



Sylvan Ecology

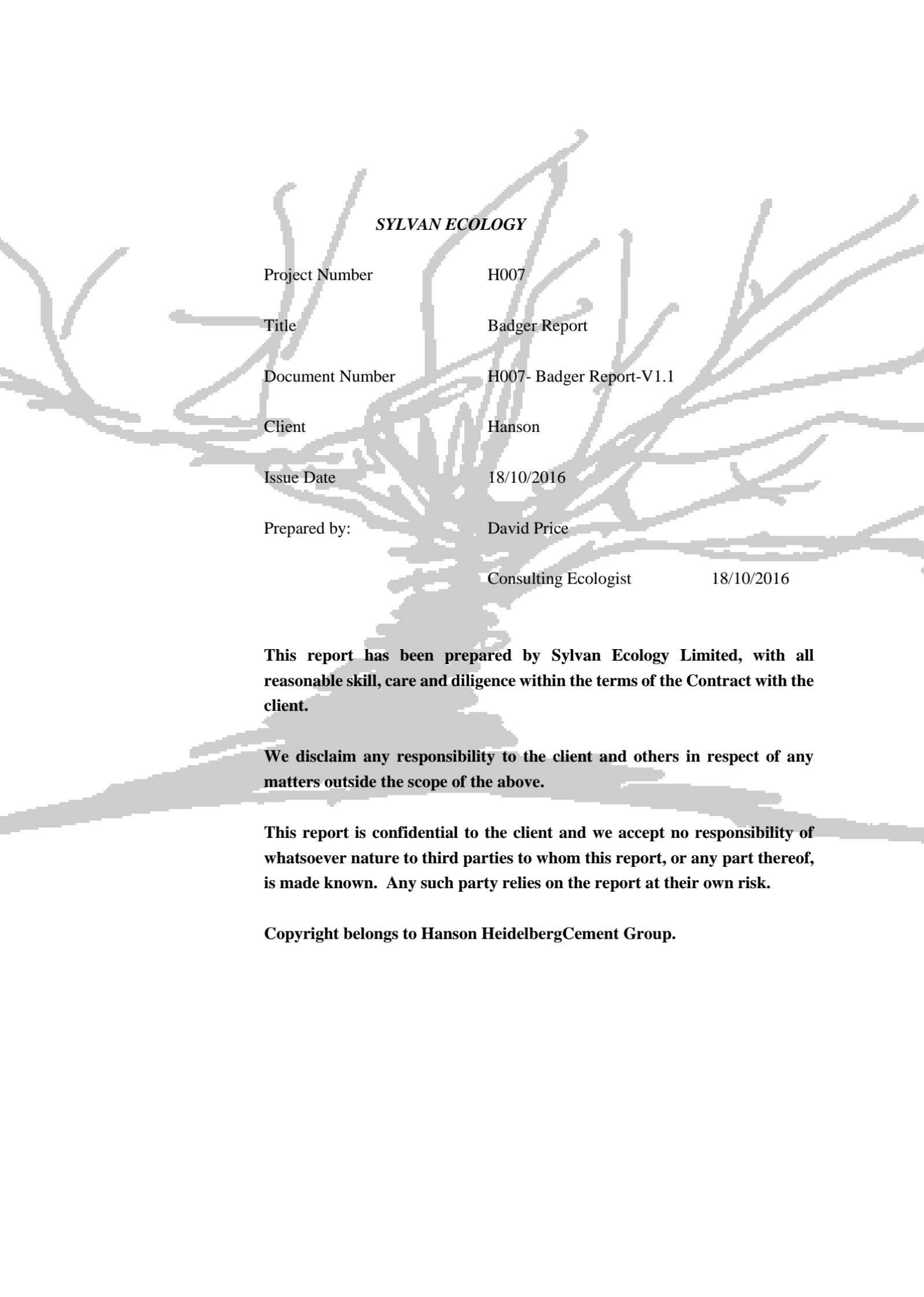
# BADGER REPORT

## PENDERYN SURFACE MINE

CLIENT



**Hanson**  
HEIDELBERGCEMENT Group



***SYLVAN ECOLOGY***

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# 1 BACKGROUND

- 1.1 Sylvan Ecology were commissioned by Hanson HeidelbergCement Group, to carry out a badger survey at Penderyn surface mine, as part of the 1ha extension of the current mining operations. The site is located to the east of the village of Penderyn, RCT.

- At central OS grid reference: SN 95818 09025
- Postcode: CF44 9JY

## **Legislative Protection and Recent Guidance**

- 1.2 Badgers benefit from the status bestowed upon them by the Protection of Badgers Act 1992. The 1992 Act grants protection not only to the Badgers themselves but also to their setts. This prohibits certain activities within the vicinity of a sett and makes such actions illegal unless an appropriate licence is sought beforehand.

- 1.3 This Act makes it an offence to:
- Wilfully kill, take, possess or cruelly ill-treat a badger, or attempt to do so;
  - Interfere with a sett by damaging or destroying it;
  - Obstruct access to, or any entrance of, a badger sett; and,
  - Disturb a badger when it is occupying a sett.

- 1.4 A sett is defined as 'any structure or place that displays signs indicating current use by a badger'.

- 1.5 More recently, in response to historic debate and widely varying interpretations, Natural England has prepared its own guidance on the interpretation of the Act with respect to two elements:

- Current use
- Disturbance

- 1.6 Specifically, in June 2009 Natural England produced a guidance note to clarify the meaning of 'current use' title 'Guidance on 'Current Use' in the definition of a Badger Sett with respect to the Act. The salient points of this guidance note are re-produced as follows, and emphasise that the persistence of 'fresh' badger signs is central to judging 'current use:

- Displaying signs of current use is NOT synonymous with current occupation
- A badger sett is protected by the legislation if it 'displays signs indicating current use by a badger'. A sett is therefore protected



as long as such signs remain present. In practice, this could potentially be for a period of several weeks after the last actual occupation of the sett by a badger or badgers

- It follows that demonstration of the fact that a sett is not occupied by badgers does NOT necessarily exempt it from the protection afforded by the Act if it still displays signs otherwise indicative of current use
- A sett is likely to fall outside the definition of a sett in the Act if the evidence available indicates that it is NOT in use by badgers; e.g. absence of badger field signs, debris in sett entrances etc. In practice, such a sett may have been unused for several weeks.

1.7

Also in June 2009, Natural England produced a separate guidance note titled 'Interpretation of 'Disturbance' in relation to badgers occupying a sett'. This guidance note highlights that there are 2 elements to the offence of disturbing a badger that is occupying a sett, re-produced as follows:

- There must be an action, capable of disturbing a badger, which amounts to an interference with a sett; and a badger must be occupying the sett at the time of the disturbance

1.8

In summary, NE states that disturbance is:

- Something less than what might otherwise be considered damage to a sett
- Something more than limited noise or activity near a sett at levels which badgers commonly tolerate, without apparently being disturbed

Lastly, it is also noteworthy that the loss of significant areas of badger foraging habitat could be perceived as cruelty to badgers and therefore potentially result in an offence being committed under the Protection of Badgers Act, 1992.



## 2 SURVEY AND SITE ASSESSMENT

### Objectives of survey

2.1 Field surveys were carried out by Dave Price MCIEEM throughout August and September while undertaking a reptile translocation. The survey was carried out at an optimal time under perfect conditions, so the ground was soft enough to identify species specific prints. The objectives of this survey were to:

- Determine the presence or likely absence of protected species;
- To provide an estimate on populations where appropriate;
- To assess the ecological constraints that potential presence may pose to the development and the provision of general information on mitigation techniques for species.

### Survey Methodology

2.2 All areas within the development area, were searched for signs of Badger activity. Searches were made for signs of badger activity such as sett holes, footprints, latrines, hairs and paths which constitute characteristic evidence that badgers are present.

2.3 Where possible, holes were classified as well-used, partially-used or disused.

- Well-used holes show obvious signs of recent use by Badgers, including fresh spoil, bedding, fresh claw marks, dung, hair and footprints.
- Partially-used holes show no signs of recent use. The entrances may be partially blocked by leaf litter or small plants, but they could easily be re-used by Badgers. This includes setts that are only used occasionally at different times of the year.
- Disused holes show no sign of having been used by Badgers for many months (if not years), and include holes that show signs of collapse or are barely discernible. Such holes could not be re-used by Badgers without substantial effort. Badgers may occasionally re-excavate disused setts, particularly if territories change or other setts are lost.

### Activity surveys

#### *Sand traps*

2.4 Sand traps were positioned within the entrance to the potential sett to find footprints and establish occupancy. Traps were in place for fourteen days.



*Camera traps*

- 2.5 Wildlife Camera traps were also utilised, five were positioned outside and around the potential sett for fourteen-day period.

**Results**

- 2.6 A hole exists beneath a large rock within the extension area, at grid ref: SN 96175 09072. The whole has been designated as a partially used sett. The entrance to the hole has grown over with tall ruderal plants and clearly hasn't recently been used.
- 2.7 The sand trap confirmed no activity at the set entrance and the camera traps didn't detect any badger activity.

**Interpretation and evaluation**

- 2.8 The lack of any badger activity within the development means a licence to disturb badgers will not be required. The proposed development will not have an impact on badger foraging, no evidence of foraging was recorded during the survey.
- 2.9 Though no evidence of badgers was found during the survey, badgers are known to be in the area and the possibility exists for badgers to move into the sett. Evidence of fox was found throughout the site, the sett could therefore also be occupied by foxes. Thus, the following mitigation was implemented to prevent any potential impacts on protected species.

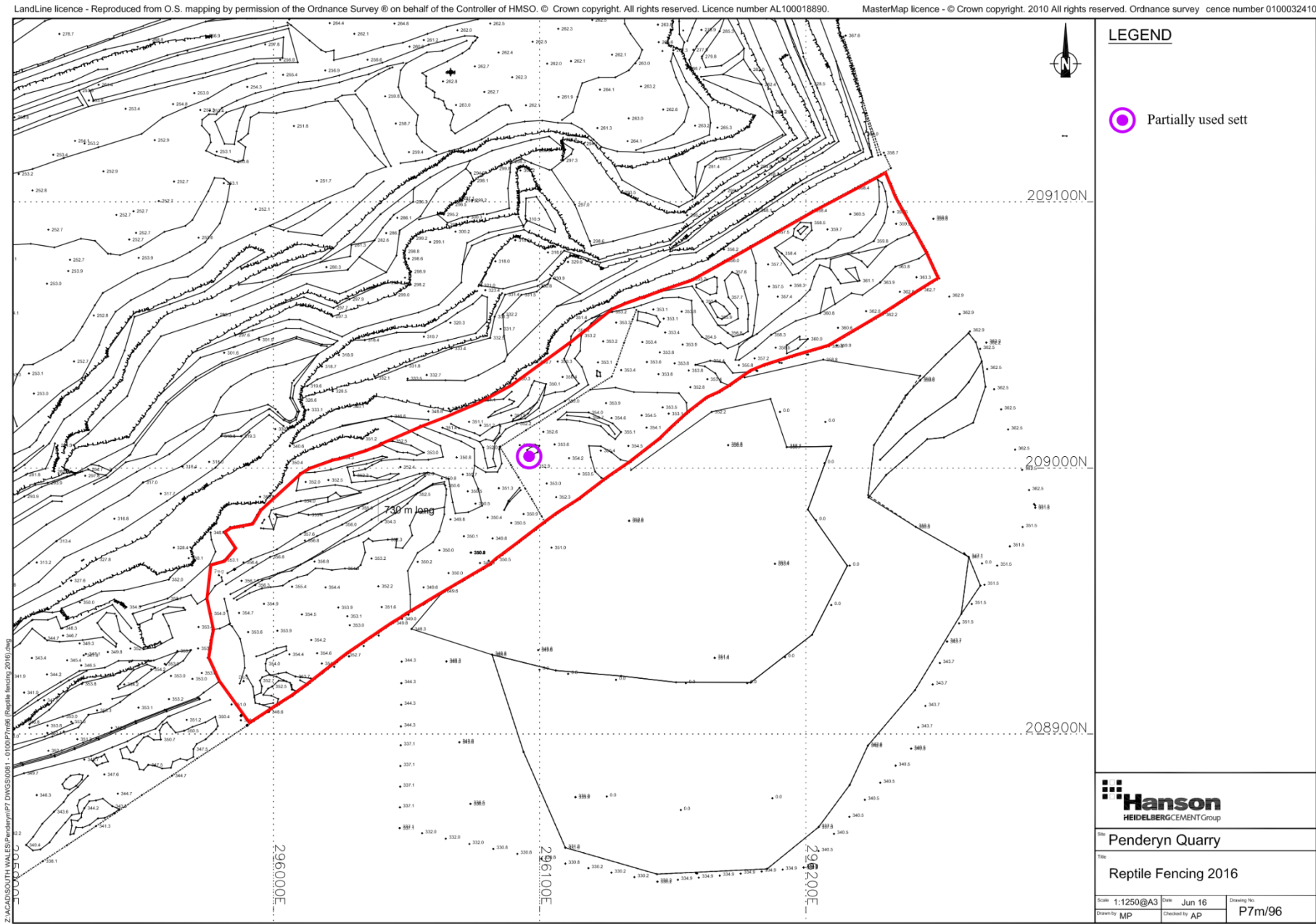


## 3 MITIGATION STRATEGY

### **Sett closure**

- 3.1 It is proposed to exclude the partially used setts by surrounding the sett with chain-link to ensure the sett cannot be dug into by Badgers. One-way gates will be installed at the hole entrances as a precaution, in case a fox gains access to the sett before the chain-link is erected.
- 3.2 During the exclusion period the setts will be monitored every three days, should any equipment appear damaged (or if there is any evidence of Badgers re-entering the sett) then action will be taken accordingly.

Appendix A: Map showing the location of the setts and site boundary.





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