



Australian Government

Department of Sustainability, Environment, Water, Population and Communities

Approval

Werris Creek Life of Mine Extension Project, NSW (EPBC 2010/5571)

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 Whitehaven Coal Ltd

proponent's ABN ACN 124 425 396

proposed action To extend existing open cut mining operations and associated infrastructure at the Werris Creek Coal Mine, near Werris Creek New South Wales (see EPBC Act referral 2010/5571).

Approval decision

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

conditions of approval

This approval is subject to the conditions specified below.

expiry date of approval

This approval has effect until 31 December 2032

Decision-maker

name and position David Calvert
A/g Assistant Secretary
Environment Assessment Branch

signature

date of decision 21 December 2011

Conditions attached to the approval

1. To offset the impact to the White Box-Yellow Box-Blakely's Red Gum Grassy Woodland and Derived Native Grassland Ecological Community and foraging habitat of the Regent Honeyeater and Swift Parrot the person taking the action must register a legally binding conservation mechanism over the Werris Creek Life of Mine (LOM) Extension Project Biodiversity Offset Strategy (BOS) sites identified in the map at Appendix 1 and an additional area of at least 74 hectares of White Box-Yellow Box-Blakely's Red Gum Grassy Woodland and Derived Native Grassland Ecological Community (together, the Offset Areas). The mechanism/s must provide enduring protection for the offset area and be registered within 2 years of the date of this approval.
2. To offset the impacts to the White Box-Yellow Box-Blakely's Red Gum Grassy Woodland and Derived Native Grassland Ecological Community, Regent Honeyeater and Swift Parrot, the person taking the action must submit to the **Minister** for approval an Offset Management Plan for all of the Offset Areas within 12 months of the date of this approval. The Offset Management Plan must be implemented.

The Offset Management Plan must include, at a minimum, the following information:

- a. a textual description and map to clearly define the location and boundaries of all of the Offset Areas). This must be accompanied with the **offset attributes** and a **shapefile**.
- b. details of management actions to protect and enhance the extent and condition of habitat values of the offset areas including but not limited to rehabilitation, weed control, fire management, erosion and sediment control, management of livestock and restrictions on access of no less than:
 - i. 310.2 hectares of habitat for the Regent Honeyeater and Swift Parrot; and
 - ii. 731 hectares of White Box—Yellow Box—Blakely's Red Gum Grassy Woodland and Derived Native Grassland Ecological Community;
- c. the timing, responsibilities and performance criteria for management actions;
- d. a monitoring plan including the undertaking of ecological surveys by a qualified ecologist to assess the success of the management actions against identified milestones and objectives;
- e. a process to report, to the **department**, the management actions undertaken in the offset areas and the outcome of those actions, including identifying any need for improved management;
- f. a description of the potential risks to successful management and rehabilitation in the offset areas, and a description of the contingency measures that would be implemented to mitigate these risks; and
- g. details of parties responsible for management, monitoring and implementing the plan, including their position or status as a separate contractor.

Note: For clarity, the offset areas specified in condition 2 can accommodate offset requirements for more than one species habitat within the one area, if suitable habitat is verified as present and includes specific habitat requirements for the relevant species.

3. Within 14 days from the **commencement of construction** the person taking the action must advise the **department** in writing of the actual date of **commencement of construction**.
4. Within three months of every 12 month anniversary of the **commencement of construction**, 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 any management plans 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.

5. Upon the direction of the **Minister**, the person taking the action must ensure that an independent audit of compliance with the conditions of approval is conducted and a report submitted to the **Minister**. The independent auditor must be approved by the **Minister** prior to the commencement of the audit. Audit criteria must be agreed to by the **Minister** and the audit report must address the criteria to the satisfaction of the **Minister**.
6. If the person taking the action wishes to carry out any activity otherwise than in accordance with the 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 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 management plan, unless the revised plan would result in an equivalent or improved environmental outcome. If the **Minister** approves the revised plan, that management plan must be implemented in place of the management plan originally approved.
7. If the **Minister** believes that it is necessary or convenient for the better protection of listed threatened species and communities to do so, the **Minister** may request that the person taking the action make specified revisions to the plan referred to in condition 2 and submit the revised plan. The person taking the action must comply with any such request. The revised plan must be implemented. Unless the **Minister** has approved the revised plan then the person taking the action must continue to implement the original plan.
8. If, at any time after 5 years from the date of this approval, the person taking the action has not **substantially commenced** the action, then the person taking the action must not **substantially commence** the action without the written agreement of the **Minister**.
9. The person taking the action must maintain accurate records substantiating all activities and outcomes associated with or relevant to the above conditions of approval, including measures taken to implement the management plans required by this approval, and make them available upon request to the **department**.
10. 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.
11. 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.

Note: To avoid doubt, if a condition of a State (NSW) approval, held by the person taking the action, requires a plan relating to EPBC-listed species or communities, the person taking the action may simultaneously meet the relevant requirements of these conditions by submitting a single plan to both agencies.

Definitions

Department - the Australian Government Department responsible for 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

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.

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.

Commencement of construction- means 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 mining, buildings or infrastructure.

Substantially commence the action – means the extraction of coal from the Werris Creek Life of Mine Extension Project for the purpose of commercial production. Substantial commencement does not include test extraction or extraction of coal samples for quality assurance.

Appendix 1 – Proposed Werris Creek LOM Extension Project BOS sites



