

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 development consent referred to in Schedule 1, as set out in Schedule 2.



Gordon Kirkby (Chair)
Member of the Commission

Sydney



Dr Ian Lavering
Member of the Commission

12 February 2019

SCHEDULE 1

The development consent (DA 305-11-01) for the Liddell Colliery and associated surface facilities and infrastructure, granted by the Minister for Planning on 20 November 2002.

SCHEDULE 2

1. In the list of Definitions, delete the terms "DPI", "DPI - Water", "DRE", "Incident", "Material harm to the environment", "MSB" and "Secretary" and their definitions and insert the following in alphabetical order:

Dol	Division of Land and Water within the Department of Industry
DRG	Division of Resources and Geoscience within the Department
Incident	An occurrence or set of circumstances that causes or threatens to cause material harm and which may or may not be or cause a non-compliance
Material Harm	Is harm that: <ul style="list-style-type: none">• 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
MOD 7 EA	Modification application 305- 11- 01 MOD 7 and accompanying documents titled <i>Liddell Coal Operations Environmental Assessment Modification 7 to DA 305-11-01</i> dated August 2018 and prepared by Hansen Bailey, including the response to submissions dated November 2018
Non-compliance	An occurrence, set of circumstances or development that is a breach of this consent
Resources Regulator	NSW Resources Regulator
SA NSW	Subsidence Advisory NSW
Secretary	Planning Secretary under the EP&A Act, or nominee
2. Delete all references to "DPI - Water" and replace with "Dol".
3. Delete all references to "MSB" and replace with "SA NSW".
4. Delete all references to "shall" and replace with "must".
5. Delete the words "approved management plan as approved from time to time", wherever occurring, and insert "management plan as approved".
6. Delete condition 2 of Schedule 2 and replace with the following:

The Applicant must:

- (a) carry out the development generally in accordance with the EIS, MOD 1 EA, MOD 2 EA, MOD 3 EA, MOD 4 EA, MOD 5 EA, MOD 6 EA, MOD 7 EA and the Development Layout Plans; and
- (b) comply with the conditions of this consent.

Note: The Development Layout Plans are shown in Appendix 2.

- 7. In condition 5 of Schedule 2, in the note, delete the words “to the satisfaction of either the Secretary or DRE”.
- 8. After condition 14 of Schedule 2, insert the following:

EVIDENCE OF CONSULTATION

- 15. 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 details of the consultation undertaken including:
 - (i) the outcome of that consultation, matters resolved and unresolved; and
 - (ii) details of any disagreement remaining between the party consulted and the Applicant and how the Applicant has addressed the matters not resolved.

COMPLIANCE

- 16. 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.

APPLICABILITY OF GUIDELINES

- 17. 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.
 - 18. 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.
- 9. In condition 15 of Schedule 3, delete the sentence “If the matter cannot be resolved within 21 days, the Secretary shall refer the matter to an independent Dispute Resolution Process (see Appendix 4).”
 - 10. In Table 4 in condition 16 of Schedule 3, under the column labelled “Criterion”, before the figure “50”, delete the footnote reference “a” and replace with footnote reference “b”.
 - 11. In condition 20 of Schedule 3, after the words “in accordance with”, delete the word “with”.
 - 12. In condition 23 of Schedule 3, in subparagraph (c) (iii), in the last bullet point, delete the word “unforeseen” and replace with “unforeseen”.
 - 13. In condition 24 of Schedule 3, delete “166”, “182” and “348”, and insert instead “168”, “185” and “353” respectively.
 - 14. In condition 37 of Schedule 3:
 - a) delete “DRE” and replace with “Resources Regulator”; and
 - b) delete the words “consistent with the final landform plan shown” and replace with “generally consistent with the proposed rehabilitation strategy in the EIS and as shown conceptually”.
 - 15. In Table 8 of condition 37 of Schedule 3, under the column labelled “Objective”:
 - a) in the row beginning “Mine site (as a whole)”, after the last bullet point, insert the following:
 - Ensure there are no adverse flood impacts to privately owned properties
 - b) in the row beginning “Surface Infrastructure”, delete “DRE” and replace with “the Secretary”; and
 - c) in the row beginning “Revegetation”, delete the bullet points and insert the following:
 - Restore ecosystem function, including maintaining or establishing self-sustaining ecosystems comprising:
 - at least 731 hectares of Central Hunter Box-Ironbark Woodland
 - habitat for threatened flora and fauna species including habitat connectivity for the Spotted-tailed Quoll
 - Maintain, establish and/or restore grassland areas with pockets of native vegetation to support sustainable agricultural activities, as shown conceptually in Appendix 3

16. In condition 39 of Schedule 3, delete “DRE” and “the Secretary” and replace with “DRG”.

17. After condition 39 of Schedule 3, insert the following:

Note: The Rehabilitation Management Plan may be combined with a Mining Operations Plan, or similar plan, required under a mining lease granted under the Mining Act 1992 for the development.

18. Delete condition 6 of Schedule 5.

19. In condition 7 of Schedule 5, delete the words “Guidelines for Establishing and Operating Community Consultative Committees for Mining Developments (Department of Planning, 2007, or its latest version)” and replace with “Department’s Community Consultative Committee Guidelines: State Significant Projects (2016)”.

20. Delete conditions 11 and 12 of Schedule 5, including the headings, and replace with the following:

Incident Notification

11. 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 to compliance@planning.nsw.gov.au and identify the development (including the development application number and name) and set out the location and nature of the incident.

Non-compliance Notification

12. 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 to compliance@planning.nsw.gov.au and identify the development (including the development application number and name), set out the condition of this approval that the development is non-compliant with, the way in which 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.*

Monitoring and Environmental Audits

12A. Any condition of this consent that requires the carrying out of monitoring or an environmental audit, whether directly or by way of a plan, strategy or program, is taken to be a condition requiring monitoring or an environmental audit under Division 9.4 of Part 9 of the EP&A Act. This includes conditions in respect of incident notification, reporting and response, non-compliance notification, compliance report and independent audit.

Note: *For the purposes of this condition, as set out in the EP&A Act, “monitoring” is monitoring of the development to provide data on compliance with the consent or on the environmental impact of the development, and an “environmental audit” is a periodic or particular documented evaluation of the development to provide information on compliance with the consent or the environmental management or impact of the development.*

21. Delete Appendix 1, including the headings, and replace with the following:

**APPENDIX 1
SCHEDULE OF LAND**

LOCAL GOVERNMENT AREA: MUSWELLBROOK

LOT	DP	COUNTY	PARISH
Part C.R 197 MS 8378		Durham	Liddell
13	Sec C 6841	Durham	Liddell
40	Sec B 6842	Durham	Liddell
1	48556	Durham	Liddell
2	48556	Durham	Liddell
3	48556	Durham	Liddell
<i>1</i>	<i>211043</i>	<i>Durham</i>	<i>Liddell</i>
<i>2</i>	<i>231880</i>	<i>Durham</i>	<i>Liddell</i>
3	231880	Durham	Liddell
1	237654	Durham	Liddell
2	237654	Durham	Liddell
3	237654	Durham	Liddell
4	237654	Durham	Liddell
5	<i>237654</i>	<i>Durham</i>	<i>Liddell</i>
6	237654	Durham	Liddell
7	<i>237654</i>	<i>Durham</i>	<i>Liddell</i>
8	<i>237654</i>	<i>Durham</i>	<i>Liddell</i>
2	574166	Durham	Liddell
12	579783	Durham	Liddell
1	583527	Durham	Liddell
135	752470	Durham	Liddell
31	837350	Durham	Liddell
Pt Lot 33	862516	Durham	Liddell
34	862516	Durham	Liddell
37	862517	Durham	Liddell
Pt Lot 380	869839	Durham	Liddell
1	1012624	Durham	Liddell
101	1053098	Durham	Liddell
102	1103268	Durham	Liddell
1	1103323	Durham	Liddell
1	1193227	Durham	Liddell
3	1193227	Durham	Liddell
4	1193227	Durham	Liddell
Various unformed Crown road reserves		Durham	Liddell

Note: Lots shown in **bold** font are part of the Cumnock CHPP site.
Lots shown in *italic* font are part of the Main Northern Railway easement.

LOCAL GOVERNMENT AREA: SINGLETON

1	48556	Durham	Liddell
1	135026	Durham	Liddell
1	213065	Durham	Liddell
3	213065	Durham	Liddell
2	233019	Durham	Liddell
1	237655	Durham	Liddell
2	237655	Durham	Liddell
3	237655	Durham	Liddell
1	237766	Durham	Liddell
2	237766	Durham	Liddell
4	237766	Durham	Liddell
5	237766	Durham	Liddell
4	255403	Durham	Liddell
Pt Lot 6	255403	Durham	Liddell
1	403032	Durham	Liddell
2	534888	<i>Durham</i>	<i>Liddell</i>
32	535087	Durham	Liddell
Pt Lot 32	545601	Durham	Liddell
1	565031	<i>Durham</i>	<i>Liddell</i>
80	607296	Durham	Liddell
Pt Lot 81	607296	Durham	Liddell
2	619383	Durham	Liddell
43	654013	Durham	Liddell
Pt Lot 101	700429	Durham	Liddell
225	752470	Durham	Liddell
232	752470	Durham	Liddell
101	825292	Durham	Liddell
25	841160	Durham	Liddell
22	841165	Durham	Liddell
23	841165	Durham	Liddell
24	841165	Durham	Liddell
Pt Lot 201	848078	Durham	Liddell
100	858173	Durham	Liddell
2	859544	Durham	Liddell
Pt Lot 33	862516	Durham	Liddell
35	862516	Durham	Liddell
Pt Lot 36	862516	Durham	Liddell
2	865784	Durham	Liddell/Vane
352	867083	Durham	Liddell
Pt Lot 353	867083	Durham	Liddell
354	867083	Durham	Liddell
22*	869399	Durham	Liddell
31	870789	Durham	Liddell
32	870789	Durham	Liddell
Pt Lot 211	975271	Durham	Liddell

219	975271	Durham	Liddell
601	1019325	Durham	Liddell
102	1103268	Durham	Liddell
1	1103323	Durham	Liddell
181	1126510	Durham	Liddell
602	1019325	Durham	Liddell
11	6842	Durham	Liddell
24	6830	Durham	Goorangoola
1	48490	Durham	Goorangoola
Various unformed Crown road reserves		Durham	Liddell

Note: Lots shown in **bold** font are part of the Cumnock CHPP site.
 Lots shown in *italic* font are part of the Main Northern Railway easement.
 Lots identified with * are the RUM site, incorporating the RCCP facility.

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



LIDDELL COAL OPERATIONS

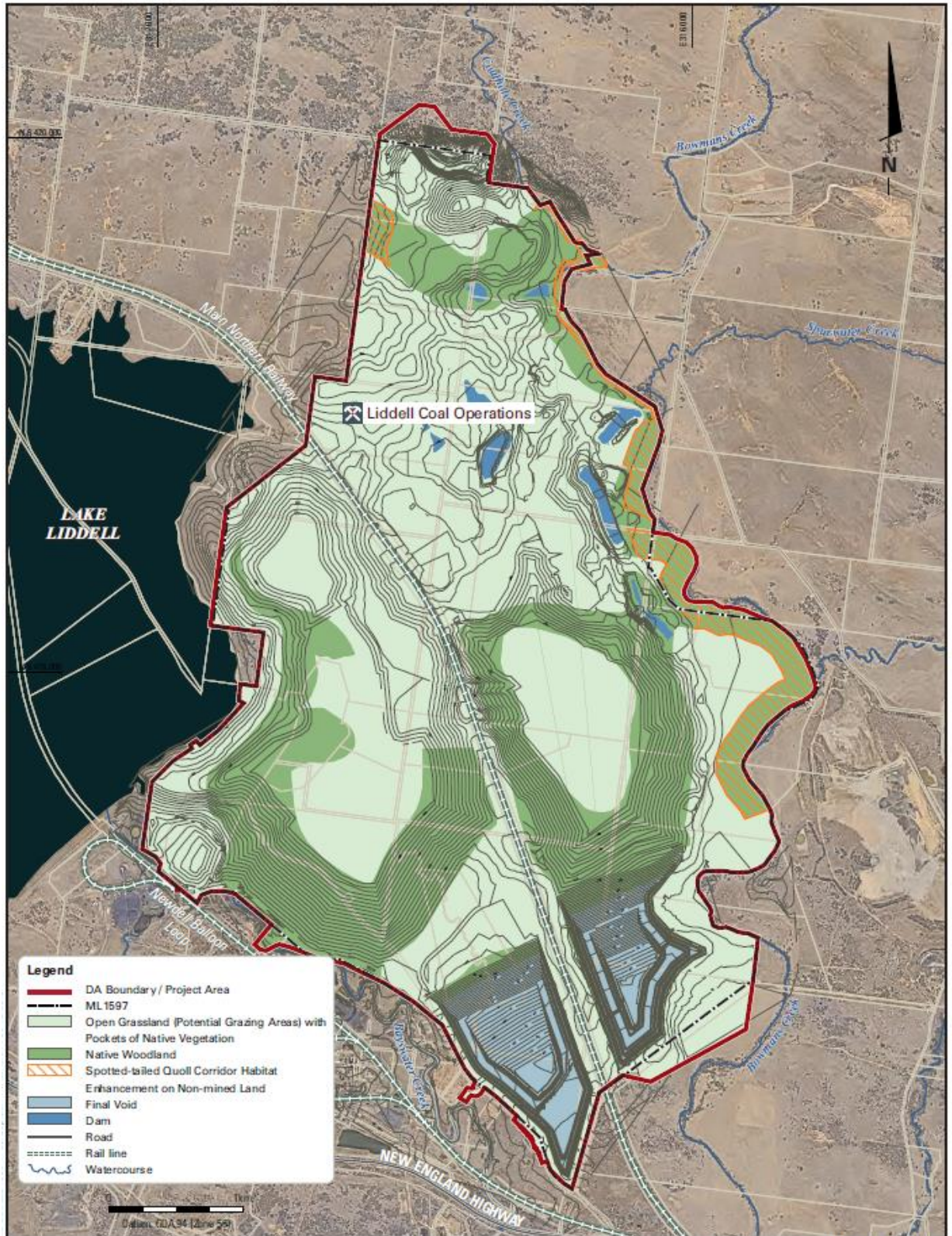
GLENCORE

Hansen Bailey
ENVIRONMENTAL CONSULTANTS

Development Layout Plan

Figure: Development layout plan

23. In Appendix 3, delete the figure and replace with the following:



LIDDELL COAL OPERATIONS

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Conceptual Final Landform

Figure: Conceptual Final Landform

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



LIDDELL COAL OPERATIONS

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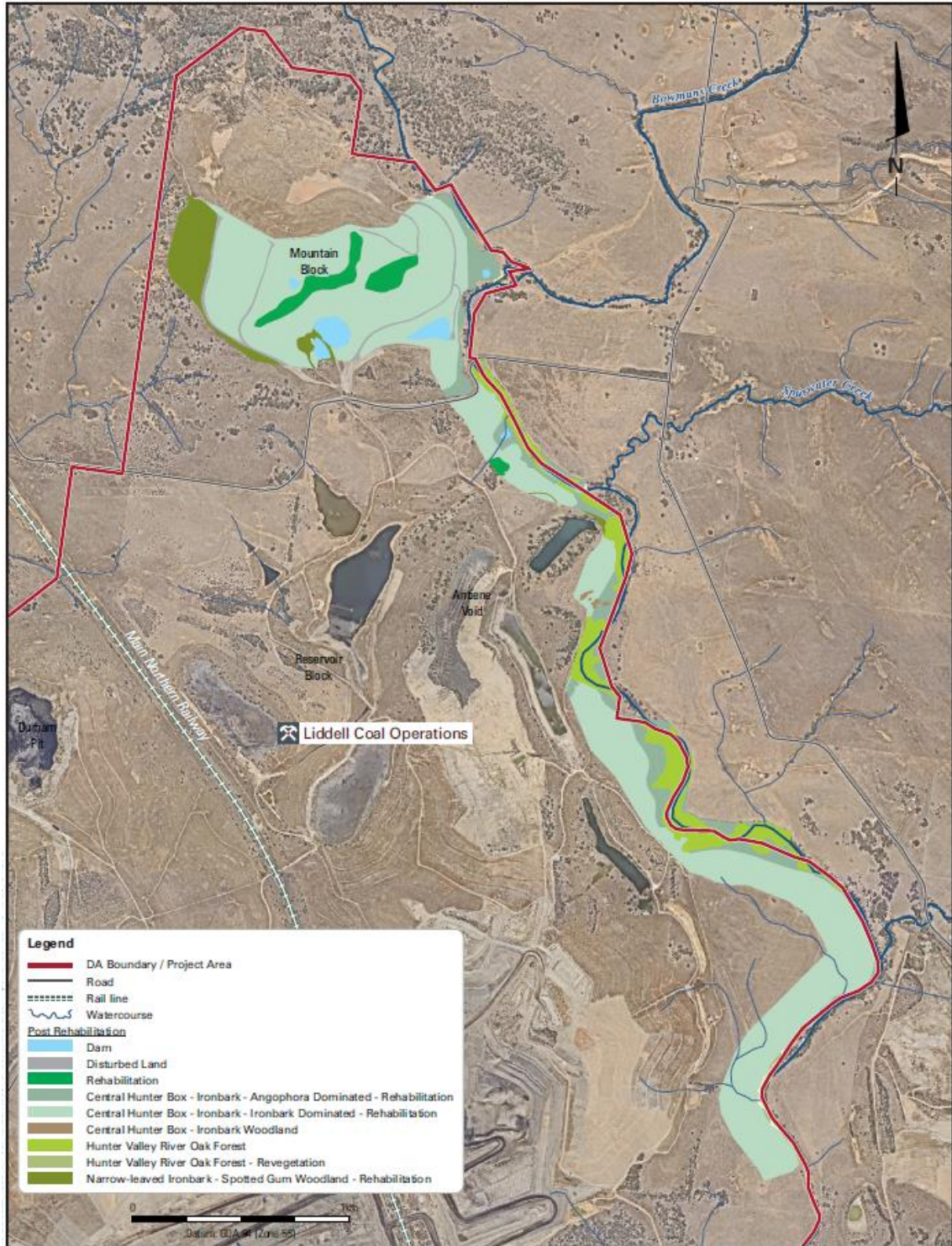
Sensitive Receptors

Figure: Sensitive Receptors

In Appendix 6, at the end of paragraph 5 (d), delete the full stop and replace with the following:

with the exception of applying appropriate modifying factors for low frequency noise during compliance testing. This should be undertaken in accordance with Fact Sheet C of the NSW Noise Policy for Industry (EPA, 2017).

24. In Appendix 7, delete the figures and replace with the following:



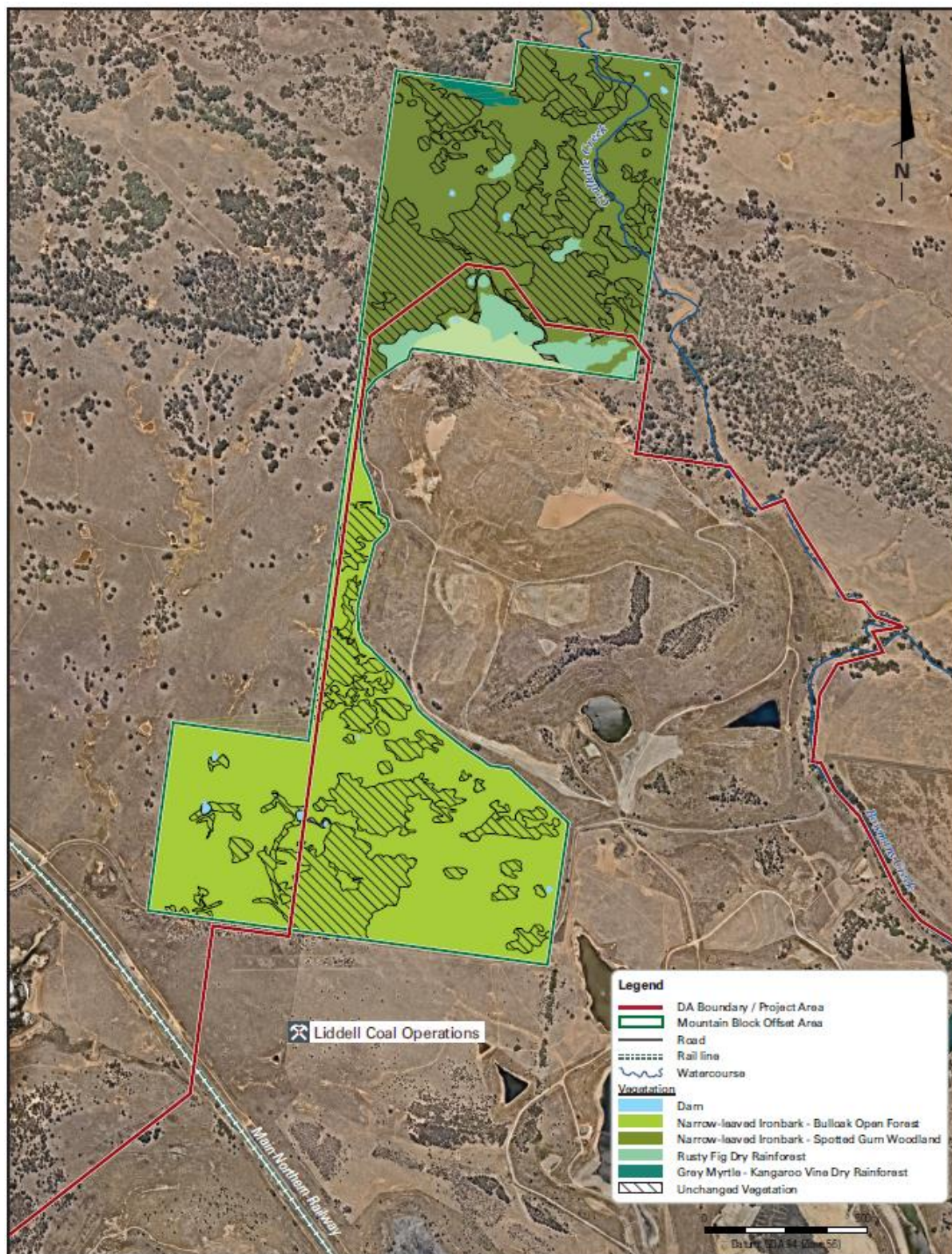
LIDDELL COAL OPERATIONS

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Post Rehabilitation of Bowmans Creek
Riparian Corridor

Figure: Post Rehabilitation of Bowmans Creek Riparian Corridor



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Post Rehabilitation of Mountain Block Offset Area

Figure: Post Rehabilitation of Mountain Block Offset Area

25. Update the Table of Contents to reflect the changes made by this instrument.