

MT ARTHUR COAL EXTENSION PROJECT
EPBC 2011/5866 ANNUAL COMPLIANCE REPORT
21 MAY 2013 TO 21 MAY 2014



bhpbilliton

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1.0 Introduction

Hunter Valley Energy Coal (HVEC) Pty Ltd operates the Mt Arthur Coal complex, which consists of approved open cut and underground mining operations, a rail loop and associated rail loading facilities. The operations are located in the Upper Hunter Valley, NSW approximately 5 kilometres south west of Muswellbrook.

On 30 April 2012 HVEC obtained approval under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC 2011/5866) for the development of five new open cut extension areas to uncover additional coal reserves on the existing Mt Arthur Coal complex.

2.0 Commencement of Action

The date of commencement for the proposed action was 21 May 2012, as notified to the former Department of Sustainability, Environment, Water, Population and Communities, now known as the Department of the Environment (the Department) on 31 May 2013, in accordance with condition 12 of EPBC 2011/5866.

3.0 Variations to Approval

On 3 June 2014 the Department granted a Variation to Conditions Attached to Approval EPBC 2011/586, to vary the delivery date of condition 3. A copy of this letter is provided in Appendix 1.

4.0 Annual Progress Update

Condition 14 of EPBC 2011/5866 requires that within three months of every anniversary of action commencement, HVEC must publish a report on their website addressing compliance with approval conditions. Proof of report publication and details of non-compliance with approval conditions must also be provided to the Department.

This annual report covers the period 21 May 2013 to 21 May 2014 and details HVEC's compliance with EPBC 2011/5866. There were no identified instances of non-compliance with EPBC 2011/5866 during the reporting period. The compliance status of all conditions is presented in Table 1 and the proposed action areas are shown in Appendix 2.

Table 2 details the proposed Mt Arthur Coal complex biodiversity offset strategy, as provided in EPBC 2011/5866. Appendix 3a shows the conservation and offset areas on site or adjacent to the Mt Arthur Coal complex and Appendix 3b shows the Middle Deep Creek Offset Area, referred to in Table 2.

This report will also be published on BHP Billiton's Regulatory Information website, at: www.bhpbilliton.com.

Table 1: Compliance with EPBC 2011/5866 approval conditions

Condition number	Condition	Actions undertaken during the reporting period within the proposed action areas	Status
1	<p>The person taking the action must not clear more than 693.8 ha of the EPBC-listed White Box-Yellow Box-Blakely's Red Gum Grassy Woodland and Derived Native Grassland critically endangered ecological community (147.8 ha of woodland and 546 ha derived native grassland) within the proposed action areas of the Mt Arthur coal complex (shown in Appendix 2).</p>	<p>4.5 ha of White Box-Yellow Box-Blakely's Red Gum Grassy Woodland and 43.4 ha of Derived Native Grassland were cleared within the proposed action areas during the reporting period.</p> <p>The EPBC 2011/5866 Annual Compliance Report 21 May 2012 to 21 May 2013 incorrectly reported on the areas of these ecological communities that were cleared during that reporting period. The areas reported in that Annual Compliance Report incorporated vegetation types other than those referred to in condition 1 of the EPBC 2011/5866 approval. Sixteen hectares of White Box-Yellow Box-Blakely's Red Gum Grassy Woodland and 17.3 ha of Derived Native Grassland were cleared within the proposed action areas during the 21 May 2012 to 21 May 2013 reporting period.</p> <p>In total, 20.5 ha of White Box-Yellow Box-Blakely's Red Gum Grassy Woodland and 60.7 ha of Derived Native Grassland has been cleared in total within the proposed action area since the date of commencement.</p>	Compliant
2	<p>The person taking the action must not clear more than 362.7 ha of woodland providing suitable habitat for the EPBC listed Regent Honeyeater and Swift Parrot within the proposed action areas of the Mt Arthur coal complex (shown in Appendix 2). Woodland that provides suitable habitat for these species on this site includes the box-ironbark dominated woodlands and the remaining woodland and forest vegetation types present on the proposed action areas.</p>	<p>4.5 ha of woodland providing suitable habitat for the Regent Honeyeater and Swift Parrot were cleared within the proposed action areas during the reporting period.</p> <p>20.5 ha of woodland providing suitable habitat for the Regent Honeyeater and Swift Parrot were cleared within the proposed action areas since the date of commencement</p> <p>As above, an error was identified in the area of woodland providing suitable habitat for the Regent Honeyeater and Swift Parrot that was reported as cleared in the EPBC 2011/5866 Annual Compliance Report 21 May 2012 to 21 May 2013. Sixteen hectares of woodland providing suitable habitat for the Regent Honeyeater and Swift Parrot was cleared during the 21 May 2012 to 21 May 2013 reporting period.</p>	Compliant
3	<p>The person taking the action must register a legally binding conservation covenant over the conservation and offset areas identified in Table 2 [table</p>	<p>Appropriate areas have been selected and are being managed as offset areas. However, note that the original date specified in</p>	Not triggered by condition

Condition number	Condition	Actions undertaken during the reporting period within the proposed action areas	Status
	<p><i>number changed for report purposes]</i> (and shown in Appendix 3a and 3b) by 31 December 2014 [<i>timeframe varied by the Department on 3 June 2014</i>]. The mechanism must provide enduring protection for no less than:</p> <ul style="list-style-type: none"> a) 707.7 ha of White Box-Yellow Box-Blakely's Red Gum Grassy Woodland and Derived Native Grassland Ecological Community (Box Gum Woodland); and b) 738.7 ha of suitable habitat for Anthochaera phrygia (Regent Honeyeater) and Lathamus discolor (Swift Parrot). <p><i>Note: Offsetting requirements for Regent Honeyeater and Swift Parrot habitat may be accommodated within the White Box-Yellow Box-Blakely's Red Gum Grassy Woodland and Derived Native Grassland Ecological Community components if this habitat is verified as present and includes specific habitat requirements for each of these species in accordance with the department's listing advice, conservation advice and/or recovery plans.</i></p>	<p>condition 3 was varied to 31 December 2014 by the Department on 3 June 2014.</p> <p>The process for arranging a legally binding conservation mechanism is still being determined in consultation with the NSW Department of Planning and Environment and the NSW Office of Environment and Heritage.</p>	variation
4	<p>The person taking the action must commence progressive regeneration of 1915 ha of woodland and forest communities, including 299.20 ha of Box Gum Woodland identified in Table 2 [<i>table number changed for report purposes</i>], as described in the Preliminary Documentation within 1 year of commencement of construction.</p>	<p>Progressive regeneration of woodland and forest communities at Mt Arthur Coal commenced in the mid-1990s.</p> <p>At the end of the reporting period, Mt Arthur Coal had completed regeneration of 278.6 ha of woodland and forest communities (habitat for EPBC listed birds). This includes 12.6 ha of Box Gum Woodland that was seeded during the reporting period.</p>	Compliant
5	<p>The person taking the action must submit for the Minister's approval the Biodiversity Management Plan (BMP) for the project by 30 June 2013. The BMP must reflect the proposed Mt Arthur Coal Complex Biodiversity Offset Strategy as outlined in Table 2 [<i>table number changed for report purposes</i>] and as generally described in the Preliminary Documentation and focus on the re-establishment and protection of a minimum of 707.7 ha of Box Gum Woodland and a minimum of 738.7 ha of suitable habitat for Regent Honeyeater and Swift Parrot. The approved BMP must be implemented.</p>	<p>At the end of the reporting period Mt Arthur Coal was in the process of preparing a draft BMP for submission to the Minister by 30 June 2013.</p>	Not triggered
6	<p>The BMP must describe how the implementation of the offset strategy would be integrated with the overall rehabilitation of the site and with local and regional corridors, existing conservation areas and existing biodiversity commitments at Mt Arthur Coal.</p>	<p>See comment for condition 5.</p>	Not triggered

Condition number	Condition	Actions undertaken during the reporting period within the proposed action areas	Status
7	<p>The BMP must include, but not be limited to, the following information:</p> <ul style="list-style-type: none"> a) a text description and map to clearly define the location, boundaries and size of the conservation and offset areas and the regeneration area and rehabilitation corridors. This must be accompanied with the offset attributes and a shape file; b) details of the mechanisms, legal instrument, steps and timing for registering a legally binding conservation covenant that provides enduring protection over each nominated conservation and offset area; c) a detailed description of the current condition of the extant vegetation of each conservation and offset area prior to any management activities. This will provide a baseline description of the vegetation condition for the purpose of monitoring; d) 	See comment for condition 5.	Not triggered
	<ul style="list-style-type: none"> e) details of vegetation communities to be re-established to achieve the 500 ha regeneration area and 1415 ha of rehabilitated corridors: <ul style="list-style-type: none"> i. timing of progressive regeneration; ii. criteria to determine success of re-establishment of the Box Gum Woodland and other woodland and forest communities; iii. documentation including mapping of current environmental values relevant to MNES of the area; iv. where revegetation through planting seedlings and/or seeds is intended details of appropriate species and ratios of species relevant to historically occurring listed migratory and listed threatened species' habitat and the White Box-Yellow Box-Blakely's Red Gum Grassy Woodland and Derived Native Grassland Ecological Community; and v. the source and provenance of the seed and/or seedlings which will be used. f) details of measures to offset the impacts to the MNES described in 		

Condition number	Condition	Actions undertaken during the reporting period within the proposed action areas	Status
	<p>conditions 3 and 4 including:</p> <ul style="list-style-type: none"> i. details of management actions that will improve the condition of a minimum of 707.7 ha within the conservation and offset areas and 299.2 ha regeneration area to 'state 1' consistent with the state and transition model for Box Gum Woodland (Rawlings et al, 2010) and listing advice for the White Box-Yellow Box-Blakely's Red Gum Grassy Woodland and Derived Native Grassland Ecological Community; ii. management schedules for all conservation and offset areas, the regeneration area and the rehabilitation corridors identifying targeted actions for specific areas to protect and enhance the extent and condition of habitat values of the offset areas, a map showing areas to be managed; iii. type of actions for each conservation and offset area, the regeneration area and rehabilitation corridors and details of methods to be used; iv. timing of management actions for each area; v. performance criteria for each action; vi. a detailed monitoring plan for each action including, but not limited to, control sites, periodic ecological surveys to be undertaken by a qualified ecologist, as agreed to in writing by the Minister, and consistent with survey guidelines for nationally threatened species and communities, to assess the success of the management actions measured against identified milestones and objectives; vii. contingency measures to be implemented if performance criteria are not met; viii. a process to report, to the Department, the progress of management actions undertaken in the conservation and offset areas, regeneration area and rehabilitation corridors and the outcome of those actions, including identifying any need for improved management and actions to undertake such improvement; and ix. details of the various parties responsible for management, 		

Condition number	Condition	Actions undertaken during the reporting period within the proposed action areas	Status
	monitoring and implementing the management activities, including their position or status as a separate contractor.		
8	<p>Where strategic grazing is proposed as a management tool, the person undertaking the action must provide, as part of the BMP identified in condition 5, details of the proposed grazing activities for each management area. This must include:</p> <ul style="list-style-type: none"> a) objectives b) details of the grazing methods to be used c) timing including seasons in which grazing will occur, period of grazing and rest period d) stocking rate per season e) monitoring of impacts of grazing including any changes in the condition of vegetation, habitat and weed density. 	<p>All Mt Arthur Coal conservation and offset areas are currently free of livestock. Mt Arthur Coal is investigating the option of limited grazing for the purposes of weed control and fire management. Prior to any introduction of grazing in offset areas appropriate management protocols would be incorporated into the BMP to ensure grazing met the requirements of conditions 8 and 9.</p>	Not applicable
9	Grazing activities must be undertaken in accordance with the guidelines for strategic grazing (Rawlings et al, 2010) and managed so that for each management unit at least 70% of the sward meets a minimum height of 10cm.	See comments for condition 8.	Not applicable
10	If the person undertaking the action proposes to undertake any action within the conservation and offset areas and regeneration area, other than those management activities related to managing the conservation and offset areas and regeneration area, or as set out in the conditions, approval must be obtained, in writing from the Minister. In seeking the Minister's approval the person undertaking the action must provide a detailed assessment of the area where the action is proposed to take place and an assessment of all associated adverse impacts on MNES. If the Minister agrees to the action within the conservation or offset area, the area identified for the action may be excised from the proposed conservation and offset areas and alternative offsets may be required in relation to the impact on MNES.	<p>During the reporting period Mt Arthur Coal did not undertake any action within the conservation and offset areas or regeneration area, other than those management activities relating to managing the areas.</p> <p>Muswellbrook Shire Council (MSC) undertook works to construct a sewage reticulation system to link the Muswellbrook Sewage Treatment Plant and the Thomas Mitchell Drive Industrial Estate. A Review of Environmental Factors (REF) was prepared for the project. A flora and fauna assessment for the works was conducted, which assessed the project to not have significant impact on matters of National Environmental Significance.</p>	Not triggered
11	All survey data collected for the project must be collected and recorded so	Records of data collected from conservation and offset area	Compliant

Condition number	Condition	Actions undertaken during the reporting period within the proposed action areas	Status
	<p>as to conform to data standards notified from time to time by the Department. When requested by the Department, the proponent must provide to the Department all species and ecological survey data and related survey information from ecological surveys undertaken for MNES. This survey data must be provided within 30 business days of request, or in a timeframe agreed to by the Department in writing. The Department may use the survey data for other purposes.</p>	<p>surveys during the reporting period are maintained by Mt Arthur Coal.</p> <p>No requests for survey data were made by the Department during the reporting period.</p>	
12	<p>Within 14 days after the commencement of the action, the person taking the action must advise the Department in writing of the actual date of commencement.</p>	<p>Mt Arthur Coal commenced the action on 21 May 2012 and advised the Department of the commencement of the action on 31 May 2012. Notification was made via a letter issued to Ms Adrienne Lea at the Department.</p>	Compliant
13	<p>The person taking the action must maintain accurate records substantiating all activities associated with or relevant to the conditions of approval, including measures taken to implement the Biodiversity Offset Strategy and the Biodiversity Management Plan required by this approval, and make them available upon request to the Department. Such records may be subject to audit by the Department or an independent auditor in accordance with section 458 of the EPBC Act, or used to verify compliance with the conditions of approval. Summaries of audits will be posted on the Department's website. The results of audits may also be publicised through the general media.</p>	<p>Records substantiating all activities relevant to the conditions of approval are accurately maintained by Mt Arthur Coal.</p> <p>No requests for records of activities were made by the Department during the reporting period.</p>	Compliant
14	<p>Within three months of every 12 month anniversary of the commencement of the action, the person taking the action must publish a report on their website addressing compliance with each of the conditions of this approval, including implementation of the Biodiversity Offset Strategy and the Biodiversity Management Plan as specified in the conditions. Documentary evidence providing proof of the date of publication and non-compliance with any of the conditions of this approval must be provided to the Department at the same time as the compliance report is published.</p>	<p>Mt Arthur Coal commenced the action on 21 May 2012. This report represents the second Annual Compliance Report, covering the period 21 May 2013 to 21 May 2014.</p> <p>This report will be published on BHP Billiton's Regulatory Information website and submitted to the Department by 21 August 2014.</p> <p>See comment for Condition 5 regarding Biodiversity Management Plan.</p>	Compliant
15	<p>If the person taking the action wishes to carry out any activity otherwise than in accordance with the Biodiversity Offset Strategy and the Biodiversity Management Plan as specified in the conditions, the person</p>	<p>Mt Arthur Coal has not undertaken any activities in conservation or offset areas, otherwise than in accordance with the Biodiversity Offset Strategy as specified in the approval conditions.</p>	Not triggered

Condition number	Condition	Actions undertaken during the reporting period within the proposed action areas	Status
	<p>taking the action must submit to the Department for the Minister's written approval a revised version of that Biodiversity Offset Strategy and the Biodiversity Management Plan. The varied activity shall not commence until the Minister has approved the varied plan in writing. The Minister will not approve a varied plan unless the revised plan would result in an equivalent or improved environmental outcome over time. If the Minister approves the revised Biodiversity Offset Strategy and the Biodiversity Management Plan, that Biodiversity Offset Strategy and the Biodiversity Management Plan, must be implemented in place of the Biodiversity Offset Strategy and the Biodiversity Management Plan, originally approved.</p>		
16	<p>If the Minister believes that it is necessary or convenient for the better protection of listed threatened species and communities and listed migratory species to do so, the Minister may request that the person taking the action make specified revisions to the Biodiversity Offset Strategy and the Biodiversity Management Plan, specified in the conditions and submit the revised Biodiversity Offset Strategy and the Biodiversity Management Plan for the Minister's written approval. The person taking the action must comply with any such request. The revised approved Biodiversity Offset Strategy and the Biodiversity Management Plan must be implemented. Unless the Minister has approved the revised Biodiversity Offset Strategy and the Biodiversity Management Plan then the person taking the action must continue to implement the Biodiversity Offset Strategy and the Biodiversity Management Plan originally approved, as specified in the conditions.</p>	<p>At the end of the reporting period Mt Arthur Coal was in the process of preparing a draft BMP for submission to the Minister by 30 June 2013.</p> <p>During the reporting period, the Minister did not make any requests for changes to Mt Arthur Coal's Biodiversity Offset Strategy as specified in the approval conditions.</p>	Not triggered
17	<p>Unless otherwise agreed to in writing by the Minister, the person taking the action must publish all management plans referred to in these conditions of approval on their website. Each management plan must be published on the website within 1 month of being approved.</p>	<p>At the end of the reporting period Mt Arthur Coal was in the process of preparing a draft BMP for submission to the Minister by 30 June 2013.</p> <p>Within one month of approval, the BMP, and associated management programs, will be published on BHP Billiton's Regulatory Information website.</p>	Not triggered

Table 2: Proposed Mt Arthur Coal complex biodiversity offset strategy (EPBC 2011/5866)

Offset/conservation area	Offset type and minimum size (ha)	
	EPBC-listed Box Gum Woodland	Habitat for EPBC listed birds
Existing remnant vegetation		
Mt Arthur Conservation Area	67	74
Saddlers Creek Conservation Area	87.1	51.2
Thomas Mitchell Drive Offset Area (on-site)	55.7	36.5
Thomas Mitchell Drive Offset Area (off-site)	4.9	63.9 (+ 62.05 marginal)
Middle Deep Creek Offset Area	493	373
Constable Offset Area	0	78
	707.7	738.7
Proposed regeneration		
500 Ha Regeneration Area	299.20	500
1415 ha Rehabilitation Corridors		1415
Total		1915

Appendix 1: Variation to Conditions Attached to Approval EPBC 2011/586



Australian Government
Department of the Environment

VARIATION TO CONDITIONS ATTACHED TO APPROVAL

Mt Arthur Coal Extension Project, Muswellbrook, NSW (EPBC 2011/5866)

This decision to vary a condition of approval is made under section 143 of the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act).

Approved action

Person to whom the approval is granted	Hunter Valley Energy Coal Limited ACN: 062894464
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Approved action

The development of five new open cut extension areas to uncover additional coal reserves on the existing Mt Arthur Coal Complex near Muswellbrook in the Upper Hunter Valley, New South Wales as described in the referral received by the Department on 1 March 2011 [See EPBC Act referral 2011/5866].

Variation

Variation of conditions of approval

The variation is:
Delete condition 3 attached to the approval dated 30 April 2012 and substitute with the condition specified in Annexure 1.

Note: All other conditions including the definitions and Appendices attached to the approval dated 30 April 2012 remain unchanged.

Date of effect

This variation has effect on the date the instrument is signed

Person authorised to make decision

name and position	Shane Gaddes Assistant Secretary Compliance and Enforcement Branch
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Signature

S. Gaddes

Date of decision

3 June 2014

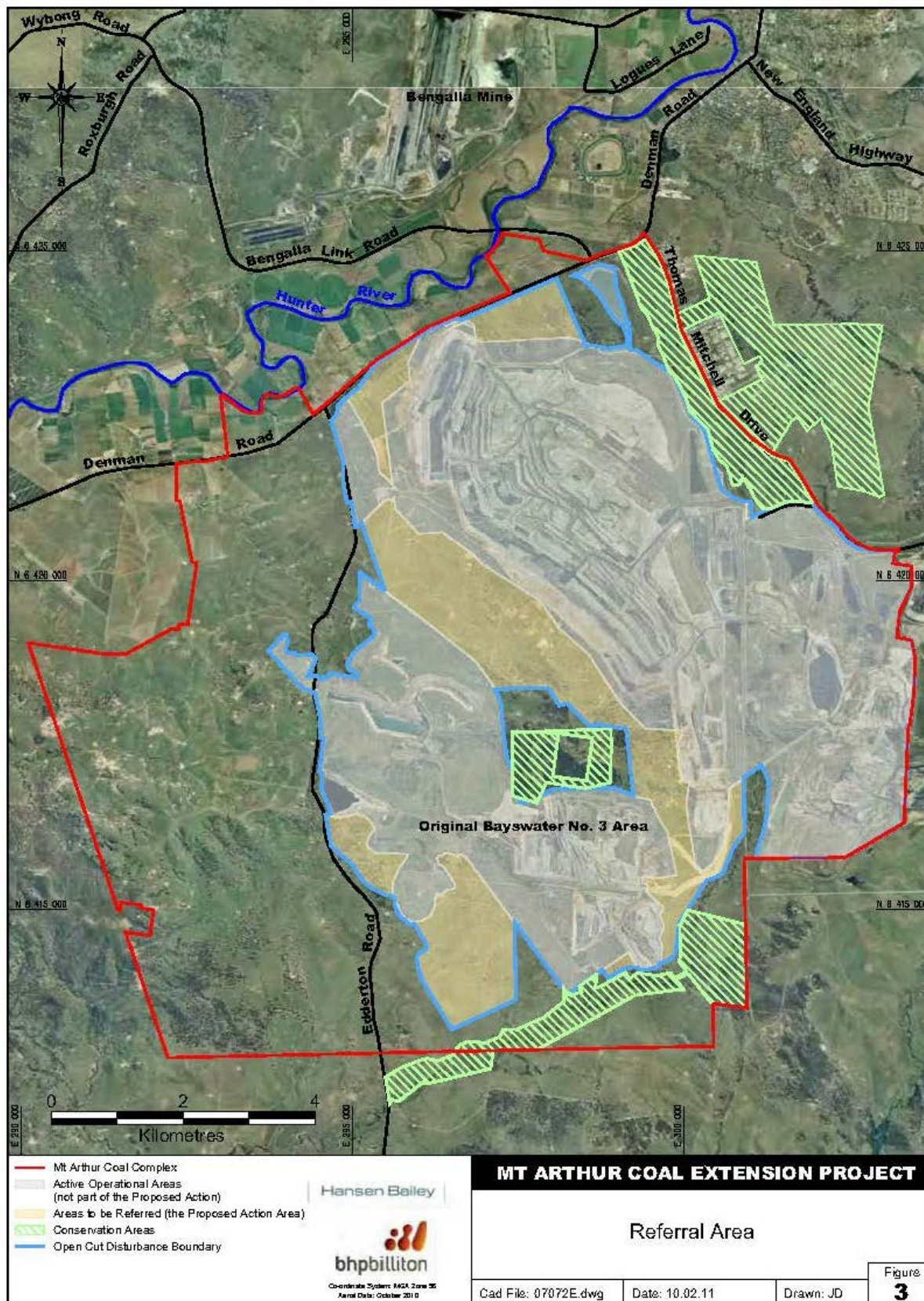
Annexure 1

Conditions attached to the approval

3. The person taking the action must register a legally binding conservation covenant over the **conservation and offset areas** identified in Table 1 (and shown in Appendix 2a and 2b) by 31 December 2014. The mechanism must provide enduring protection for no less than:
 - a) 707.7 ha of White Box—Yellow Box—Blakely's Red Gum Grassy Woodland and Derived Native Grassland Ecological Community (Box Gum Woodland); and
 - b) 738.7 ha of suitable habitat for *Anthochaera phrygia* (Regent Honeyeater) and *Lathamus discolor* (Swift Parrot).

Note: Offsetting requirements for Regent Honeyeater and Swift Parrot habitat may be accommodated within the White Box—Yellow Box—Blakely's Red Gum Grassy Woodland and Derived Native Grassland Ecological Community components if this habitat is verified as present and includes specific habitat requirements for each of these species in accordance with the department's listing advice, conservation advice and/or recovery plans.

Appendix 2: Proposed Action Areas



Note: Proposed action areas as referred to the Department on 1 March 2012 and shown in Figure 3 of the referral documentation submitted by HVEC on 1 March 2012.

Appendix 3a: Conservation and Offset Areas

Umwelt



Source: Mt Arthur Coal

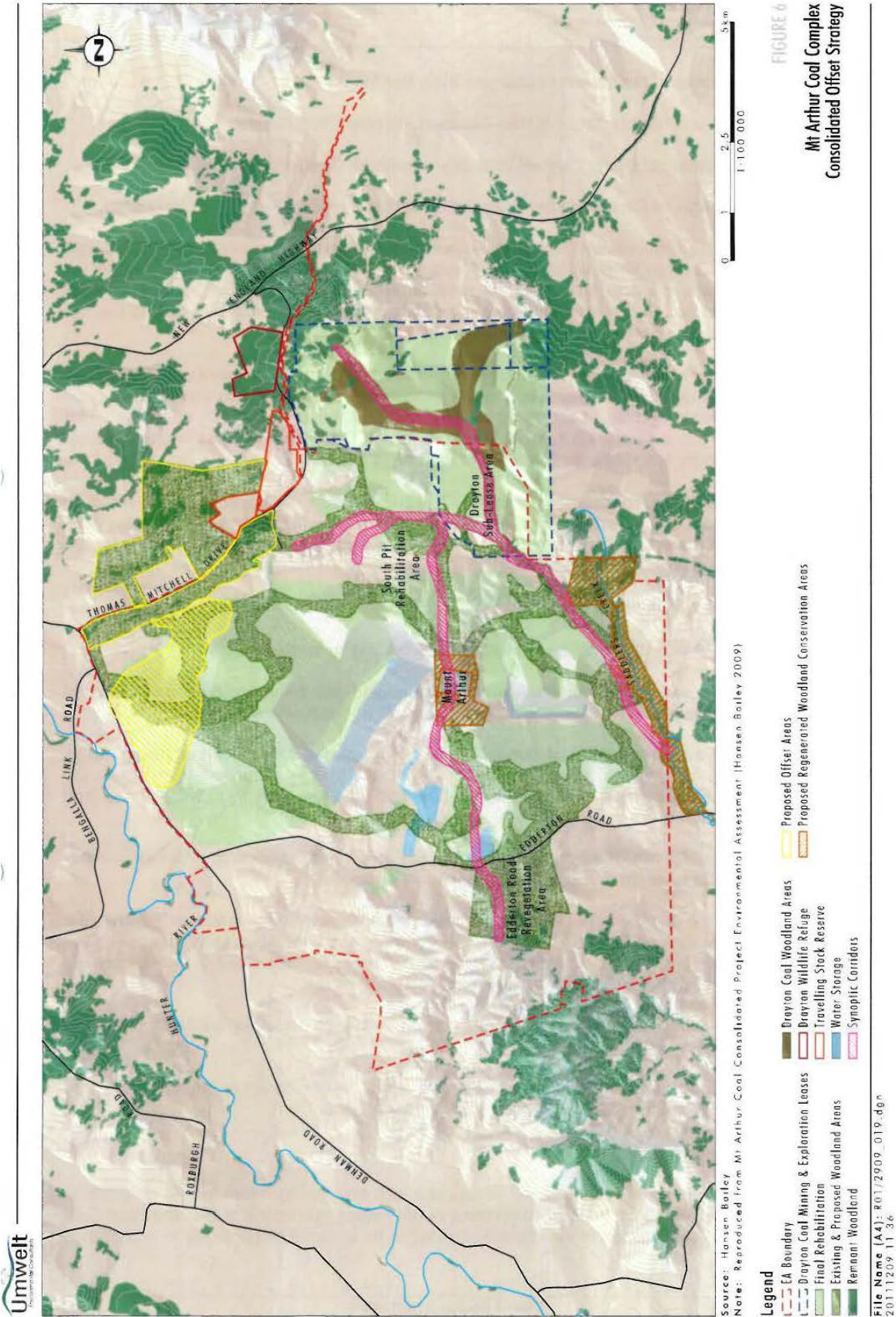


Legend

- Proposed Action Area
- Offset Property
- Crown Land

FIGURE 5

Location of State Approved Offset Properties



Note: Conservation and offset areas onsite or adjacent to the Mt Arthur Coal Complex shown conceptually in Figure 5 (Appendix 2a(i)) and 6 (Appendix 2a(ii)) of the Preliminary Documentation.

Appendix 3b: Middle Deep Creek Offset Area



Legend

- Middle Deep Creek Property Location
- Proposed Middle Deep Creek Offset Area
- Nature Reserve
- Great Eastern Ranges Zone

FIGURE 7

Middle Deep Creek Property Location