



CONSOLIDATED APPROVAL NOTICE

Mt Arther Coal Extension Project, Muswellbrook, New South Wales (EPBC 2011/5866)

The attached notice (Attachment A) is provided to consolidate the approval conditions for the above project, approved on 30 April 2012. The approval conditions were subject to variation at various times during the post approval phase. These decisions are publicly available on the Department's website at <http://epbcnotices.environment.gov.au/referralslist>

The publication of this notice does not alter the dates of: effect for the approval; the variations to conditions; the expiry date of the approval; or any other dates mentioned in conditions. The consolidated approval notice is for ease of reference only.

Name and position

James Barker
Assistant Secretary
Assessments & Governance Branch

Date of Consolidated Approval Notice

23 / 10 / 2017

Mt Arthur Coal Extension Project, Muswellbrook, New South Wales (EPBC 2011/5866)

This decision is made under sections 130(1) and 133 of the *Environment Protection and Biodiversity Conservation Act 1999*.

Proposed action

person to whom the approval is granted

Hunter Valley Energy Coal Limited

proponent's ACN

ACN 062894464

proposed 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]

Approval

| Controlling Provision | Decision |
|---|-----------------|
| Listed threatened species and communities (sections 18 & 18A) | Approved |
| Listed migratory species (sections 20 & 20A) | Approved |

conditions of approval

This approval is subject to the conditions specified below.

expiry date of approval

This approval has effect until 30 June 2022

Decision-maker

name and position

Adrienne Lea
Assistant Secretary
Environment Assessment Branch

signature**SIGNED**

date of decision

30 April 2012

Conditions attached to the approval

Disturbance area.

1. The person taking the action must not clear more than 693.8 ha of the EPBC-listed White Box-Yellow Box-Blakelys 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 1).
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 (shown in Appendix 1). 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**.

Biodiversity Offset Strategy

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 30 December 2017. 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.

4. 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 1, as described in the **Preliminary Documentation** within 1 year of commencement of construction.

Table 1 Proposed Mt Arthur Coal Complex Biodiversity Offset Strategy

| Offset/Conservation area | Offset type and minimus size (ha) | |
|---|-----------------------------------|-------------------------------|
| | EPBC-listed Box Gum Woodland | Habitat for EPBC listed birds |
| Existing remnant vegetation | | |
| Mt Arther Conservation Area | 67 | 74 |
| Saddlers Creek Conservation Area | 87.1 | 51.2 |
| Thomas Mitchell drive Offset Area (on-site) | 55.7 | 36.5 |
| Thomas Mitch 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 ¹ | | 1415 |
| Total | | 1915 |

¹ A Breakdown into separate management areas are provided in the definitions

Biodiversity Management Plan

5. The person taking the action must submit for the **Ministers** 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 1 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.
6. 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.
7. The BMP must include, but not be limited to, the following information:
 - 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**:
 - 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/Blakelys Red Gum Grassy Woodland and Derived Native Grassland Ecological Community; and 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:
 - 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 BoxYellow BoxBlakelys 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, monitoring and implementing the management activities, including their position or status as a separate contractor.
8. 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:
- 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
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.
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 **Ministers** 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**.

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.
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.
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 **Departments** website. The results of audits may also be publicised through the general media.
14. Within three (3) months of the end of each Financial Year (30 June – 1 July) after the **commencement** of the action, the person taking the action must publish a report on their website addressing compliance with the conditions of this approval, including implementation of any management plans and strategies as specified in the conditions. Documentary evidence providing proof of the date of publication and non-compliance with any conditions of this approval must be provided to the **Department** at the same time as the compliance report is published. Reports must remain on the website for the period this approval has effect. The approval holder may cease preparing and publishing compliance reports required by this condition with written agreement of the **Minister** to do so.
15. 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 **Ministers** 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.
16. 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 **Ministers** 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.

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.

Definitions

Clearance of Native vegetation

The cutting down, felling, thinning, logging, removing, killing, destroying, poisoning, ringbarking, uprooting or burning of native vegetation.

Commencement

The commencement is defined by the first clearing of any vegetation or construction of any infrastructure associated with the proposed action.

Conservation and Offsets Area

Described in the Preliminary Documentation submitted by Hunter Valley Energy Coal as measures to offset impact to MNES and defined conceptually in Figures 5, 6 and 7 of that document.

Construction

Includes any preparatory works required to be undertaken including clearing vegetation, the erection of any onsite temporary structures and the use of heavy duty equipment for the purpose of breaking the ground for buildings or infrastructure.

Department

The Australian Government Department administering the Environment Protection and Biodiversity Conservation Act 1999.

Minister

The Minister administering the Environment Protection and Biodiversity Conservation Act 1999 and includes a delegate of the Minister.

MNES (Matters of National Environmental Significance)

Matters protected by a provision of Part 3 of the EPBC Act and described in section 34.

Preliminary Documentation

Preliminary documentation means:

- The referral EPBC 2011/5866 prepared by David Robertson of Cumberland Ecology and submitted to the Department of Sustainability, Environment, Water, Population and Communities by on the 1 March 2011 on behalf of Hunter Valley Energy Coal P/L. The referral should include all the following references or attachments that were provided with the original referral including:
 - Cumberland Ecology (2010), Mt Arthur Flora and Fauna Monitoring Program draft ecological monitoring report
 - Cumberland Ecology (2009), Mt Arthur 2009 Flora and Fauna Monitoring Program ecological monitoring report
 - Cumberland Ecology (2009), Mt Arthur 2008 Flora and Fauna Monitoring Program ecological monitoring report
 - Dames and Moore (2000), Mt Arthur North Coal Project Flora and Fauna Report

- Umwelt Environmental Consultants (2003), Mt Arthur Coal ecological monitoring report
- Umwelt Environmental Consultants (2005), Mt Arthur Coal 2004 ecological monitoring report
- Umwelt Environmental Consultants (2006), Mt Arthur Coal 2005 ecological monitoring report
- Umwelt Environmental Consultants (2006), Mt Arthur Coal ecological assessment proposed south pit extension
- Umwelt Environmental Consultants (2007), Mt Arthur Coal 2006 ecological monitoring report
- Cumberland Ecology (2009) Mt Arthur Coal Consolidated Project ecological assessment
- Material provided to the department in response to the request for further information on 5 July 2011, Umwelt Environmental Consultants, (Dec 2011) Preliminary Documentation for DSEWPaC

Proposed Action Areas

Those areas referred by Hunter Valley Energy Coal for consideration under the EPBC Act and described as the Proposed Action Areas in the Preliminary Documentation.

Offset attributes

Mean an .xls file capturing relevant attributes of the Offset Area, including the EPBC reference ID number, the physical address of the offset site, coordinates of the boundary points in decimal degrees, the EPBC protected matters that the offset compensates for, any additional EPBC protected matters that are benefiting from the offset, and the size of the offset in hectares.

Shapefile

Means an ESRI Shapefile containing .shp, .shx and .dbf files and other files capturing attributes of the Offset Area, including the shape, EPBC reference ID number and EPBC protected matters present at the relevant site. Attributes should also be captured in .xls format.

Regeneration Area

Described in the Preliminary Documentation submitted by Hunter Valley Energy Coal as a measure to offset impact to MNES and defined as a 500 ha area to be regenerated to natural woodland and forests.

Rehabilitation Corridors

Described in the Preliminary Documentation submitted by Hunter Valley Energy Coal as a measure to offset impact to MNES and defined as 1415 ha Rehabilitation Corridors to be regenerated to natural woodland and forests as follows:

- Woodland corridors (1005 ha)
- Edderton Road revegetation area (154 ha)
- Regeneration corridors (45 ha)
- Rehabilitation areas (211 ha)

Remnant vegetation

Any native vegetation that is not regrowth.

Appendices

| | |
|-------------|--|
| Appendix 1 | Proposed action areas as referred to the department on 1 March 2012 and shown in Figure 3 of the referral documentation submitted by Hunter Valley Energy Coal on 1 March 2011. |
| Appendix 2a | Conservation and offset areas onsite or adjacent to the Mt Arthur Coal Mine Complex shown conceptually in Figures 5 (Appendix 2a(i)) and 6 (Appendix 2a(ii)) of the Preliminary Documentation. |
| Appendix 2b | Middle Deep Creek Offset Area located approximately 60 km from the Mt Arthur Coal Mine Complex and shown conceptually in Figure 7 of the Preliminary Documentation. |

