Modification of Development Consent

Section 4.55(1A) of the *Environmental Planning and Assessment Act 1979*

As delegate of the Minister for Planning and Public Spaces, the Independent Planning Commission of NSW modifies the development consent referred to in Schedule 1, as set out in Schedule 2.

Name	Name
Member of the Commission	**Member of the Commission**

Sydney 2019

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.

SCHEDULE 2

1. In the list of Definitions, delete the terms "Department", "DPI", "DPI-Water", "DRE", "Heritage Branch", "Material harm", "Minister", "OEH", "Offset Strategy" and "Secretary" and their definitions, and insert the following in alphabetical order:

BC Act	*Biodiversity Conservation Act 2016*
BCD	Biodiversity & Conservation Division within the Department
BCT	Biodiversity Conservation Trust
Department	NSW Department of Planning, Industry and Environment
DPIE Water	Water Group within the Department
DRG	Division of Resources and Geoscience within the Department
Heritage Branch	Heritage Branch of the Department of Premier and Cabinet
Material harm	Is harm to the environment that: • involves actual or potential harm to the health or safety of human beings or to the environment that is not trivial, or • results in actual or potential loss or property damage of an amount, or amounts in aggregate, exceeding $10,000, (such loss includes the reasonable costs and expenses that would be incurred in taking all reasonable and practicable measures to prevent, mitigate or make good harm to the environment) This definition excludes "harm" that is authorised under either this consent or any other statutory approval'
Minister	NSW Minister for Planning and Public Spaces, or delegate
Modification 4	The modification to the development as described in SEE (Mod 4)
RAPs	Registered Aboriginal Parties
Resources Regulator	NSW Resources Regulator within the Department
Secretary	Planning Secretary under the EP&A Act, or nominee
SEE (Mod 4)	Statement of Environmental Effects titled *"Modification 4 Statement of Environmental Effects Glendell Mine"* dated November 2018 and prepared by Umwelt, including the Response to Submissions document titled "*Glendell Mine Modification 4 Response to Submissions*" dated May 2019

2. Delete all references to "DRE" and replace with "Resources Regulator".

3. Delete all references to "DPI-Water" and replace with "DPIE Water", except in condition 15 of Schedule 2 and condition 40 of Schedule 3.

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4. Delete all references to “OEH” and replace with “BCD” except in condition 37B.

5. In condition 2(a) of Schedule 2, after the words “(Mod 3)” insert “, SEE (Mod 4)”.

6. Delete conditions 3 and 4 of Schedule 2 and insert the following:

    3. If there is any inconsistency between the above documents, the most recent document must prevail to the extent of the inconsistency. However, the conditions of this consent must prevail to the extent of any inconsistency.

    4. The Applicant must comply with any requirement/s of the Secretary arising from the Department’s assessment of:
        (a) any strategies, plans or correspondence that are submitted in accordance with this consent;
        (b) any reports, reviews or audits commissioned by the Department regarding compliance with this consent; and
        (c) the implementation of any actions or measures contained in these documents.

7. In condition 10 of Schedule 2, in the first note, delete “4A” and replace with “6”.

8. In the note below condition 14 of Schedule 2 delete “*Mine Subsidence Compensation Act 1961*” and insert “*Coal Mine Subsidence Compensation Act 2017*”.

9. After condition 15 of Schedule 2, insert the following:

EVIDENCE OF CONSULTATION

16. Where conditions of this consent require consultation with an identified party, the Applicant must:
    (a) consult with the relevant party prior to submitting the subject document; and
    (b) provide the Department with details of the consultation undertaken including:
        - the outcome of that consultation, matters resolved and unresolved; and
        - details of any disagreement remaining between the party consulted and the Applicant and how the Applicant has addressed the matters not resolved.

STAGING, COMBINING AND UPDATING STRATEGIES, PLANS OR PROGRAMS

17. With the approval of the Secretary, the Applicant may:
    (a) prepare and submit any strategy, plan or program required by this consent on a staged basis (if a clear description is provided as to the specific stage and scope of the development to which the strategy, plan or program applies, the relationship of the stage to any future stages and the trigger for updating the strategy, plan or program);
    (b) combine any strategy, plan or program required by this consent (if a clear relationship is demonstrated between the strategies, plans or programs that are proposed to be combined);
    (c) update any strategy, plan or program required by this consent (to ensure the strategies, plans and programs required under this consent are updated on a regular basis and incorporate additional measures or amendments to improve the environmental performance of the development); and
    (d) combine any strategy, plan or program required by this consent with any similar strategy, plan or program required by an adjoining mining consent or approval, in common ownership or management.

    If the Secretary agrees, a strategy, plan or program may be staged or updated without consultation being undertaken with all parties required to be consulted in the relevant condition in this consent.

COMPLIANCE

18. The Applicant must ensure that all of its employees, contractors (and their sub-contractors) are made aware of, and are instructed to comply with, the conditions of this consent relevant to activities they carry out in respect of the development.

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APPLICABILITY OF GUIDELINES

19. References in the conditions of this consent to any guideline, protocol, Australian Standard or policy are to such guidelines, protocols, Standards or policies in the form they are in as at the date of this consent.

20. However, consistent with the conditions of this consent and without altering any limits or criteria in this consent, the Planning Secretary may, when issuing directions under this consent in respect of ongoing monitoring and management obligations, require compliance with an updated or revised version of such a guideline, protocol, Standard or policy, or a replacement of them.

CROWN LAND

21. The Applicant must consult with DPIE – Crown Lands prior to undertaking any development on Crown Land or Crown Roads.

Notes:

- *Under section 265 of the Mining Act 1992, the Applicant is required to enter into a compensation agreement with DPIE – Crown Lands prior to undertaking any mining operations or related activities on Crown land or Crown roads within a mining lease.*
- *Under section 141 of the Mining Act 1992, the Applicant is required to enter into an access arrangement with DPIE – Crown Lands prior to undertaking any prospecting operations on Crown land or Crown roads within an exploration licence.*

10. In condition 1 of Schedule 3:
    a) after the first occurrence of "land" insert "[a]";
    b) at the end of Table 1 insert:

> *[a] The locations of the land referred to in Table 1 are shown in Appendix 4*

11. In condition 2 of Schedule 3:
    a) after the first occurrence of "land" insert "[a]";
    b) at the end of Table 2 insert:

> *[a] The locations of the land and receiver numbers as described in EA (Mod 2) and referred to in Table 2 are shown in Appendix 4*

    c) delete the first and third notes.

12. At the end of condition 2 of Schedule 3 insert:

2A. 'Noise generated by the development' as described in conditions 2, 3, 4 and 6 of this Schedule is to be measured in accordance with the relevant requirements and exemptions (including certain meteorological conditions) of the *NSW Industrial Noise Policy*.

The 'cumulative noise generated by the development' as described in condition 5 of this Schedule, combined with the noise generated by other mines is to be measured in accordance with the relevant procedures in the *NSW Industrial Noise Policy*.

13. In condition 3 of Schedule 3:
    a) after the third occurrence of "land" insert "[a]";
    b) at the end of Table 2 insert:

> *[a] The locations of the land referred to in Table 3 are shown in Appendix 4*

    c) delete the note.

14. In condition 5 of Schedule 3, delete the note.

15. In condition 6 of Schedule 3 in the "Notes to Tables 4-5":
    a) delete the first dot point; and
    b) delete the second dot point and replace with:

- *Lands titled 6 – Bennett, 20 – Foord, 21a & 21b – Merchant, 24 – Lopes, 38 – Roberton have been acquired and are now mine-owned.*

16. In condition 10 of Schedule 3:
    a) after "vibration" insert "[a]";
    b) after "criteria" insert "at the receivers[b]"; and
    c) after Table 7 insert:

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[a] *Vibration must be measured in accordance with applicable guidelines, including EPA's Assessing Vibration: A Technical Guideline (2006).*
[b] *The receivers referred to in Table 7 are shown in Appendix 4*

17. In condition 12 of Schedule 3:
    a) in paragraphs (a) and (b) delete "blast" and replace with "single blast events[a]";
    b) delete the notes and replace with:

> [a] A 'single blast event' means a blast which involves either a single detonation or a number of individual blasts fired in quick succession in a discrete area of the development. Should an additional blast be required after a blast misfire, this additional blast and the blast misfire are counted as a single blast event.

18. In condition 22 of Schedule 3, delete paragraphs (a) to (c) and replace with:

> (a) take all reasonable steps to:
> (i) minimise odour, fume and particulate matter emissions of the development, paying particular attention to minimising wheel-generated haul road emissions;
> (ii) eliminate or minimise the risk of spontaneous combustion;
> (iii) minimise any visible off-site air pollution generated by the development; and
> (iv) minimise the extent of potential dust generating surfaces exposed on the site at any given point in time;
> (b) operate a comprehensive air quality management system that uses real-time air quality monitoring data to guide the day to day planning of mining operations and the implementation of both proactive and reactive air quality mitigation measures to ensure compliance with the relevant conditions of this consent;
> (c) minimise the air quality impacts of the development during adverse meteorological conditions and extraordinary events (see Note c to Tables 8 - 10 above);
> (d) use all reasonable efforts to co-ordinate air quality management on the site with the air quality management at nearby mines to minimise cumulative air quality impacts;
> (e) carry out regular air quality monitoring to determine whether the development is complying with the relevant conditions of this consent; and
> (f) regularly assess meteorological and air quality monitoring data, and modify operations on the site to ensure compliance with the relevant conditions of this consent.

19. Delete condition 23, including the heading and replace with:

> 23. Until approval of the Air Quality and Greenhouse Gas Management Plan required under condition 23A of this Schedule, the Applicant must continue to implement its approved Air Quality Monitoring Program (as required by condition 23 of this Schedule prior to the approval of Modification 4) and approved Greenhouse and Energy Efficiency Plan (as required by condition 51 of this Schedule prior to the approval of Modification 4).

20. After condition 23 of Schedule 3, insert the following:

> **Air Quality and Greenhouse Gas Management Plan**
>
> 23A. Within 3 months of the approval of Modification 4 the Applicant must prepare an Air Quality and Greenhouse Gas Management Plan for the development to the satisfaction of the Secretary. This plan must:
> (a) be prepared by a suitably qualified and experienced person/s;
> (b) be prepared in consultation with the EPA;
> (c) describe the measures to be implemented to ensure:
> (i) compliance with the air quality criteria and operating conditions of this consent;
> (ii) best practice management is being employed to:
> • minimise the development's air quality impacts;
> • minimise the development's Scope 1 and 2 greenhouse gas emissions; and
> • improve the development's energy efficiency;
> (iii) the air quality impacts of the development are minimised during adverse meteorological conditions and extraordinary events;
> (d) include a program to monitor greenhouse gas emissions and energy use generated by the development;

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(e) describe the air quality management system in detail; and

(f) include an air quality monitoring program, undertaken in accordance with the *Approved Methods for Sampling and Analysis of Air Pollutants in New South Wales* (DEC, 2007), that:

(i) establishes a diesel combustion emissions baseline;

(ii) uses monitors to evaluate the performance of the development against the air quality criteria in this consent and to guide day to day planning of mining operations;

(iii) adequately supports the air quality management system; and

(iv) includes a protocol for identifying any air quality-related exceedance, incident or non-compliance and for notifying the Department and relevant stakeholders of these events.

The Applicant must implement the Air Quality and Greenhouse Gas Management Plan as approved by the Secretary.

21. After condition 36 of Schedule 3, insert:

Biodiversity Credits Required

36A. Within 6 months of the approval of Modification 4, or other timeframe agreed by the Secretary, the Applicant must retire the biodiversity credits specified in Table 12 below.

Table 12: Biodiversity credit requirements

Credit Type	***Credits Required***
Ecosystem Credits	
PCT1692 Bull Oak grassy woodland of the central Hunter Valley - *Regeneration*	21
PCT1691 Narrow-leaved Ironbark – Grey Box grassy woodland of the central and upper Hunter- *Derived Native Grassland*	88

The retirement of the biodiversity credits specified in Table 12 must be carried out in accordance with the Biodiversity Offsets Scheme of the BC Act, to the satisfaction of the BCT.

22. In condition 37 of Schedule 3, after "EA (Mod 2)" insert ", as modified by SEE (Mod 4)".

23. In condition 37A of Schedule, delete the note and replace with:

Note: This condition does not prevent further disturbance at some later stage of the development of areas that have been rehabilitated.

24. In condition 38 of Schedule 3, delete the note.

25. In condition 39 of Schedule 3:
a) after "Landscape Management Plan for" insert "all land disturbed by";
b) delete "DPI" and replace with "DRG".

26. In paragraphs (a) and (c) of condition 44 of Schedule 3, delete "Aboriginal communities" and replace with "Registered Aboriginal Parties".

27. Delete condition 51 of Schedule 3 including the heading.

28. In condition 2 of Schedule 5:
a) in the fourth bullet point of paragraph (e), following "non-compliance", insert "and any incident";
b) in the first bullet point of paragraph (f), delete "copies of" and replace with "references to";

29. In paragraph (a) in condition 3 of Schedule 5, delete "detailed baseline date", and replace with "a summary of relevant background or baseline data".

30. Delete condition 4 of Schedule 5, including the heading.

31. In paragraph (c) of condition 5 of Schedule 5 delete "ensure compliance" and replace with "rectify the non-compliance and avoid reoccurrence".

32. Delete condition 7 of Schedule 5, including the heading and notes.

33. Delete conditions 9 and 10 of Schedule 5, including the headings and replace with:

Incident Notification

9. The Applicant must immediately notify the Department and any other relevant agencies immediately after it becomes aware of an incident. The notification must be in writing and identify the development (including the development application number and name) and set out the location and nature of the incident.

Non-Compliance Notification

10. Within seven days of becoming aware of a non-compliance, the Applicant must notify the Department of the non-compliance. The notification must be in writing and identify the development (including the development application number and name), set out the condition of this consent that the development is non-compliant with, why it does not comply and the reasons for the non-compliance (if known) and what actions have been, or will be, undertaken to address the non-compliance.

***Note**: A non-compliance which has been notified as an incident does not need to also be notified as a non-compliance.*

34. In condition 11 of Schedule 5:
a) insert the following as paragraph (a):

(a) be led by a suitably qualified, experienced and independent auditor whose appointment has been endorsed by the Secretary;

b) in paragraph (b) delete “led and” and after “team of experts” insert “(including any expert in field/s specified by the Secretary)”; and
c) delete the note.

35. In Appendix 2, delete the figure and replace with the following:

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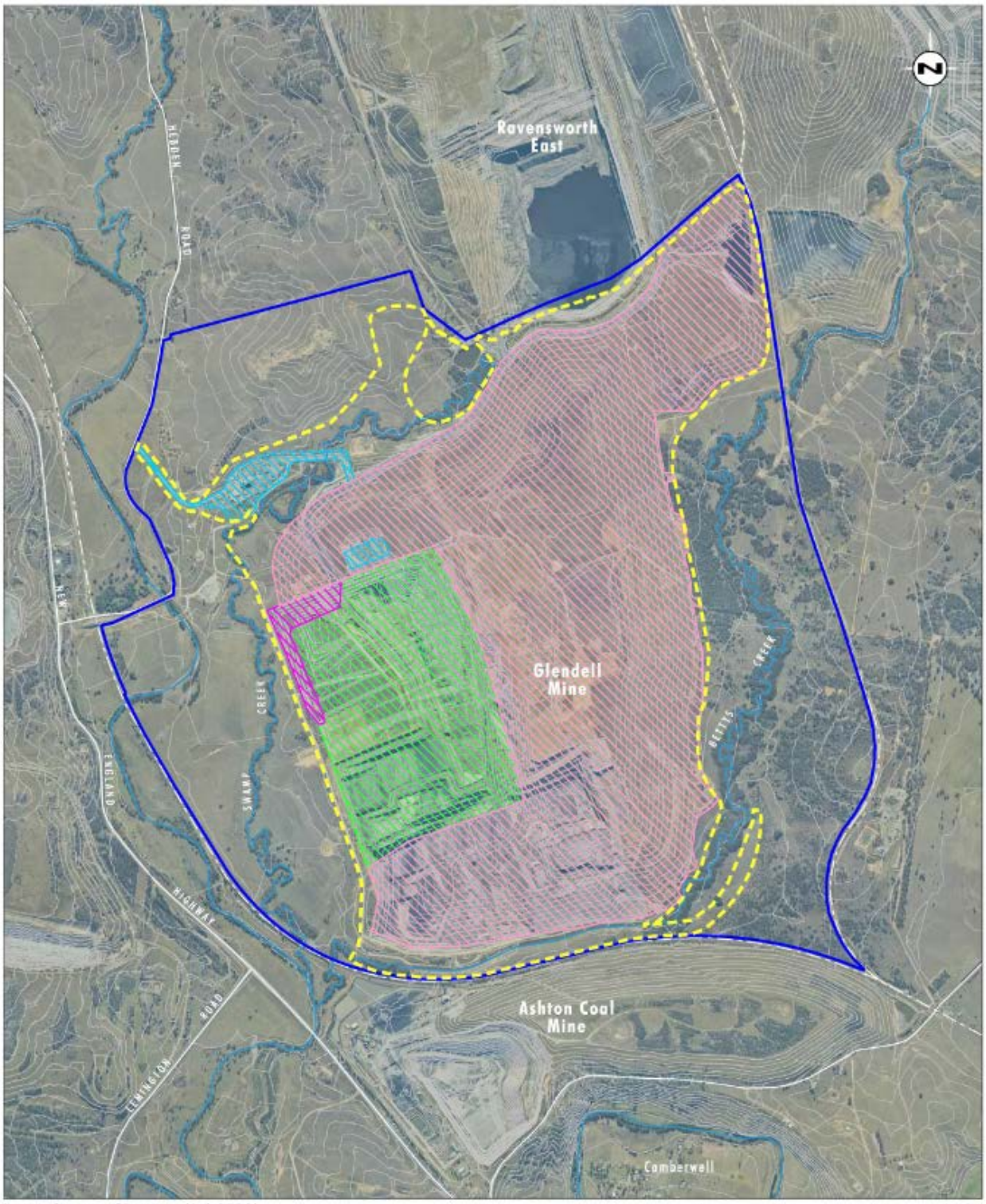


Image Source: Glencore (Jul 2018)
Data Source: Glencore (2018)

Legend

- Glendell Mine DA Boundary (DA 80/952)
- Proposed Mining Area
- Proposed Disturbance Area
- Approved Mining Area
- Approved Overburden Emplacement Area
- Approved Infrastructure Area

Conceptual Development Layout

36. In Appendix 4:
    a) delete “Location Plans” from the heading and replace with “Identification”; and
    b) after the second figure insert:

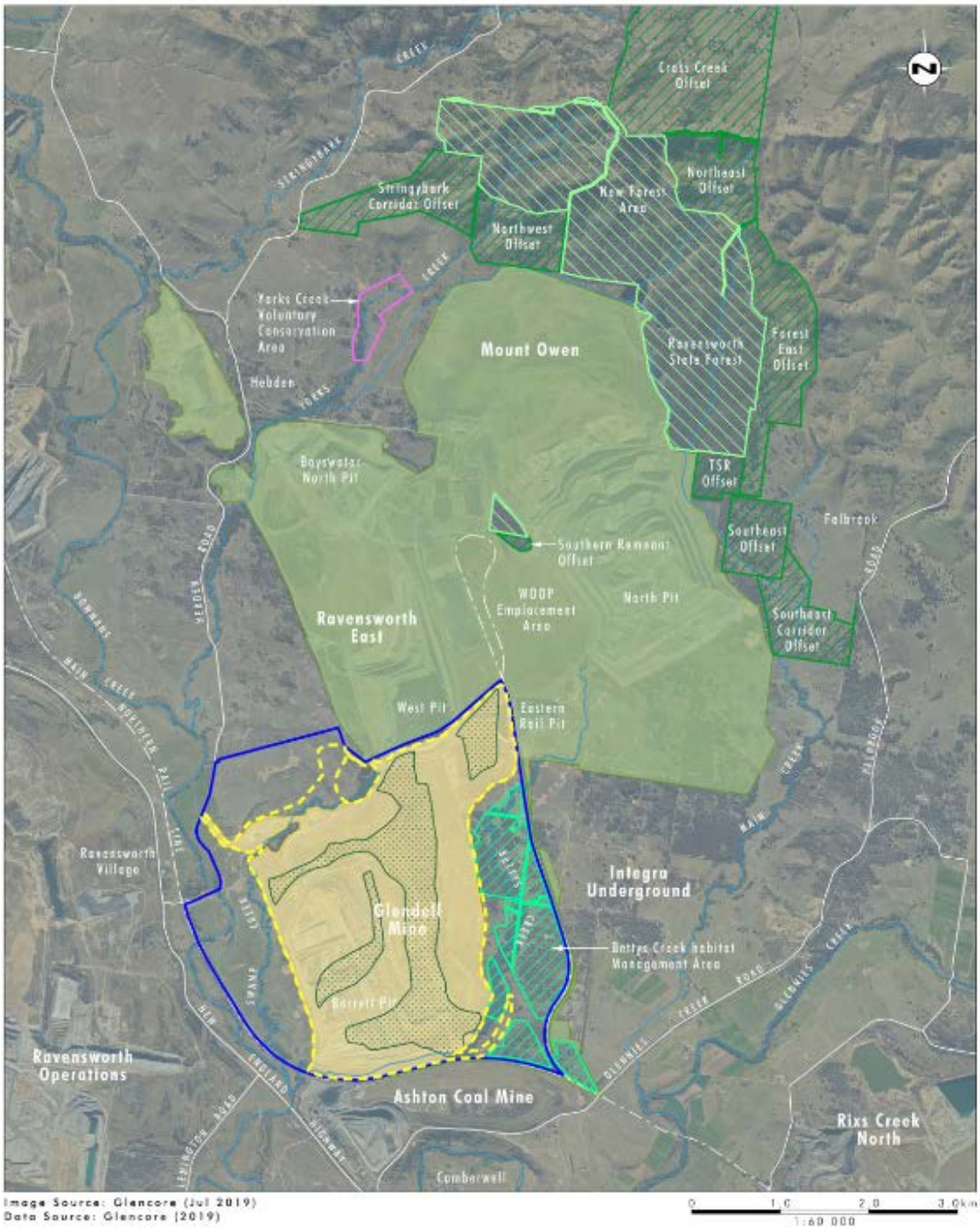
Glendell and Mt Owen Receiver IDs Cross Reference Table

Receiver ID		
Glendell DA 80/952	*Mt Owen SSD 5850*	*Ownership Status*
43	365	Mine Owned - Ashton Coal Mines Pty Limited
22a	150	Private
10	397	Mine Owned - Ashton Coal Mines Pty Limited
77	4	Private
82	29	Mine Owned - Glencore
69	363	Mine Owned - Glencore
5	402	Mine Owned - Ashton Coal Mines Pty Limited
35	395	Mine Owned - Ashton Coal Mines Pty Limited
37b	127b	Private
61	122	Mine Owned - Glencore
32	379	Mine Owned - Ashton Coal Mines Pty Limited
18	148	Mine Owned - Glencore
23	370	Mine Owned - Ashton Coal Mines Pty Limited
47	152	Private
-	*127c	Private
-	*127d	Private
50	351	Mine Owned - Ashton Coal Mines Pty Limited
31	155	Private
49	149	Private
14	156	Private
104	28	Mine Owned - Glencore
24	154	Private
37a	127a	Private
6	378	Mine Owned - Ashton Coal Mines Pty Limited
101	36	Mine Owned - Glencore
45	353	Mine Owned - Bloomfield
7a	145	Private
108	5	Private
106	23	Private
52	401	Mine Owned - Ashton Coal Mines Pty Limited
201	120	Mine Owned - Glencore
38	407	Mine Owned - Ashton Coal Mines Pty Limited
100	117	Mine Owned - Glencore
48	369	Mine Owned - Ashton Coal Mines Pty Limited
103	34	Mine Owned - Glencore
30	398	Mine Owned - Ashton Coal Mines Pty Limited
27	143	Private
76	3	Mine Owned - Bloomfield
67	360	Mine Owned - Glencore
29	159	Mine Owned - Ashton Coal Mines Pty Limited
15	146	Mine Owned - Bloomfield
4b	366	Mine Owned - Ashton Coal Mines Pty Limited
53	400	Mine Owned - Ashton Coal Mines Pty Limited
40	406	Mine Owned - Ashton Coal Mines Pty Limited
84	26	Mine Owned - Glencore
70	115	Private
33	371	Mine Owned - Ashton Coal Mines Pty Limited
28	396	Mine Owned - Ashton Coal Mines Pty Limited
105	24	Mine Owned - Glencore
78	21	Private
73	007a	Private
74	007b	Private
37c	372	Mine Owned - Ashton Coal Mines Pty Limited
7b1	144a	Private
7b2	144b and c	Private
109	105	Private
110	111	Private
107	112	Private
20	381	Mine Owned - Ashton Coal Mines Pty Limited
21a	377	Mine Owned - Ashton Coal Mines Pty Limited

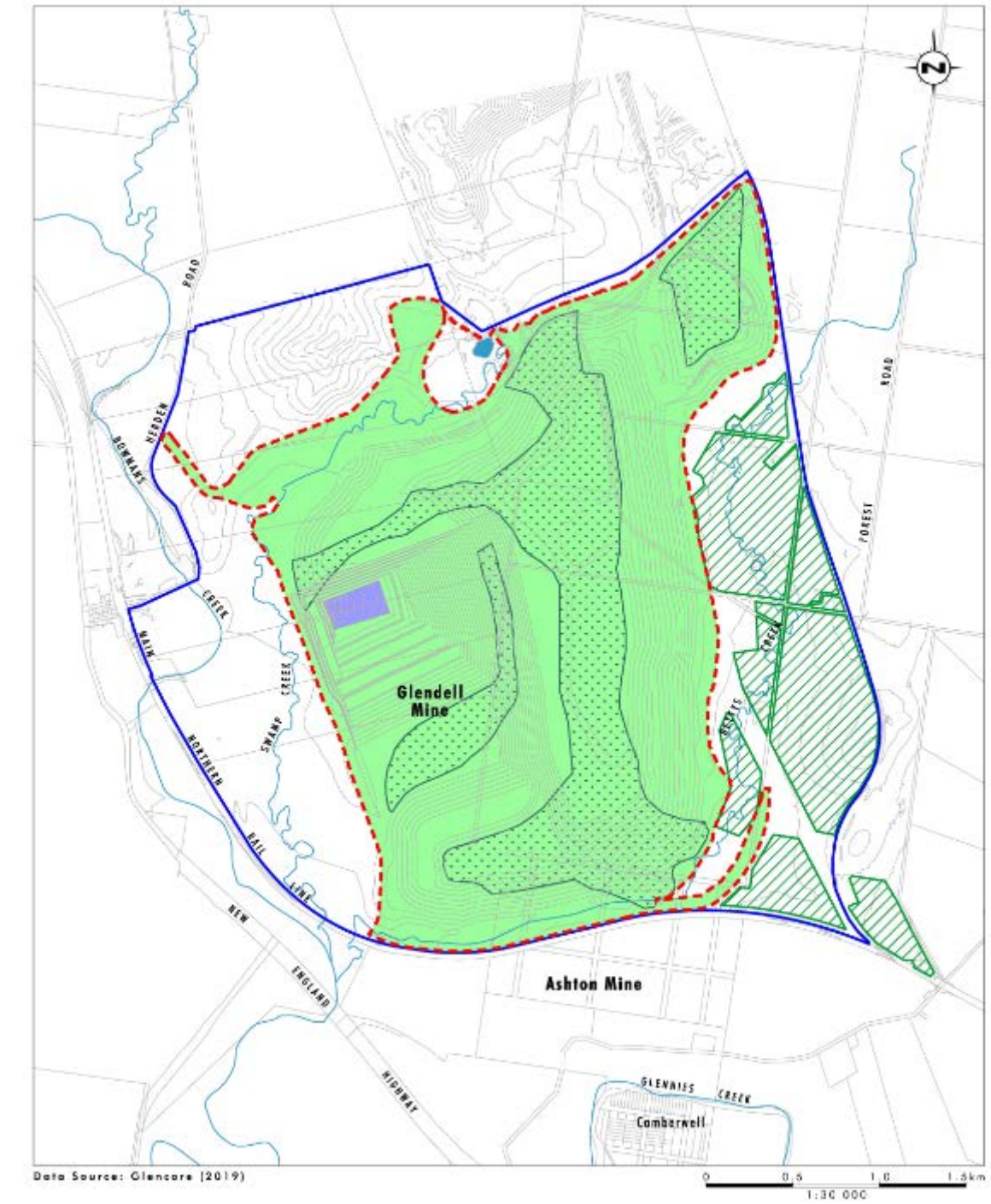
21b	377	Mine Owned - Ashton Coal Mines Pty Limited
11	394	Mine Owned - Ashton Coal Mines Pty Limited
87	31	Mine Owned - Glencore
2	367	Mine Owned - Ashton Coal Mines Pty Limited
46	352	Mine Owned - Bloomfield

** Dwelling constructed following approval of DA 80/352*

37. In Appendix 5, delete the figure and replace with the following:



38. In Appendix 6, delete the figure and replace with the following:



39. Update the Table of Contents to reflect these changes.

End of modification