

APPROVAL

Russell Vale Colliery mining of 400 m of Longwall 6, Wollongong, NSW (EPBC 2014/7259)

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	Wollongong Coal Limited
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proponent's ACN	ACN 111 244 896
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proposed action	To mine 400 metres of longwall 6, in the Wonga East domain of the Russell Vale Colliery, located ~8 kilometres north of Wollongong in the Southern Coalfield of New South Wales [See EPBC Act referral 2014/7259].
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Approval

Controlling Provision	Decision
Listed threatened species and communities (sections 18 & 18A)	Approved with conditions
Water resources/trigger (section 24D & 24E)	Approved with conditions

conditions of approval

This approval is subject to the conditions specified below.

expiry date of approval

This approval has effect until 26 November 2045.

Decision-maker

name and position	James Tregurtha Assistant Secretary South-Eastern Australia Environment Assessments
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signature	
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date of decision	24 DECEMBER 2014
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Conditions attached to the approval

Impacts

1. The **approval holder** must only mine the western-most 365 m of the **action**.
2. The **approval holder** must not **clear** any **Matters of National Environmental Significance** or suitable **habitat** for **Matters of National Environmental Significance** when taking the **action**.
3. To reduce the **impacts** to Cataract Creek, the **approval holder** must stop mining if valley closure exceeds 150 mm in Cataract Creek, unless otherwise agreed by the **Minister** that adverse impacts to Cataract Creek have not occurred.
4. To reduce the **impacts** on Littlejohn's Tree Frog and Giant Burrowing Frog, the **approval holder** must implement best practice hygiene protocol(s) for control of diseases in frogs, to prevent the transfer of pathogens, including Chytrid fungus and Chytridiomycosis, and reduce the risk of introduction and spread of disease. Best practice hygiene protocol(s) for control of diseases in frogs must be consistent with the most recent version of relevant guidelines on hygiene protocols for control of diseases in frogs, such as the Hygiene protocol for control of diseases in frog (NSW Department of Environment and Climate Change, 2008).
5. The **approval holder** must ensure that surface subsidence generated by the **action**, within 30 metres of the boundaries of Coastal Upland Swamps in the Sydney Basin Bioregion (Coastal Upland Swamps) CCUS3, CCUS5 and CCUS23 (as mapped in [Appendix 1](#)), does not exceed the subsidence **limits** in Table 1, unless otherwise agreed in writing by the **Minister** based on demonstration by the **approval holder** of no adverse **impacts** to CCUS3, CCUS5 and CCUS23. The **approval holder** must ensure and demonstrate that the monitoring required by Condition 12 is adequate to verify compliance with this Condition.

Table 1 Subsidence limits

Swamp	Subsidence (mm)	Tilt (mm/m)	Strain (mm/m)
CCUS3	50	0	0
CCUS5	50	0	0
CCUS23	50	0	0

Offsets

6. Within one month of **commencement** of the **action**, the **approval holder** must submit to the **Minister** for approval, an Offset Strategy to compensate for **impacts** to Coastal Upland Swamps, Giant Burrowing Frog, Littlejohn's Tree Frog and Macquarie Perch. The Offset Strategy must:
 - a) identify **offsets** that are consistent with the **EPBC Act Environmental Offsets Policy**, as confirmed in writing by the **Department**, to offset (in hectares) CCUS4 and CRUS1 and all known or potential **habitat** for Giant Burrowing Frog, Littlejohn's Tree Frog and Macquarie Perch in the **project area**;

- b) contain **offsets** for Coastal Upland Swamps of area equal to or bigger than CRUS1, and swamps of equal diversity to CCUS4;
 - c) contain **offsets** for Macquarie Perch which must include likely breeding **habitat**;
 - d) demonstrate that the **offsets** can be legally secured, under a registered, legally binding conservation mechanism that prohibits any activity which is not a conservation activity;
 - e) provide the **offset attributes** (including maps in electronic Geographic Information System (GIS) format with accompanying **shapefiles**), site descriptions, environmental values relevant to **MNES** being **offset**, connectivity with other **habitat** and biodiversity corridors;
 - f) include qualitative descriptions and, where possible, quantitative surveys of any proposed **offset areas**;
 - g) include a summary of management actions to be undertaken within **offset areas**, that can be demonstrated to maintain and improve **habitat** and/or **ecological characteristics** for **MNES**; and
 - h) be prepared by a **suitably qualified ecologist**.
7. The Offset Strategy must be implemented.
8. Within 6 months of the date that the **Minister** approves the Offset Strategy required by Condition 6, the **approval holder** must submit an Offset Management Plan (OMP) to the **Minister** for approval. The OMP must be prepared by a **suitably qualified ecologist/expert**. The OMP must include:
- a) Confirmation or update of the content of the approved Offset Strategy based on addressing the requirements of this condition, including that the **offsets** remain consistent with the **EPBC Act Environmental Offsets Policy**, as confirmed in writing by the **Department**;
 - b) baseline information, which must include but not be limited to:
 - i. quantitative surveys to clearly identify **baseline** conditions;
 - ii. a **baseline** description (prior to any management activities) of the current condition of the vegetation and/or **ecological characteristics** of each **offset area**, including the location of survey points (GPS reference);
 - iii. the **quality** of the **offset** for the relevant **MNES** found within the **offset area**;
 - iv. vegetation condition mapping; and
 - v. photo reference points/survey.
 - c) details of conservation and management measures to be undertaken to maintain and improve **habitat** and/or **ecological characteristics** within the **offset areas**, including, but not limited to:
 - i. measures consistent with **threat abatement plans**;
 - ii. management actions for each **offset area** and details of methods to be used;

- iii. timing of management activity for each **offset area**;
 - iv. performance measures/indicators for each **offset area**;
 - v. a monitoring plan to assess the effectiveness of the management activities measured against the **baseline** condition. This must include, but not be limited to, control sites and seasonal annual ecological surveys to be undertaken by a **suitably qualified ecologist**;
 - vi. a risk assessment and a description of the contingency measures that would be implemented to mitigate these risks;
 - vii. details of the various parties responsible for the management, monitoring and implementing the management activities, including their experience and qualifications and employment or engagement status; and
 - viii. details of qualifications and experience of persons responsible for undertaking monitoring, review, and implementation of the OMP, including the role of the **suitably qualified ecologist** in preparing, reviewing, and implementation of the OMP.
- d) a financial costing, which includes an annual schedule of the costs to undertake all activities required by the OMP, for the life of the **approval**; and
- a) details of the qualifications and experience of persons responsible for undertaking monitoring, review, and implementation of the OMP, including the role of the **suitably qualified expert** in monitoring, reviewing, implementation of the OMP.
9. The **approval holder** must:
- a) implement the approved OMP within 12 months of **commencement** of the **action**;
 - b) make the approved OMP publicly available on the **approval holder's** website within 5 days of receiving advice of the OMP's approval from the **Department**;
 - c) make all monitoring results publicly available on the **approval holder's** website within 2 months of the monitoring event; and
 - d) for the life of the **approval**, keep all **documents** referred to in condition 9b) and 9c) and publish them on its **website**.
10. Where identified potential offsets are under the control of the **approval holder**, the **approval holder** must prohibit any activities which are not conservation activities, including **future mining** from occurring in the **offsets**.
11. The **offsets** required by Condition 6 and 8 must be managed in accordance with the approved OMP until the **approval holder** can demonstrate, to the **Minister's** satisfaction, **negligible environmental consequences to Coastal Upland Swamps CRUS1 and CCUS4** (as mapped in Appendix 1) and **negligible environmental consequences to Macquarie Perch, Littlejohn's Tree Frog and Giant Burrowing Frog habitat** in the project area as a result of the **action**.

Monitoring of impacts

12. In order to demonstrate that only **negligible environmental consequences** have occurred, in order to meet the requirements of Conditions 11 and 15, the **approval holder** must undertake a monitoring program of all potential short and **long-term impacts** to **MNES** from the **action**, including the nature, extent, area and location of **impacts**. The monitoring program must:
 - a) include **baseline data**, **baseline ecological characteristics** and monitoring methods;
 - b) be undertaken by a **suitably qualified ecologist/expert**;
 - c) be undertaken for a sufficient period of time and at sufficient frequency and intensity, as certified by an **independent expert**, to ascertain the natural variability of the **MNES** monitored and to verify compliance with Conditions 11 and 15;
 - d) be submitted to the **Minister** for approval prior to **commencement**.
 - e) The **approval holder** must not **commence** until the monitoring program is approved by the **Minister**; and
 - f) be made publicly available on the **approval holder's website** within 5 days of its approval by the **Minister** and remain on the **approval holder's website** for the life of the **approval**.
13. Within 3 months of approval of the monitoring program required by Condition 12 (above), the approval holder must ensure the monitoring program is reviewed and certified by a second **independent expert**, who must verify in writing to the Department that the proposed monitoring program is adequate to detect any **impacts** in Condition 11 and 15. As a result of this review, the Minister may require amendments to the monitoring program. These amendments must be implemented within 3 months of this advice being provided.
14. The **approval holder** must:
 - a) implement the approved monitoring program required by Condition 12, commencing its implementation within two months of its approval by the **Minister**;
 - b) have all monitoring results reviewed by a **suitably qualified ecologist/expert**;
 - c) report the results of the program to the **Minister** annually for the life of the **approval**; and
 - d) make the monitoring program's results publicly available on the **approval holder's website** within 5 days of their provision to the **Minister**;
 - e) must remain on the **approval holder's website** for the life of the **approval**.

15. If at any time during the life of the approval, the **approval holder** cannot demonstrate **negligible environmental consequences to Coastal Upland Swamps, Macquarie Perch, Littlejohn's Tree Frog and Giant Burrowing Frog habitat**, in accordance with Conditions 11 and 12, the **approval holder** must, within 6 months of that time, register a legally binding conservation mechanism to provide long-term protection to the **offsets**, as approved by the **Minister**. The legal mechanism must prohibit any activities which are not conservation activities, including **future mining** from occurring in the **offsets**.
16. If the **approval holder** can demonstrate in accordance with the requirements of Conditions 12 that only **minor environmental consequences to Coastal Upland Swamps, Macquarie Perch, Littlejohn's Tree Frog and Giant Burrowing Frog habitat**, a reduced **offset** requirement, as agreed by the **Minister**, may be permitted.
17. The **approval holder** must publish the management plans required by Condition 11, 29 and 35-37 of the **NSW Government Consolidated Condition of Approval for Application 10_0046** on its **website**. These plans must remain on the **approval holder's website** for the life of the **approval**.

General

18. If **MNES** not previously identified and reported to the **Department**, are found in the **project area**, the **approval holder** must notify the **Department** in writing within five business days of finding the **MNES**, and within a further 30 business days, the **approval holder** must outline in writing how **impacts** to these **MNES** will be avoided, mitigated and/or **offset**.
19. 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**.
20. The **approval holder** must notify the **Department** in writing of potential non-compliance with any Condition of this **approval** as soon as practical and within no later than two business days of becoming aware of the non-compliance. The notice provided to the **Department** under this condition must specify:
 - a) the condition which the **approval holder** has potentially breached;
 - b) the nature of the non-compliance; and
 - c) when and how the **approval holder** became aware of the non-compliance.
21. Further to providing any such notice, the approval holder must provide the following information within 14 business days of becoming aware of a potential non-compliance:
 - d) how the non-compliance will affect the anticipated impacts of the **approved action**, in particular how the non-compliance will affect the impacts on the **MNES** and/or their **habitat**;
 - e) the measures the **approval holder** will take to address the **impacts** of the non-compliance on the **MNES** and rectify the non-compliance; and
 - f) the time by when the **approval holder** will rectify the non-compliance.

22. Within three months of every 12 month anniversary of the **commencement** of the **action**, the **approval holder** must publish a compliance report on its **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 must be included in the published **compliance report**. The **compliance report** must remain on the **website** for the duration of project **approval**. Reports of any non-compliance must also be included in the annual **compliance report**.
23. The **approval holder** must maintain accurate **records** substantiating all activities associated with or relevant to the conditions of **approval**, including measures taken to implement the management plan, monitoring or strategy required by this **approval**, and make them available upon request to the **Department**. Such **compliance reports** 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.
24. Upon the direction of the **Minister**, the **approval holder** must ensure that an independent audit of compliance with the conditions of **approval** is conducted and a report submitted to the **Minister**. The audit must not commence unless and until the **Minister** has approved the independent auditor and audit criteria. The audit report must address the criteria to the satisfaction of the **Minister**.
25. If the **approval holder** wishes to carry out any activity otherwise than in accordance with a management plan, monitoring or strategy as specified in the conditions, the **approval holder** must submit to the **Department** for the **Minister's** written approval a revised version of that management plan, monitoring or strategy. The varied activity must not commence until the **Minister** has approved the varied management plan, monitoring or strategy in writing. If the **Minister** approves the revised management plan, monitoring or strategy that management plan, monitoring or strategy must be implemented in place of the management plan, monitoring or strategy originally approved.
- Note: The **Minister** will not approve a varied management plan, monitoring or strategy unless the revised management plan, monitoring or strategy would result in an equivalent or improved environmental outcome over time.
26. If the **Minister** believes that it is necessary or convenient for the better protection of **MNES** to do so, the **Minister** may request that the **approval holder** make specified revisions to a management plan, monitoring or strategy required by the conditions and submit the revised management plan, monitoring or strategy for the **Minister's** written approval. The **approval holder** must comply with any such request. The revised management plan, monitoring or strategy must be implemented. Until the **Minister** has approved a revised management plan, monitoring or strategy, the **approval holder** must continue to implement the previously approved management plan, monitoring or strategy, as specified in the conditions.
27. If, at any time after five years from the date of this **approval**, the **approval holder** has not **substantially commenced** the **action**, then the **approval holder** must not **substantially commence** the **action** without the written agreement of the **Minister**.
28. The **approval holder** must notify the **Department** within 5 business days of publishing the **management plans**, strategy and monitoring data on their **website** and management plan, monitoring or strategy must remain on the website for the period this approval has effect.

Definitions

In these conditions, unless contrary intention is expressed:

- a) the singular includes the plural and vice versa, and a gender includes other genders;
- b) another grammatical form of a defined word or expression has a corresponding meaning;
- c) the meaning of general words is not limited by specific examples introduced by 'for example' or similar expressions;
- d) a reference to a condition or annexure is a reference to a condition of or annexure to, the **approval**;
- e) a reference to AUD, A\$, \$A, dollar or \$ is to Australian currency; and
- f) a reference to time is to the time in the place where the obligation is to be performed.

Action is the longwall mining of the western-most 400 m of longwall 6, in the Wonga East domain of the Russell Vale Colliery, located ~8 kilometres north of Wollongong in the Southern Coalfield of New South Wales within the area designated as 'proposed action boundary' in the map at Appendix 1.

Approval means the approval to take the **action** under section 133 of the Commonwealth EPBC Act.

Approval holder means the person to whom the **approval** is granted, or any person acting on their behalf, or to whom the **approval** is transferred under section 145B of the Commonwealth EPBC Act.

Baseline/baseline data means a **baseline photo survey** and data gathered in the **project area**, as well as in the **offset area/s** and **reference site/s**, prior to the **commencement** of the **action**.

Baseline photo survey means a comprehensive visual and photographic survey of Coastal Upland Swamps CCUS4, CRUS1, CCUS3, CCUS5 and CCUS23 and the Cataract River, including all tributaries in or adjacent to the **project area**.

Clear includes the cutting down, felling, thinning, logging, removing, poisoning, grubbing, ringbarking or burning of **native vegetation**.

Commencement means, in relation to the **approved action**, the **commencement** of any works required to be undertaken for the purposes of carrying out coal mining operations, including preparatory works. This does not include:

- any land management procedures, such as fire or weed management, to protect listed threatened species and/or ecological communities and **water resources**; and
- negligible physical disturbance necessary to undertake pre-disturbance surveys, preparatory studies or establish monitoring programs.

Compliance report/s means all **records** prepared in relation to these Conditions and in the **approval holder's** possession or that is within the **approval holder's** power to obtain lawfully.

Department means the Australian Government Department administering the Commonwealth **EPBC Act**.

Documents means documents required to be prepared or provided to the **Department** and implemented by the **approval holder** in accordance with these Conditions.

Ecological characteristics means the quantity, timing, and quality of water flows and **hydrogeological unit/s** required to sustain the **natural flow conditions of water resources**.

EPBC Act means the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999*.

EPBC Act Environmental Offsets Policy means the *Environment Protection and Biodiversity Conservation Act 1999 Environmental Offsets Policy (October 2012)* or subsequent revisions.

Future mining means any mining not covered under this **approval**.

Groundwater means groundwater within and adjacent to the **project area**, including within the Cataract Catchment and connected to or surrounding groundwater outside **project area**, including but not limited to the alluvial, perched and sedimentary aquifers which overlie the Sydney Basin.

Groundwater-dependent ecosystems are aquatic and terrestrial ecosystems that are dependent on the water resource, such as Coastal Upland Swamps, including those dependent upon the particular geomorphology of a water resource and ecosystems that are dependent on springs and **groundwater**, including the relevant source **hydrogeological unit**.

Habitat means areas in which a **MNES** are known to occur or thought to be likely to occur based on the biophysical conditions prevailing in the area and the ecological requirements of the **MNES**.

Hydrogeological unit means one or more geologic units which have similar hydrogeological characteristics and behaviour.

Independent expert/s means a real person who must be approved by the **Department**, and who is independent, is not an employee of the **approval holder**, and who has relevant tertiary qualifications and a minimum of five years demonstrated experience relevant to undertake a review of a management plan, strategy or monitoring program.

Impact has the definition assigned to it in section 527E of the Commonwealth **EPBC Act**. For **impacts to water resources**, this includes but is not limited to changes to **ecological characteristics** and temporal availability of relevant **water resources**.

Long-term means no less than 20 years.

Matters of National Environmental Significance (MNES) means matters of National Environmental Significance, being the relevant matters protected under Part 3 of the Commonwealth **EPBC Act**, including **water resources** (section 24D and 24E) and threatened species listed and communities (sections 18 and 18A), including Coastal Upland Swamps in the Sydney Basin Bioregion, Giant Burrowing Frog (*Heleioporus australiacus*), Littlejohn's Tree Frog (*Litoria littlejohni*) and Macquarie Perch (*Macquaria australasica*).

Minister means the Minister responsible for administering the **EPBC Act** including any delegate of the **Minister**.

Minor environmental consequences means:

- Negligible erosion of the surface of the swamps;
- Minor changes in the size of the swamps;
- Minor changes in the ecosystem functionality of the swamp;
- No significant change to the composition or distribution of species within the swamp; and
- Maintenance or restoration of the structural integrity of controlling rockbars

Native vegetation means indigenous vegetation, including trees (including any sapling, shrub and scrub), understorey plants, groundcover (being any type of herbaceous vegetation), epiphytes, and plants occurring in a wetland or swamp.

Natural flow conditions mean the frequency, amplitude and duration of flows under normal conditions, i.e. not under dry conditions when flows reduce.

Negligible environmental consequences to Coastal Upland Swamps means:

- **negligible** erosion of the surface of CRUS1 and CCUS4;
- **negligible** changes in the size of CRUS1 and CCUS4;
- **negligible** changes in the biophysical conditions and ecosystem function of CRUS1 and CCUS4;
- **negligible** change in the composition or distribution of the species within CRUS1 and CCUS4;
- **negligible** change to the hydrology, including water quality and quantity of CRUS1 and CCUS4 and associated aquifers; and
- maintenance of the structural integrity of controlling rock bars of CCUS4.

Negligible environmental consequences to Macquarie Perch, Littlejohn's Tree Frog and Giant Burrowing Frog habitat means:

- **negligible** changes to amount of **habitat** and **ecological characteristics**; and
- **negligible** changes in the biophysical conditions and ecosystem function of the **habitat**.

Negligible means so small or unimportant as to be not worth considering; insignificant, or as determined by the **Minister**.

NSW Government Consolidated Condition of Approval for Application 10_0046 means the NSW Government Project Approval for MOD2.

Offset attributes means 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.

Offset area/Offset means an area of land or water on which an offset activity will occur, to compensate for the residual adverse **impacts** of an approved **action** on **MNES**.

Project area is the area designated as the 'Longwall 6 600 m buffer' in the map at Appendix 1.

Quality - 'site condition', 'site context', and 'species stocking rate', as described in the **Department's** *How to use the Offsets Assessment Guide*.

Records means all **documents** or other material in whatever form, including, without limitation, any correspondence, reports, assessments, methodologies, operations manuals, specifications, training materials and instructions or data relating to the **approved action**.

Reference site means a site other than the **project area** which is similar to the **project area** and is largely undisturbed. Unless otherwise approved by the **Minister**, **reference sites** must:

- a) have the same vegetation types and similar **ecological characteristics** to the test sites in the **project area**;
- b) be from the same bio-geographic and climatic regions as the **project area**;
- c) have similar geology, soil type and topography to the **project area**; and
- d) not be so close to the test sites in the **project area** that any disturbance at the test site also results in a change at the **reference site**.

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.

Substantially commenced means a stage in the project when coal is being extracted.

Suitably qualified ecologist/expert means a real person with tertiary qualifications and a minimum of five years demonstrated experience relevant to the task in question.

Surface water means surface waters within and adjacent to the **project area**, including within the Cataract Catchment and connected or surrounding waterways downstream or any releases or overflows from the **project area**.

Threat abatement plans means the [Threat Abatement Plan for infection of amphibians with chytrid fungus resulting in chytridiomycosis](#), the [Threat Abatement Plan for predation by the European red fox](#) and the [Threat Abatement Plan for predation by feral cats](#).

Water resources has the same meaning as the *Water Act 2007* including but not limited to water related-assets, such as, **surface water**, **groundwater** and surface and **groundwater-dependent ecosystems**.

Website means the Wollongong Coal Limited website <http://wollongongcoal.com.au>.

