



Australian Government
Department of the Environment

Approval

Bulga Coal Optimisation Project, Upper Hunter Valley, NSW (2012/6637).

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

Bulga Coal Management Pty Limited

proponent's ACN

055 534 391

proposed action

To extend existing open cut mining operations in the Bulga Coal Complex located 12km southwest of Singleton, between Bulga and Broke in the Upper Hunter Valley, NSW (EPBC Act referral 2012/6637).

Approval decision

Controlling Provision	Decision
Listed threatened species and communities (ss 18 & 18A)	Approve
Commonwealth Land (ss26 & 27A)	Approve
Migratory Species (ss20 & 20A)	Approve
Water Resources (s24D & 24E)	Approve

Conditions of approval

This approval is subject to the conditions specified below.

Expiry date of approval

This approval has effect until 31 December 2036

Decision-maker

name and position

Mahani Taylor
Acting Assistant Secretary
South-Eastern Australia Environment Assessments

Signature

date of decision

9 May 2014

Conditions attached to the approval:

1. The **approval holder** must not clear more than 611ha of native woodland vegetation.
2. To compensate for the loss of approximately 557ha of Regent Honeyeater, Swift Parrot and Grey Headed Flying Fox habitat, 611ha of Large-eared Pied Bat habitat and approximately 65 Slatey Red Gum trees, the **approval holder** must provide for the protection of offset lands identified in the maps at Schedule 1 of this notice as:

- Reedy Valley Offset Site;
- Wollombi Brook Conservation Area;
- Broke Road Offset Site.

These offset lands must meet the requirements of the EPBC Offsets Policy and provide for the protection of threatened species habitat on these sites for the duration of the action's impact through a legally binding **conservation covenant** which must be in force within 3 years of the **commencement of the action**.

Written evidence of compliance against this condition must be provided to the **Department** prior to the **commencement of the action** including evidence that action is being taken to put in place a suitable legally binding **conservation covenant**.

3. The **approval holder** must submit for the **Minister's** approval a Biodiversity Management Plan (BMP) which provides for the offsetting of residual impacts to matters of national environmental significance including but not limited to:
 - Regent Honeyeater;
 - Swift Parrot;
 - Large-eared Pied Bat;
 - Slatey Red Gum.

The BMP must include:

- a. management actions designed to improve the ecological quality of habitat for the above species on offset lands identified in Condition 2 and protect these sites from ecological degradation for the duration of the action's impact on matters of national environmental significance;
- b. an ecological monitoring program to monitor the success of the management actions in the BMP and define measurable targets of management actions, performance indicators, and an adaptive management framework for the duration of the action's impact on habitat for matters of national environmental significance. Management actions prescribed by the BMP must be clear, measurable, auditable and time bound;
- c. clear objectives and performance indicators as well as corrective actions for circumstances where a management action fails to meet its prescribed objective or performance indicator.

The BMP must be approved in writing by the **Minister** within 3 months of approval of the action. The approved BMP must be implemented and must be published on the **approval holder's** website within one month of approval of the BMP and remain published on this website for the duration of the action.

4. The **approval holder** must submit for the **Minister's** approval a Water Management Plan (WMP) which provides for the avoidance, mitigation and offsetting of residual impacts to water resources. The WMP must include:
 - a. management actions, mitigation measures and practices designed to limit impacts of the proposal on surface and ground water resources;
 - b. surface and groundwater monitoring programs to monitor the success of the management actions in the WMP and define measurable targets of management actions, performance indicators, and an adaptive management framework for the duration of the action's impact on water resources. Management actions, mitigation measures and practices prescribed by the plan must be clear, measurable, auditable and time bound;
 - c. clear objectives and performance indicators, as well as corrective actions for circumstances where a management action, mitigation measure or practice fails to meet its prescribed objective or performance indicator.

The WMP must be approved in writing by the **Minister** within 3 months of approval of the action. The approved WMP must be implemented and must be published on the **approval holder's** website within one month of approval of the WMP and remain published on this website for the duration of the action.

5. The **approval holder** must provide written evidence and detailed documentation relating to the **conservation covenant** specified in Condition 2 to the **Department** within one month of the **conservation covenant** coming into force. This must include **offset attributes**, **shapefiles** and textual descriptions and maps to clearly define the location and boundaries of the offset sites.
6. Unless otherwise agreed to in writing by the **Minister**, the **approval holder** must provide the approved plans referred to in these conditions of approval to members of the public upon request. Copies must be provided within 14 days of the request.
7. Within 30 days after the **commencement of the action**, the **approval holder** must advise the **Department** in writing of the actual date of **commencement of the action**.
8. The **approval holder** must maintain accurate records substantiating all activities associated with or relevant to these conditions of approval, including measures taken to implement the management plans, 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 published on the **Department's** website. The results of audits may also be publicised through the general media.
9. Within three months of every 12 month anniversary of the **commencement of the action**, the **approval holder** must publish a report on their website addressing compliance with each of the conditions of this approval including implementation of the management plans. Documentary evidence providing proof of the date of publication must be provided to the **Department** at the same time as the compliance report is published. Non-compliance with any of the conditions of this approval must be reported to the **Department** at the same time as the compliance report is published. Potential or actual contraventions of the conditions of the approval must be reported to the **Department** in writing within 2 business days of the

person taking the action becoming aware of the actual or potential contravention. All contraventions must also be included in the annual compliance reports.

10. 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 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**.
11. If, at any time after five (5) years from the date of this approval, the **approval holder** has not commenced the action, then the **approval holder** must not commence the action without the written agreement of the **Minister**.
12. If the **approval holder** wishes to carry out any activity otherwise than in accordance with the management plans as specified in the conditions, the **approval holder** must submit to the **Department** for the **Minister's** written approval a revised version of the management plans. The varied activity shall not commence until the **Minister** has approved the varied management plans, in writing. The **Minister** will not approve a varied management plan, unless the revised management plan would result in an equivalent or improved environmental outcome over time. If the **Minister** approves the revised management plan, that management plan, must be implemented in place of the management plan originally approved.
13. 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 **approval holder** make specified revisions to the management plan specified in the conditions and submit the revised management plan for the **Minister's** written approval. The **approval holder** must comply with any such request. The revised approved management plans must be implemented. Unless the **Minister** has approved the revised management plans then the **approval holder** must continue to implement the management plans originally approved, as specified in the conditions.
14. Unless otherwise agreed to in writing by the **Minister**, the **Approval holder** 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 and remain published on the website for the duration of the action.

Definitions

approval holder – the person to whom the approval is granted, or to whom the approval is transferred under s145B of the *Environment Protection and Biodiversity Conservation Act 1999*.

commencement of the action – means the undertaking of earthworks, vegetation removal or construction of any infrastructure, associated with the proposed action.

conservation covenant – means a legally binding land title covenant registered on the title of the land for the purpose of facilitating a conservation outcome binding upon the current owner and all future owners of the land.

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

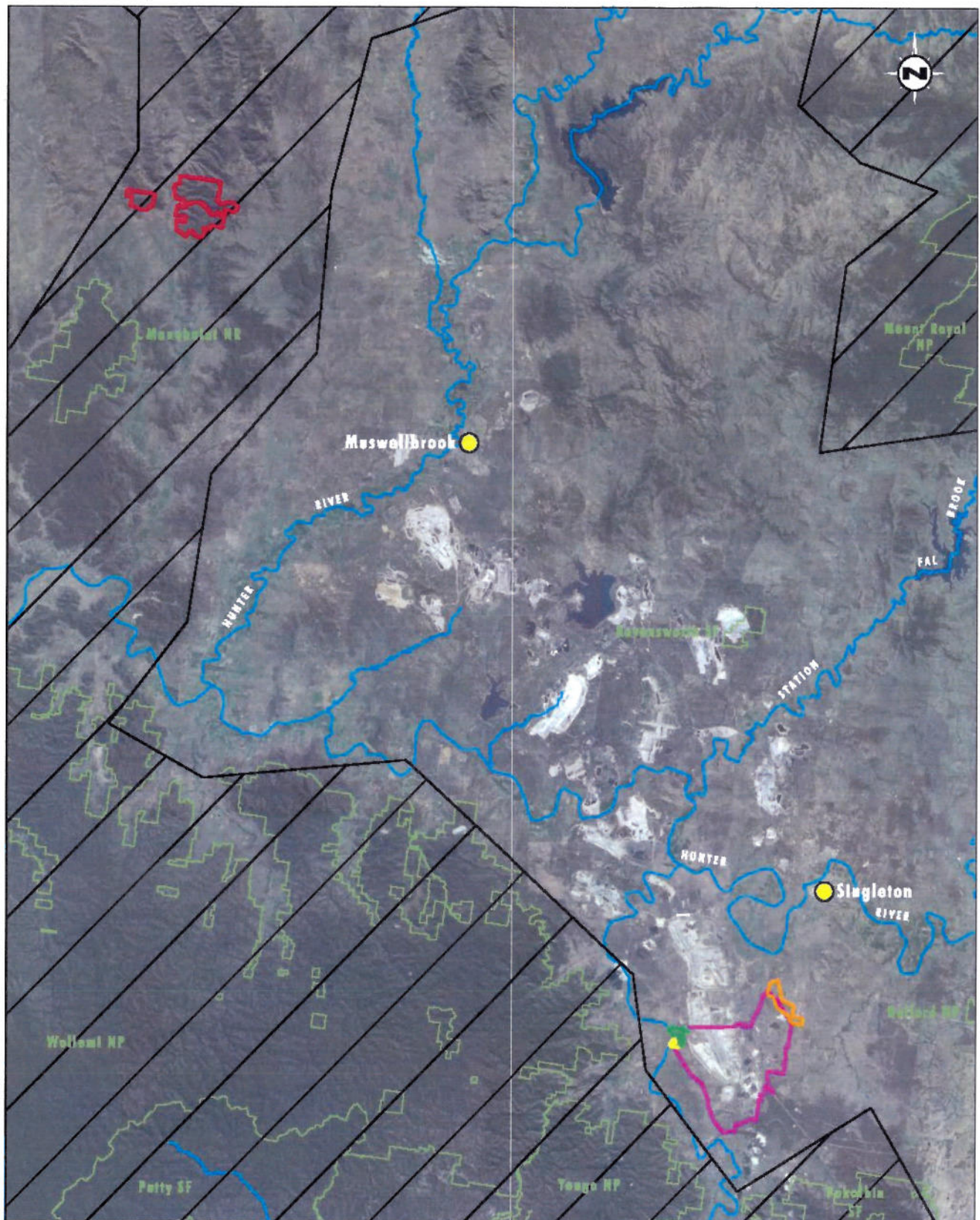
EPBC Offsets Policy – means the Department's policy document titled "*Environment Protection and Biodiversity Conservation Act 1999 Environmental Offsets Policy*" (October 2012) and related guide currently available on the Department's website <http://environment.gov.au/epbc/publications/environmental-offsets-policy.html> or subsequent revisions of this policy and guide.

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

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.

shapefiles – 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.

Schedule 1



Source: Google Earth (2009), Department of Lands (2003)

0 5 10 20km

Legend

- Project Area
- Ruddy Valley Offset Site
- Broke Road Offset Site
- Wollumbi Brook Conservation Area
- Extension to Wollumbi Brook Conservation Area
- National Park/Nature Reserve (NP/NR)/State Forest (SF)

Great Eastern Ranges Conservation Corridor Initiative

Location of Ecology
Offset Sites