

MT ARTHUR COAL EXTENSION PROJECT
EPBC 2011/5866 ANNUAL COMPLIANCE REPORT
21 MAY 2015 TO 21 MAY 2016
Date prepared: 19 August 2016

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1.0 Introduction

Hunter Valley Energy Coal (HVEC) Pty Ltd (ACN 062894464) operates the Mt Arthur Coal complex, which consists of approved open cut and underground mining operations, a rail loop and associated rail loading facilities and is the Approval Holder. The operations are located in the Upper Hunter Valley, NSW approximately five 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.

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 2011/586

Variations to the approval during the reporting period:

- On 15 January 2016 the Department granted a Variation to Condition 3 extending the date to register a legally binding conservation covenant and offset areas from 30 June 2015 to 31 December 2016. The 15 January 2016 variation 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 2015 to 21 May 2016 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.

Table 2 details the proposed Mt Arthur Coal Complex biodiversity offset strategy, as provided in EPBC 2011/5866.

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	Status	Actions undertaken during the reporting period within the proposed action areas
1	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.	Compliant	Total area of EPBC-listed White Box-Yellow Box-Blakely's Red Gum Grassy Woodland and Derived Native Grassland critically endangered ecological community cleared to 31 May 2016 is 97.7ha comprising: <ul style="list-style-type: none"> • 25.23ha of woodland; and • 72.43ha of derived native grassland.
2	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. 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.	Compliant	Total area of woodland (i.e. box-ironbark, woodland and forest) providing suitable habitat for the Regent Honeyeater and Swift Parrot within the proposed action areas of the Mt Arthur coal complex cleared to 31 May 2016 is 96.3ha.

Table 1: Compliance with EPBC 2011/5866 approval conditions

3	<p>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 2016 or another date agreed to in writing by the Minister. 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 <i>Anthochaera phrygia</i> (Regent Honeyeater) and <i>Lathamus discolor</i> (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>	Not applicable	<p>A variation to condition 3 was approved by the Department of the Environment on the 15 January 2016 extending the date when the conservation covenant must be in place from 30 June 2015 to 31 December 2016. A copy of the variation is provided in Appendix 1.</p> <p>During the reporting period HVEC has continued to negotiate with Office of Environment and Heritage (OEH) regarding the conservation covenant over the conservation of the offset areas.</p>
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 [table number changed for report purposes], as described in the Preliminary Documentation within 1 year of commencement of construction.</p>	Compliant	<p>Progressive regeneration of woodland and forest communities at Mt Arthur Coal commenced in the mid-1990s. During the reporting period, Mt Arthur Coal completed regeneration of 54.4ha of woodland and forest communities. This includes 33ha of Box Gum Woodland.</p>

Table 1: Compliance with EPBC 2011/5866 approval conditions

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>	Compliant	<p>HVEC submitted the BMP to the Minister for approval on 28 June 2013. The BMP was approved by the Department on 12 August 2014 and is currently being implemented.</p>
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>	Compliant	<p>The Department has reviewed the BMP and found that it meets the requirements of Condition 6. The BMP was approved by the Department on 12 August 2014.</p>

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) 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. e) details of measures to offset the impacts to the MNES described in conditions 3 and 4 including: 	Compliant	<p>The Department has reviewed the BMP and found that it meets the requirements of this Condition 7. The BMP was approved by the Department on 12 August 2014.</p>
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Table 1: Compliance with EPBC 2011/5866 approval conditions

	<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; 		
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Table 1: Compliance with EPBC 2011/5866 approval conditions

	<p>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</p> <p>ix. details of the various parties responsible for management, monitoring and implementing the management activities, including their position or status as a separate contractor.</p>		
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Table 1: Compliance with EPBC 2011/5866 approval conditions

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. 	Compliant	<p>The Department has reviewed the BMP and found that it meets the requirements of this Condition 8. The BMP was approved by the Department on 12 August 2014.</p>
9	<p>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.</p>	Not applicable	<p>No grazing activities were undertaken during the reporting year.</p>
10	<p>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>	Not applicable	<p>During the reporting period HVEC 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>

Table 1: Compliance with EPBC 2011/5866 approval conditions

11	All survey data collected for the project must be collected and recorded so 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.	Compliant	Records of data collected from conservation and offset area surveys during the reporting period are maintained by Mt Arthur Coal. No requests for survey data were made by the Department during the reporting period.
12	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.	Compliant	Refer to 21 May 2014 to 21 May 2015 report.
13	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.	Compliant	Accurate records substantiating all activities associated with or relevant to the conditions of approval are maintained by HVEC. No requests for records of activities were made by the Department during the reporting period.
14	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.	Compliant	HVEC commenced the action on 21 May 2012. This report represents the fourth Annual Compliance Report, covering the period 21 May 2015 to 21 May 2016. This report will be published on BHP Billiton's Regulatory Information website and submitted to the Department by 21 August 2016.

Table 1: Compliance with EPBC 2011/5866 approval conditions

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 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>	Not applicable	<p>HVEC has not undertaken any activities in conservation or offset areas, other than in accordance with the Biodiversity Offset Strategy and BMP as specified in the approval conditions.</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>	Not applicable	<p>No request was received from the Minister to make specified revisions to the Biodiversity Offset Strategy and the Biodiversity Management Plan during the reporting year.</p>

Table 1: Compliance with EPBC 2011/5866 approval conditions

17	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.	Compliant	The BMP is published on the company website http://www.bhpbilliton.com/home/society/regulatory/Pages/default.aspx
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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-	55.7	36.5
Thomas Mitchell Drive Offset Area (off-	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

5.0 New Environmental Risks

No new environmental risks from the Project were identified during the reporting period.

6.0 Declaration of Accuracy

In making this declaration, I am aware that sections 490 and 491 of the *Environment Protection and Biodiversity Conservation Act 1999* (Cth) (EPBC Act) make it an offence in certain circumstances to knowingly provide false or misleading information or documents. The offence is punishable on conviction by imprisonment or a fine, or both. I declare that all the information and documentation supporting this compliance report is true and correct in every particular. I am authorised to bind the approval holder to this declaration and that I have no knowledge of that authorisation being revoked at the time of making this declaration.



Signed:

Full name (please print): Sarah Withell

Position (please print): Head of Business Partnering HSE

Organisation (please print including ABN/ACN if applicable): Hunter Valley Energy Coal Limited (ACN 062894464)

Date: 19 August 2016

Appendix 1: Variation to Conditions Attached to Approval EPBC 2011/5866



Australian Government
Department of the Environment

VARIATION TO CONDITIONS ATTACHED TO APPROVAL

Mt Arthur Coal Extension Project, Muswellbrook, New South Wales (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].
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Variation

Variation of conditions of approval	The variation is: Delete condition 3 and substitute with the condition specified below
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Date of effect	This variation has effect on the date the instrument is signed
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Person authorised to make decision

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



Date of decision

15/1/2016

Condition 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 2016 or another date agreed to in writing by the **Minister**. 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.