

**APPROVAL****Grasstree Mine Extension Project, south-west of Middlemount, Queensland (EPBC 2018/8171)**

This decision is made under sections 130(1) and 133(1) of the *Environment Protection and Biodiversity Conservation Act 1999 (Cth)*. Note that section 134(1A) of the **EPBC Act** applies to this approval, which provides in general terms that if the approval holder authorises another person to undertake any part of the action, the approval holder must take all reasonable steps to ensure that the other person is informed of any conditions attached to this approval, and that the other person complies with any such condition.

Details

Person to whom the approval is granted (approval holder)	Anglo Coal (Capcoal Management) Pty Limited
ACN of approval holder	010 037 564
Action	To extend the Grasstree Mine by five new longwall panels within the existing German Creek Mining Complex (ML 1831), eight kilometres south-west of Middlemount, central Queensland [see EPBC Act referral 2018/8171].

Approval decision

My decision on whether or not to approve the taking of the action for the purposes of the controlling provision for the action is as follows.


Controlling Provisions

Listed Threatened Species and Communities	
Section 18	Approve
Section 18A	Approve

Period for which the approval has effect

This approval has effect until 25 January 2047.

Decision-maker

Name and position	James Barker Assistant Secretary of Assessments and Governance Branch Department of the Environment and Energy
Signature	
Date of decision	5/2/2019

Conditions of approval

This approval is subject to the conditions under the EPBC Act as set out in ANNEXURE A.

ANNEXURE A – CONDITIONS OF APPROVAL

Part A – Conditions specific to the action

Impact Limits

1. The approval holder must undertake the action within the **Grasstree Extension project area**.
2. The approval holder must not **impact** more than:
 - a. 171 hectares (ha) of **Koala (*Phascolarctos cinereus*) (combined populations of Qld, NSW and the ACT) habitat**;
 - b. 171 ha of **Greater Glider (*Petauroides volans*) habitat**;
 - c. 171 ha of **Squatter Pigeon (Southern) (*Geophaps scripta scripta*) foraging habitat**; and
 - d. 9 ha of **Ornamental Snake (*Denisonia maculata*) important habitat**.
3. The approval holder must not **impact** more than 8 ha of **Brigalow (*Acacia harpophylla* dominant and co-dominant) ecological community**.

Offset Management Plan

4. The approval holder must submit an Offset Management Plan for the written approval of the **Minister** at least three (3) months prior to any likely **impact** of the action on **EPBC Act listed threatened species**. The approved Offset Management Plan must be implemented. The Offset Management Plan must be prepared by a **suitably qualified person** in accordance with the **Department's Environmental Management Plan Guidelines** and include:
 - a. details of environmental offset/s to compensate for the **EPBC Act listed threatened species** habitat to be **impacted** as identified in condition 2;
 - b. a description of the **condition of the habitat** to be **impacted** for the **EPBC Act listed threatened species** habitat as identified in condition 2;
 - c. details of how the proposed environmental offset/s and Offset Management Plan meet the requirements of the **EPBC Act Environmental Offsets Policy**;
 - d. a field validation survey and baseline description of the current condition (prior to any management activities) of the offset area/s, including existing vegetation;
 - e. a description and map (including **shapefiles**) to clearly define the location and boundaries of the proposed offset area/s, accompanied by the **offset attributes**;
 - f. information about how the proposed offset area/s provide connectivity with other relevant habitats and biodiversity corridors;
 - g. a description of the management measures (including timing, frequency and duration) that will be implemented in each proposed offset area/s;
 - h. a discussion of how proposed management measures take into account relevant **approved conservation advices** and are consistent with the measures contained in relevant **recovery plans** and **threat abatement plans**;
 - i. completion criteria and performance targets for evaluating the effectiveness of the Offset Management Plan implementation, and criteria for triggering corrective actions;

- j. a program to monitor, report on and review the effectiveness of the Offset Management Plan;
 - k. a description of potential risks to the successful implementation of the environmental offset/s, and contingency measures that would be implemented to mitigate against these risks; and
 - l. details of the mechanism to **legally secure** the environmental offset/s.
5. The approval holder must **legally secure** the environmental offset/s described in the Offset Management Plan within two (2) years from the **commencement of the action**.
 6. The approval holder must not **impact** any **EPBC Act listed threatened species** habitat identified in condition 2 until the Offset Management Plan has been approved by the **Minister**.

Part B – Standard administrative conditions

Notification of date of commencement of the action

7. The approval holder must notify the **Department** in writing of the date of **commencement of the action** within 10 **business days** after the date of **commencement of the action**.
8. If the **commencement of the action** does not occur within five (5) years from the date of this approval, then the approval holder must not **commence the action** without the prior written agreement of the **Minister**.

Compliance records

9. The approval holder must maintain accurate and complete **compliance records**.
10. If the **Department** makes a request in writing, the approval holder must provide electronic copies of **compliance records** to the **Department** within the timeframe specified in the request.

Note: **Compliance records** may be subject to audit by the **Department** or an independent auditor in accordance with section 458 of the **EPBC Act**, and or used to verify compliance with the conditions. Summaries of the result of an audit may be published on the **Department's** website or through the general media.

Preparation and publication of the Offset Management Plan

11. The approval holder must:
 - a. submit the Offset Management Plan electronically to the **Department** for the written approval by the **Minister**;
 - b. publish the Offset Management Plan on its **website** within 20 **business days** of the date the Offset Management Plan is approved by the **Minister** or of the date a revised Offset Management Plan is submitted to the **Minister**, unless otherwise agreed to in writing by the **Minister**;
 - c. exclude or redact **sensitive ecological data** from the Offset Management Plan published on its **website** or provided to a member of the public; and
 - d. keep the Offset Management Plan published on its **website** until the end date of this approval.
12. The approval holder must ensure that any **monitoring data** (including **sensitive ecological data**), surveys, maps, and other spatial and metadata required under condition 4, is prepared in

accordance with the **Department's Guidelines for biological survey and mapped data** (2018) and submitted electronically to the **Department** in accordance with the requirements of the Offset Management Plan.

Annual compliance reporting

13. The approval holder must prepare a **compliance report** for each 12 month period following the date of **commencement of the action**, or as otherwise agreed to in writing by the **Minister**. The approval holder must:
 - a. publish each **compliance report** on its **website** within 60 **business days** following the relevant 12 month period;
 - b. notify the **Department** by email that a **compliance report** has been published on its **website** within five (5) **business days** of the date of publication;
 - c. keep all **compliance reports** publicly available on its **website** until this approval expires;
 - d. exclude or redact **sensitive ecological data** from **compliance reports** published on its **website**; and
 - e. where any **sensitive ecological data** has been excluded from the version published, submit the full **compliance report** to the **Department** within five (5) **business days** of publication.

Note: **Compliance reports** may be published on the **Department's website**.

Reporting non-compliance

14. The approval holder must notify the **Department** in writing of any: **incident**; non-compliance with the conditions; or non-compliance with the commitments made in the Offset Management Plan. The notification must be given as soon as practicable but no later than two (2) **business days** after becoming aware of the **incident** or non-compliance. The notification must specify:
 - a. the condition which is or may be in breach; and
 - b. a short description of the **incident** and/or non-compliance.
15. The approval holder must provide to the **Department** the details of any **incident** or non-compliance with the conditions or commitments made in the Offset Management Plan as soon as practicable but no later than 10 **business days** after becoming aware of the **incident** or non-compliance, specifying:
 - a. any corrective action or investigation which the approval holder has already taken or intends to take in the immediate future;
 - b. the potential impacts of the **incident** or non-compliance; and
 - c. the method and timing of any remedial action that will be undertaken by the approval holder.

Independent audit

16. The approval holder must ensure that **independent audits** of compliance with the conditions are conducted for the 12 month period from the **commencement of the action** and for every subsequent 12 month period until this approval expires, or as requested in writing by the **Minister**.
17. For each **independent audit**, the approval holder must:

- a. provide the name and qualifications of the independent auditor and the draft audit criteria to the **Department**;
 - b. only commence the **independent audit** once the audit criteria have been approved in writing by the **Department**; and
 - c. submit an audit report to the **Department** within the timeframe specified in the approved audit criteria.
18. The approval holder must publish the audit report on its **website** within 10 **business days** of receiving the **Department's** approval of the audit report and keep the audit report published on its **website** until the end date of this approval.

Revision of the Offset Management Plan

19. The approval holder may, at any time, apply to the **Minister** for a variation to the Offset Management Plan approved by the **Minister** under condition 4, or as subsequently revised in accordance with these conditions, by submitting an application in accordance with the requirements of section 143A of the **EPBC Act**. If the **Minister** approves the revised Offset Management Plan then, from the date specified, the approval holder must implement the revised Offset Management Plan in place of the previous Offset Management Plan.
20. The approval holder may choose to revise the Offset Management Plan approved by the **Minister** under condition 4, or as subsequently revised in accordance with these conditions, without submitting it for approval under section 143A of the **EPBC Act**, if the taking of the action in accordance with the revised Offset Management Plan would not be likely to have a **new or increased impact**.
21. If the approval holder makes the choice under condition 20 to revise the approved Offset Management Plan without submitting it for approval, the approval holder must:
- a. notify the **Department** in writing that the approved Offset Management Plan has been revised and provide the **Department** with:
 - i. an electronic copy of the revised Offset Management Plan;
 - ii. an electronic copy of the revised Offset Management Plan marked up with track-changes to show the differences between the approved Offset Management Plan and the revised Offset Management Plan;
 - iii. an explanation of the differences between the approved Offset Management Plan and the revised Offset Management Plan;
 - iv. the reasons the approval holder considers that taking the action in accordance with the revised Offset Management Plan would not be likely to have a **new or increased impact**; and
 - v. written notice of the date on which the approval holder will implement the revised Offset Management Plan (revised Offset Management Plan implementation date), being at least 20 **business days** after the date of providing notice of the revision of the Offset Management Plan, or a date agreed to in writing with the **Department**.
 - b. subject to condition 23, implement the revised Offset Management Plan from the revised Offset Management Plan implementation date.

22. The approval holder may revoke its choice to implement the revised Offset Management Plan under condition 20 at any time by giving written notice to the **Department**. If the approval holder revokes the choice under condition 20, the approval holder must implement the previous Offset Management Plan approved by the **Minister**.
23. If the **Minister** gives a notice to the approval holder that the **Minister** is satisfied that the taking of the action in accordance with the revised Offset Management Plan would be likely to have a **new or increased impact**, then:
- a. condition 20 does not apply, or ceases to apply, in relation to the revised Offset Management Plan; and
 - b. the approval holder must implement the Offset Management Plan specified by the **Minister** in the notice.
24. At the time of giving the notice under condition 23, the **Minister** may also notify that for a specified period of time, condition 20 does not apply for the Offset Management Plan.

Note: conditions 20, 21, 22 and 23 are not intended to limit the operation of section 143A of the **EPBC Act** which allows the approval holder to submit a revised action management plan, at any time, to the **Minister** for approval.

Completion of the action

25. Within 30 days after the **completion of the action**, the approval holder must notify the **Department** in writing and provide **completion data**.

Part C – Definitions

In these conditions, except where contrary intention is expressed, the following definitions are used:

- a. **Approved conservation advice/s** means a conservation advice approved by the **Minister** under section 266B(2) of the **EPBC Act**.
- b. **Brigalow (*Acacia harpophylla* dominant and co-dominant) ecological community/Brigalow TEC** means the threatened ecological community as defined by the key diagnostic characteristics and condition thresholds in the *Approved Conservation Advice for the Brigalow (Acacia harpophylla dominant and co-dominant) ecological community* (2013), or subsequent revision. As shown at Attachment D.
- c. **Business days** means a day that is not a Saturday, a Sunday or a public holiday in the state or territory of the action.
- d. **Commencement of the action/commence the action** means the first instance of any specified activity associated with the action including clearance of vegetation and **construction** of any infrastructure. Commencement does not include minor physical disturbance necessary to:
 - i. undertake pre-clearance surveys or monitoring programs;
 - ii. install signage and/or temporary fencing to prevent unapproved use of the **Grasstree Extension project area**; and
 - iii. protect environmental and property assets from fire, weeds and pests, including erection or construction of fencing and signage, and maintenance or use of existing surface access tracks.

- e. **Completion data** means an environmental report and spatial data information clearly detailing how the conditions of this approval have been met. The **Department's** preferred spatial data format is **shapefile**. This includes, but is not limited to:
 - i. details of the **Grasstree Extension project area**;
 - ii. actual total habitat **impacted** for **EPBC Act listed threatened species** identified in condition 2;
 - iii. **condition of the habitat** for **EPBC Act listed threatened species** identified in condition 2;
 - iv. actual total habitat offset for **EPBC Act listed threatened species** as required under condition 4; and
 - v. **condition of the habitat** offset for **EPBC Act listed threatened species** as required under condition 4.
- f. **Completion of the action** means the time at which all approved conditions have been fully met.
- g. **Compliance records** means all documentation or other material in whatever form required to demonstrate compliance with the conditions of approval in the approval holder's possession or that are within the approval holder's power to obtain lawfully.
- h. **Compliance reports** means written reports:
 - i. providing accurate and complete details of compliance, **incidents**, and non-compliance with the conditions and the Offset Management Plan (or subsequent revision);
 - ii. consistent with the **Department's Annual Compliance Report Guidelines** (2014) (or subsequent revision);
 - iii. include a **shapefile** of any **impact** on any habitat for **EPBC Act listed threatened species** undertaken within the relevant 12 month period; and
 - iv. identifying the version/s of the Offset Management Plan prepared and in existence in relation to condition 4 during the relevant 12 month period.
- i. **Condition of the habitat** means the baseline condition of suitable habitat for **EPBC Act listed threatened species** determined from ecological surveys and with consideration of relevant **Departmental** documents including, but not limited to, **EPBC Act** referral guidelines, listing advices, **approved conservation advices** and **recovery plans**.
- j. **Construction** means the erection of a building or structure that is or is to be fixed to the ground and wholly or partially fabricated on-site; the alteration, maintenance, repair or demolition of any building or structure; preliminary site preparation work which involves breaking of the ground (including pile driving); the laying of pipes and other prefabricated materials in the ground, and any associated excavation work; but excluding the installation of fences and signage.
- k. **Department** means the Australian Government agency responsible for administering the **EPBC Act**.

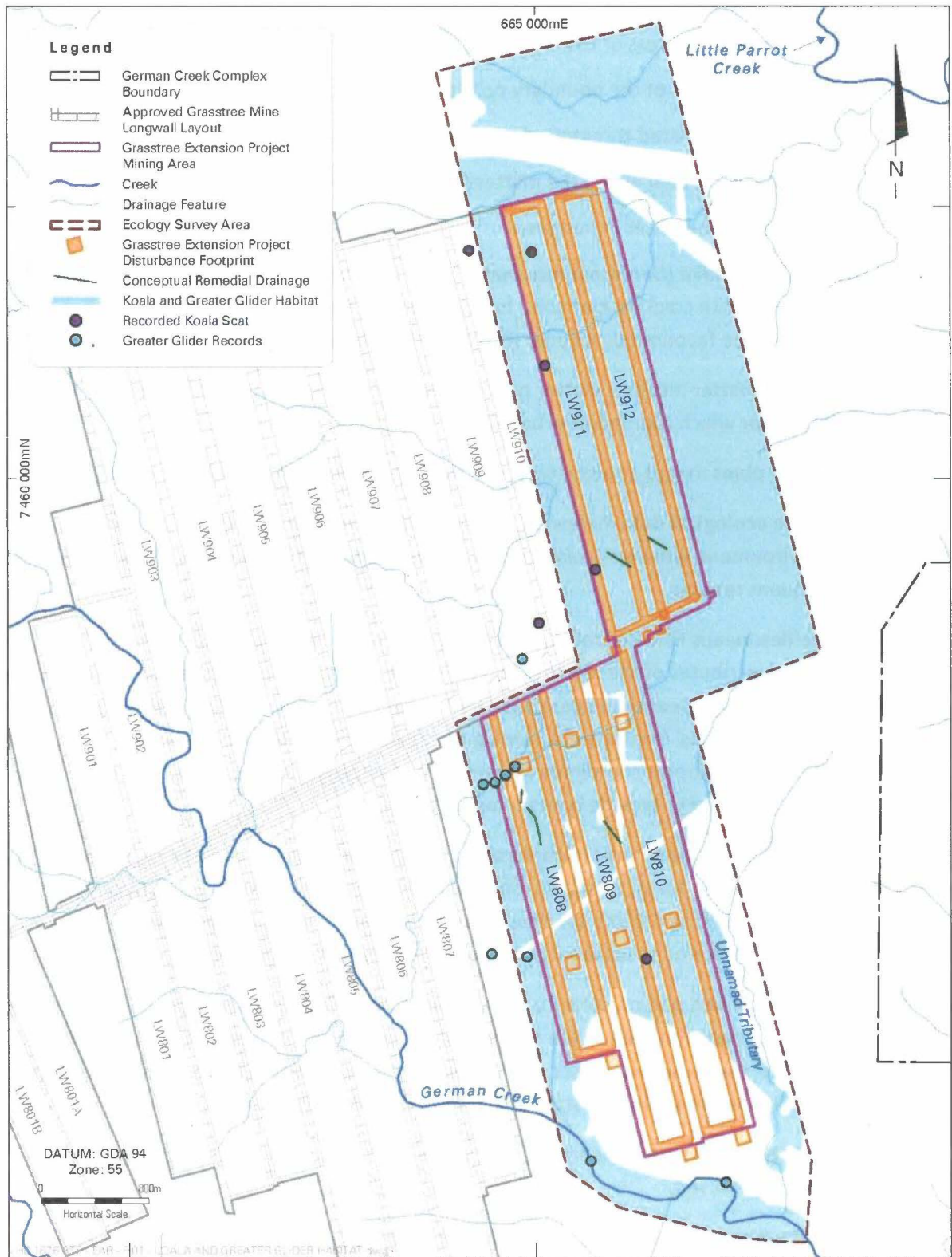
- l. **Environmental Management Plan Guidelines** means the *Environmental Management Plan Guidelines* (2014), or subsequent revision.
- m. **Environmental Offsets Policy** means the **EPBC Act** *Environmental Offsets Policy* (October 2012), or subsequent revision, including the Offset Assessment Guide.
- n. **EPBC Act** means the *Environment Protection and Biodiversity Conservation Act 1999* (Cth).
- o. **Grasstree Extension project area** means the areas designated as “Grasstree Extension Project Mining Area” and “Grasstree Extension Project Disturbance Footprint” as shown at Attachments A to D.
- p. **Greater Glider (*Petauroides volans*) habitat** means all areas of Eucalypt forests or woodlands that contain, or have the potential to contain, hollow-bearing trees as described in the *Conservation Advice Petauroides volans (greater glider)* (2016). As shown at Attachment A.
- q. **Impact/s/ed** means as defined in section 527E of the **EPBC Act**.
- r. **Incident** means any event which has the potential to, or does, **impact** on any **protected matter**.
- s. **Independent audit/s** means an audit conducted by an independent and **suitably qualified person** as detailed in the **EPBC Act** *Independent Audit and Audit Report Guidelines* (2015), or subsequent revision.
- t. **Koala (*Phascolarctos cinereus*) (combined populations of Qld, NSW and the ACT) habitat** means any forest or woodland (including remnant, regrowth and modified vegetation communities) containing species that are Koala food trees or any shrub land with emergent Koala food trees, as described in the Species Profile and Threats Database. As shown at Attachment A.
- u. **Listed threatened species** means a threatened fauna species listed under the **EPBC Act** for which this approval has effect, including the:
 - i. Squatter Pigeon (Southern) (*Geophaps scripta scripta*);
 - ii. Greater Glider (*Petauroides volans*);
 - iii. Koala (*Phascolarctos cinereus*) (combined populations of Qld, NSW and the ACT); and
 - iv. Ornamental Snake (*Denisonia maculata*).
- v. **Legally secure** means to secure a legal agreement under relevant Queensland legislation, in relation to a site, to provide enduring protection for the site against development incompatible with conservation.
- w. **Minister** means the Australian Government Minister administering the **EPBC Act** including any delegate thereof.
- x. **Monitoring data** means the data required to be recorded under the conditions of this approval.
- y. **New or increased impact** means a new or increased environmental **impact** or risk relating to any **protected matter**, when compared to the likely **impact** of implementing the Offset Management Plan that has been approved by the **Minister** under condition 4, including any subsequent revisions approved by the **Minister**, as outlined in the *Guidance on 'New or*

Increased Impact' relating to changes to approved management plans under EPBC Act environmental approvals (2017), or subsequent revision.

- z. **Offset attributes** means an '.xls' file capturing relevant attributes of the offset area, including:
- i. **EPBC Act** reference number;
 - ii. physical address of the offset area;
 - iii. coordinates of the boundary points in decimal degrees;
 - iv. **EPBC Act listed threatened species** that the offset compensates for;
 - v. any additional **protected matters** that are benefiting from the offset; and
 - vi. size of the offset in hectares.
- aa. **Ornamental Snake (*Denisonia maculata*) important habitat** means gilgai mounds and depressions with cracking-clay soils, moist areas (particularly within, or close to, habitat that is known to be favoured by its prey [frogs]) and **Brigalow TEC**. As shown at Attachment C.
- bb. **Protected matter** means a matter protected under a controlling provision in Part 3 of the **EPBC Act** for which this approval has effect.
- cc. **Recovery plans** means a recovery plan made or adopted by the **Minister** under the **EPBC Act**.
- dd. **Sensitive ecological data** means data as defined in the Australian Government Department of the Environment *Sensitive Ecological Data – Access and Management Policy V1.0* (2016), or subsequent revision.
- ee. **Shapefiles** means ESRI Shapefiles containing '.shp', '.shx' and '.dbf' files and other files capturing attributes of the offset area, including the shape, **EPBC Act** reference number and **EPBC Act listed threatened species** present at the relevant site. **Offset attributes** should also be captured in '.xls' format and including a '.prj' file or specification of the projection/geographic coordinate system used. A geographically referenced raster '.img' files must be provided to provide context for the shapefiles.
- ff. **Squatter Pigeon (Southern) (*Geophaps scripta scripta*) foraging habitat** means any remnant or regrowth open-forest to sparse, open-woodland or scrub dominated by *Eucalyptus*, *Corymbia*, *Acacia* or *Callitris* species, on sandy or gravelly soils, within three (3) kilometres of a suitable, permanent or seasonal waterbody. As shown at Attachment B.
- gg. **Suitably qualified person** means a person who has professional qualifications, training, skills and/or experience related to the nominated subject matter and can give authoritative independent assessment, advice and analysis on performance relative to the subject matter using the relevant protocols, standards, methods and/or literature.
- hh. **Threat abatement plans** means a threat abatement plan made or adopted by the **Minister** under the **EPBC Act**.
- ii. **Website** means a set of related web pages located under a single domain name attributed to the approval holder and available to the public.

Part D – Attachments

Attachment A – Koala (*Phascolarctos cinereus*) (combined populations of Qld, NSW and the ACT) and Greater Glider (*Petauroides volans*) habitat in the Grasstree Extension project area



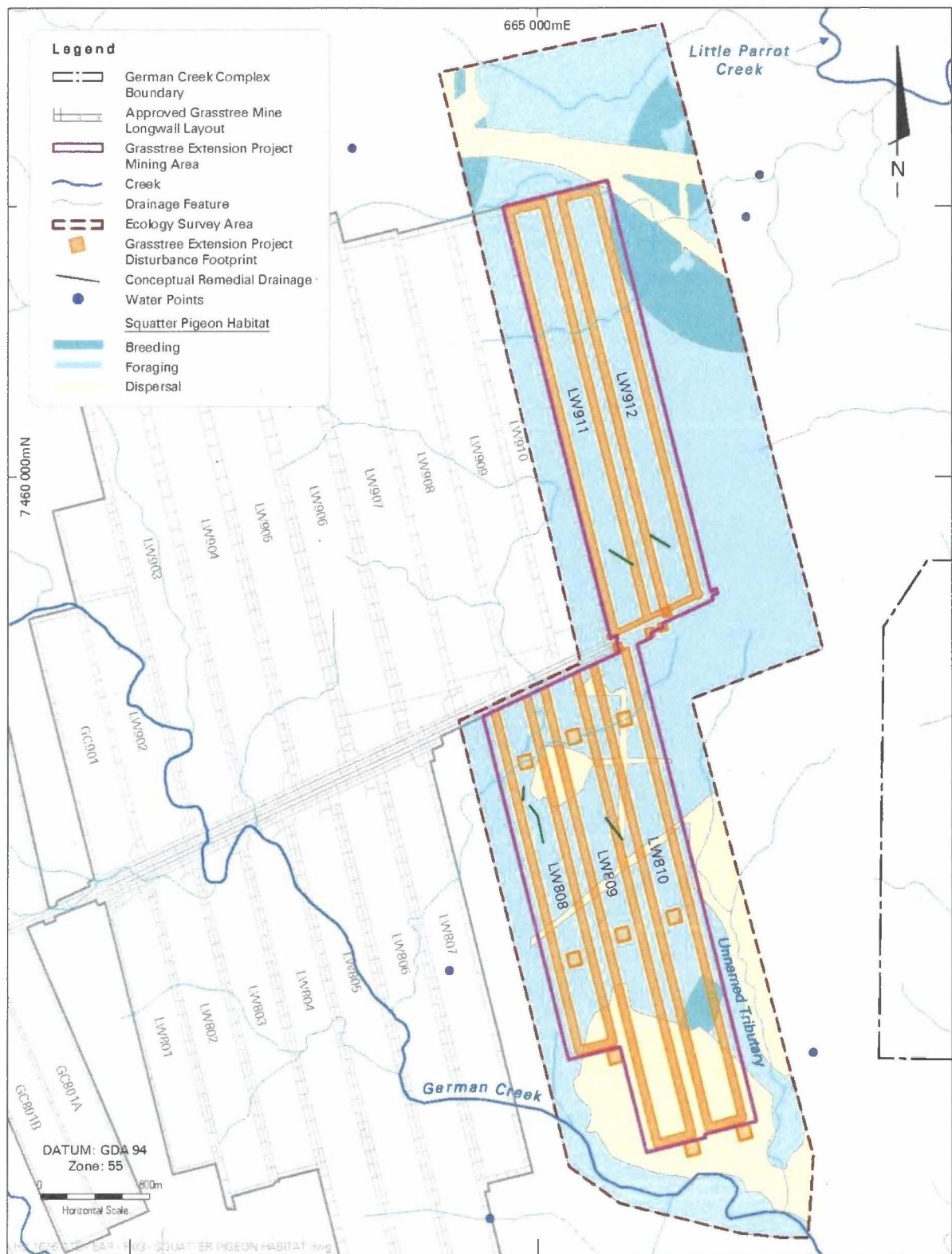
GRASSTREE EXTENSION PROJECT



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ENVIRONMENTAL CONSULTANTS

Koala and Greater Glider Habitat

Attachment B – Squatter Pigeon (Southern) (*Geophaps scripta scripta*) foraging habitat in the Grasstree Extension project area



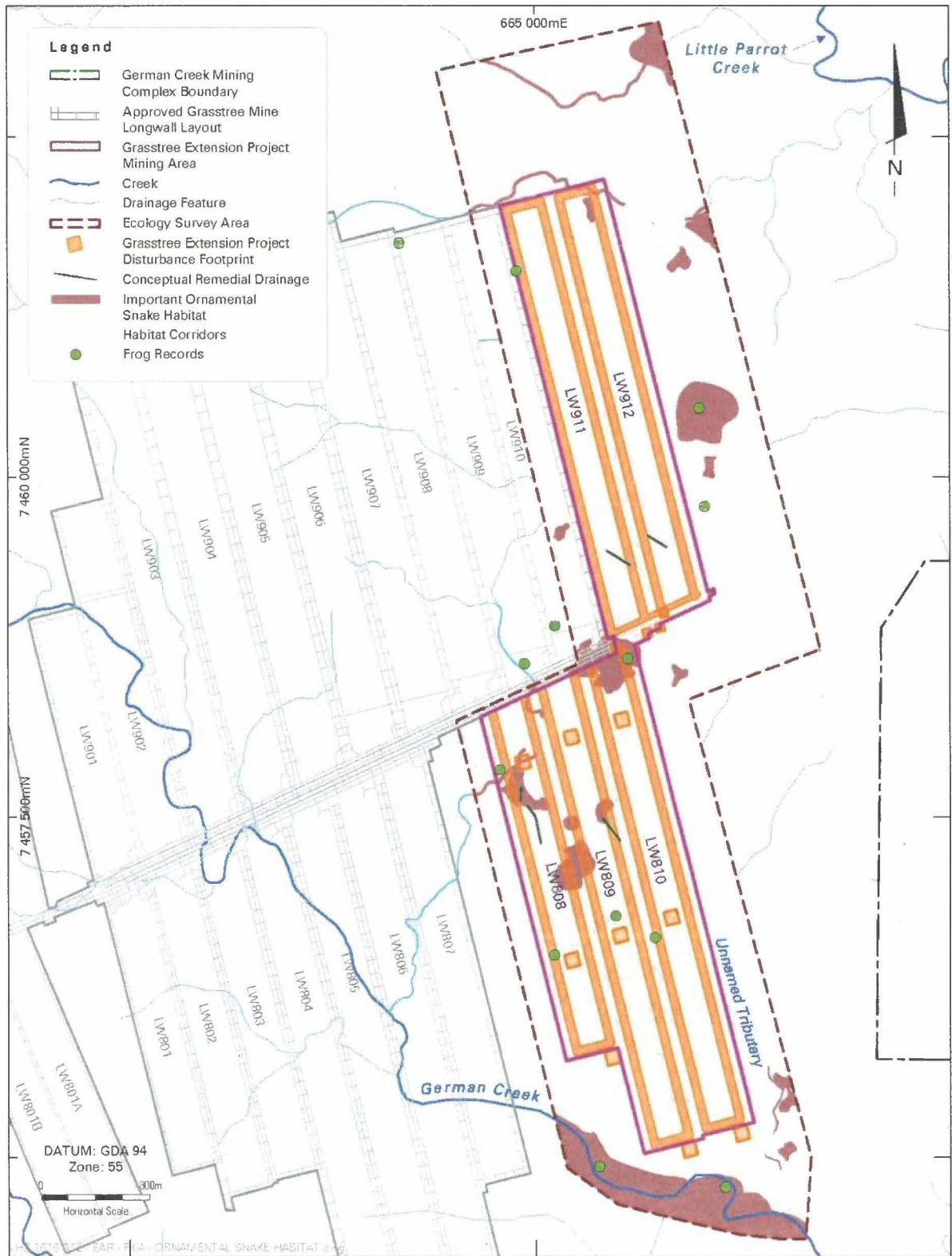
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Squatter Pigeon (Southern) Habitat

Attachment C – Ornamental Snake (*Denisonia maculata*) important habitat in the Grasree Extension project area

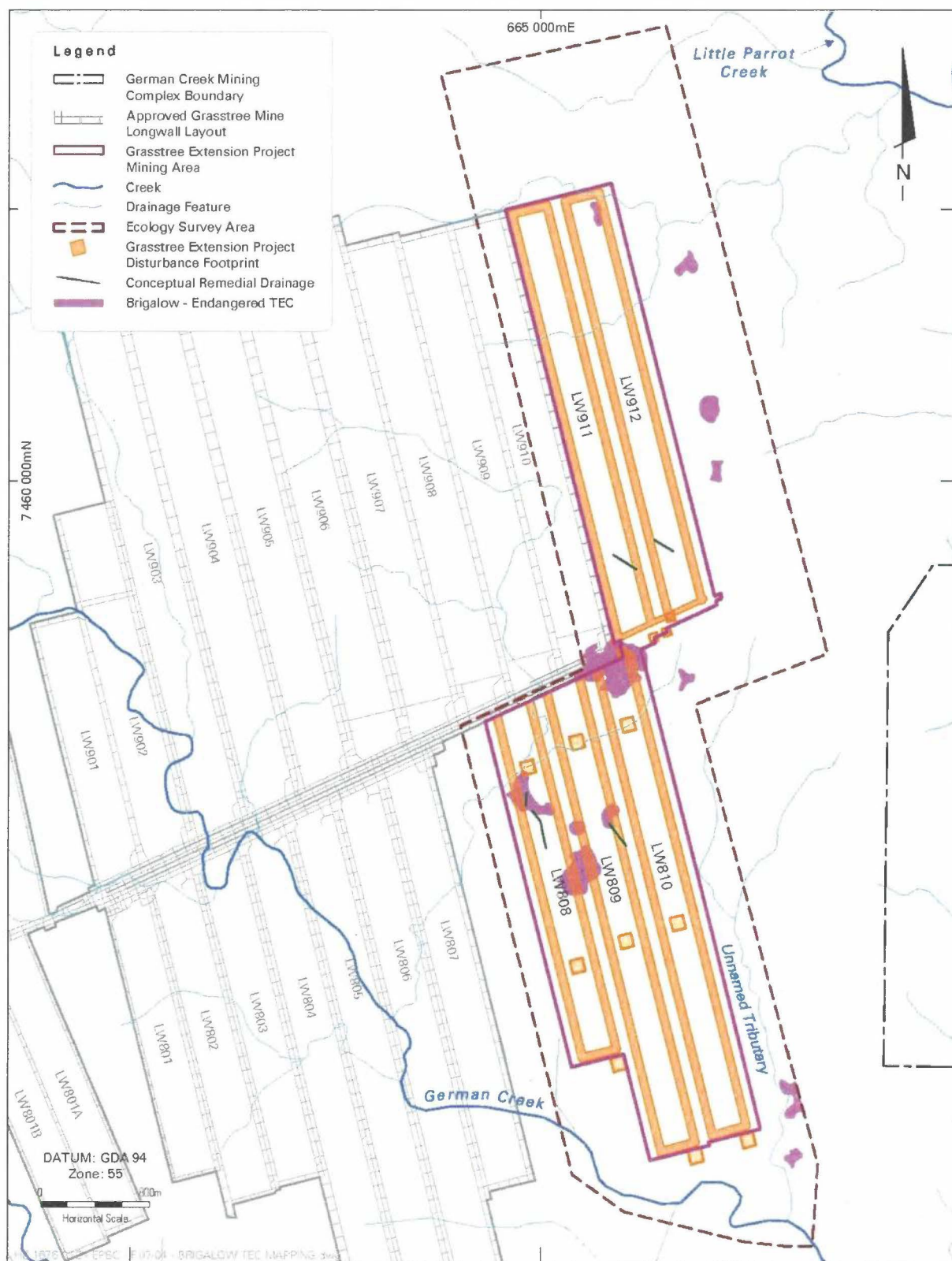


GRASREE EXTENSION PROJECT



Ornamental Snake Habitat

Attachment D – Brigalow (*Acacia harpophylla* dominant and co-dominant) ecological community in the Grasstree Extension project area



GRASSTREE EXTENSION PROJECT



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Brigalow TEC