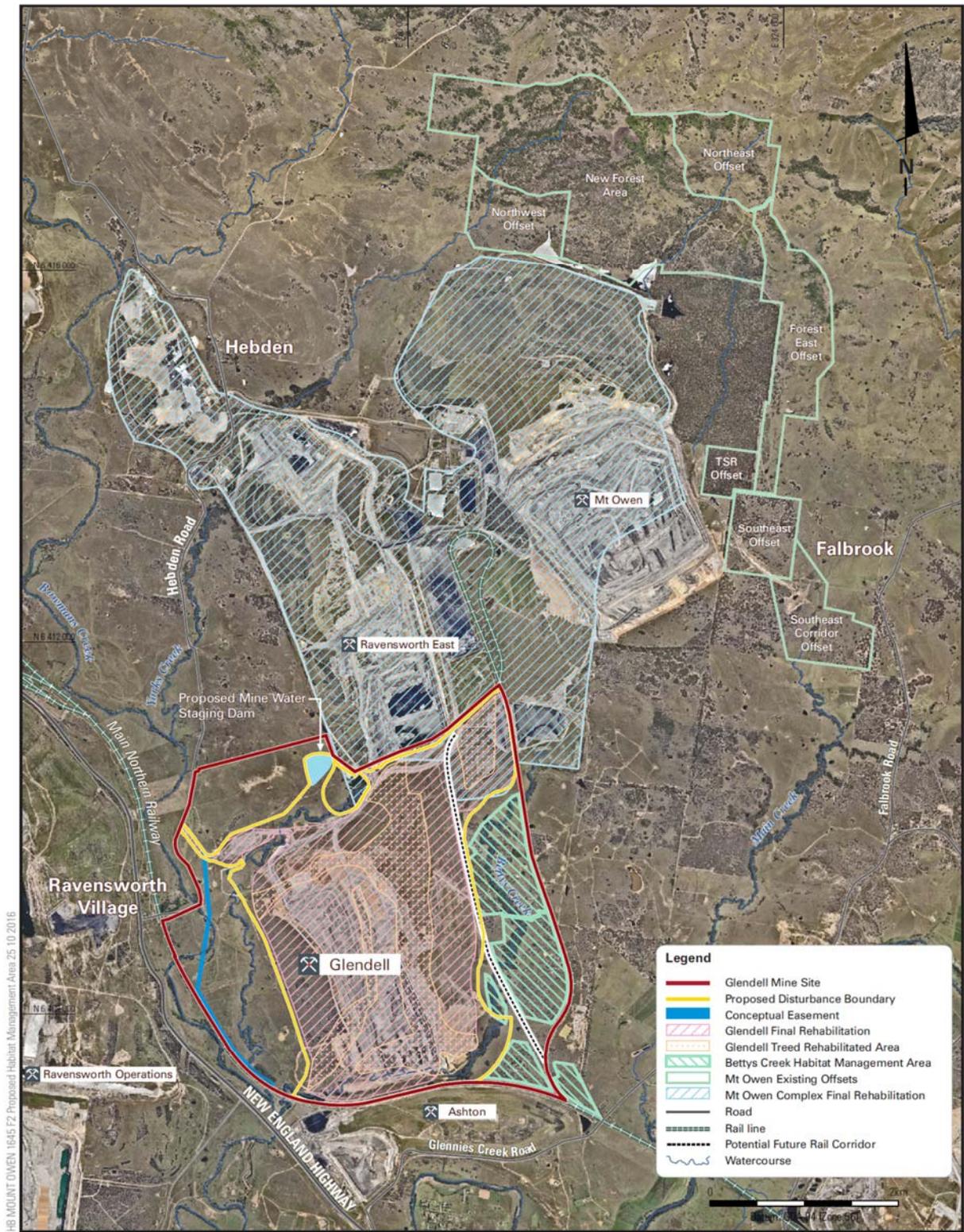
43. In Appendix 3: Statement of Commitments:

- a) delete all references to "Xstrata Mt Owen" and replace with "The Applicant", except in;
  - commitment 1.6.7, where the words "Xstrata Mt Owen" should be deleted and replaced with "the Applicant"; and
  - the second reference to "Xstrata Mt Owen" in commitment 1.12.1, which should be deleted and not replaced;
- b) in commitment 1.1.1 delete "the NSW"; and
- c) in commitment 1.6.6 delete "exceedences" and replace with "exceedances"
- d) after commitment 1.18.2, insert the following:

**Additional Commitments following Modification 3**

- 2.1.1 The Applicant will undertake a threatened species survey by a relevantly qualified person prior to any disturbance construction works commencing.
- 2.1.2 Field identification of the *Acacia pendula* and *Eucalyptus camaldulensis* adjacent to the southern existing track will be undertaken by an appropriately qualified person prior to any transmission line relocation works, if any works are to be undertaken in the immediate vicinity of this area.
- 2.1.3 The Applicant will conduct a due diligence assessment of each mature River Oak tree to be lopped, prior to disturbance. For any mature River Oak tree that is lopped, ten (10) trees will be planted; and two (2) nesting boxes will be erected for any tree hollow identified.
- 2.1.4 Any tree lopping required along Bowmans Creek and Swamp Creek in the riparian zone will be undertaken manually with chainsaws to allow the root structures to remain in situ.
- 2.1.5 Redundant power poles will be removed from site and the holes will be backfilled with suitable material and rehabilitated.
- 2.1.6 The Applicant will update the Biodiversity Management Plan to include appropriate riparian revegetation works and the incorporation of the 4 ha area to be managed by the Applicant, consistent with the commitments of the adjacent Habitat Management Area.
- 2.1.7 The Applicant will implement identified management measures to avoid potential impacts to Aboriginal heritage sites MOCO OS-10 and Sensitive Areas 1 to 6 during MOD 3 activities.
- 2.1.8 Should any unidentified Aboriginal archaeological sites be located during operations, the procedures of the approved ACHMP and the '*Unanticipated Finds Protocol*' will be followed.
- 2.1.9 Historic Heritage item 7g will be identified in the field to ensure it is not disturbed by MOD 3 activities.
- 2.1.10 The dilapidated shed associated with Historic Heritage item 8b will be manually dismantled, with salvaged materials removed from site.
- 2.1.11 The Applicant will implement suitable erosion and sediment controls prior to the commencement of works, to minimise the potential for inadvertent impacts to local water resources.
- 2.1.12 If groundwater is intercepted during construction of the realigned transmission line, DPI Water will be notified immediately.
- 2.1.13 The Applicant will update the plans contained in the Mining Operations Plan to include the location of the relocated transmission line.

44. Delete the figure in Appendix 5: Offset Strategy Plan and replace with the following:



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45. Delete Appendix 8: Independent Dispute Resolution Process, including the figure.