



Approval Decision

Cobbora Coal Project (EPBC 2011/6158)

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 Cobbora Holding Company Pty Limited

proponent's ACN (if applicable) ACN 147 813 125

proposed action To construct and operate an open cut coal mine – and associated infrastructure, including a coal handling and preparation plant and upgrades to transport infrastructure – approximately 5 km south of Cobbora and 56 km north-northeast of Dubbo, NSW. [See EPBC Act referral 2011/6158].

Approval of decision

Controlling Provision	Decision
Listed threatened species and communities (sections 18 & 18A)	Approved
Listed migratory species (sections 20 & 20A)	Approved
A water resource, in relation to coal seam gas development and large coal mining development (sections 24D & 24E)	Approved

conditions of approval

This approval is subject to the conditions specified below.

expiry date of approval

This approval has effect until 1 July 2064

Decision-maker

name and position James Tregurtha
Assistant Secretary
South-Eastern Australia Environment Assessments

signature

date of decision

10 July 2014

Conditions

Avoidance and mitigation of impacts

1. The **approval holder** must not clear more than:

- a. 28 ha of **Box Gum Woodland**;
- b. 41 ha of **Grey Box Woodland**; and
- c. 1773 ha of native woodland.

The approved Integrated Land Management Plan must be implemented prior to **commencement of the action**.

2. In order to protect **threatened species** and **water resources**, the **approval holder** must prepare a Biodiversity Management Plan, in accordance with **NSW approval condition 35**. The Biodiversity Management Plan must be submitted to the **Minister** for approval. The **action** must not **commence** until the plan is approved in writing by the **Minister**. The plan must demonstrate how the mitigation and management measures described in this Plan will protect **threatened species** likely to be impacted directly or indirectly by the action. The Plan must include:

- a. measures to be implemented to meet the objectives outlined in **NSW approval condition 35(g)**. These measures must be implemented over the life of the **action**;
- b. measures to be implemented to avoid, suppress and control the spread of weeds, plant pathogens and invasive species;
- c. a detailed description of the pre-clearance surveys to be undertaken by a **fauna survey expert** within all **disturbance areas**, including: hollow bearing trees, no earlier than 48 hours prior to the removal of vegetation to ensure that the area is free of the **Large-eared Pied Bat**, **Southern Long-eared Bat** and **Spotted-tailed Quoll**;
- d. a detailed description of pre-clearance surveys to be undertaken by a **flora survey expert** within all **disturbance areas** to identify individuals of ***Homoranthus darwinioides***, ***Ingram's Zieria*** and ***Tylophora linearis***.
- e. measures to avoid and minimise other indirect impacts that may result from the **action** during and after construction, including erosion and sedimentation;
- f. measures to relocate and/or ensure the appropriate care of individuals of the **Large-eared Pied Bat**, **Southern Long-eared Bat** and **Spotted-tailed Quoll** that are identified during surveys referred to in condition 3c;
- g. clear key milestones, monitoring, performance indicators, corrective actions and timeframes for the completion of all actions outlined in the plan;
- h. measures ensure that there are not adverse impacts from grazing on ***Homoranthus darwinioides***, ***Ingram's Zieria*** and ***Tylophora linearis***; and

3. details of the **offset areas**, including **offset attributes**, **shapefiles**, textual descriptions and maps to clearly define the location and boundaries of the **offset area**. In the event that any additional individuals of ***Homoranthus darwinioides***, ***Ingram's Zieria*** or ***Tylophora linearis*** are found during the preclearance surveys described in condition 3d, or any additional **threatened species** are found, the **Department** must be notified in writing within 14 days of the matter/s being recorded. In accordance with condition 18, the **Minister** may request that the **approval holder** revise any relevant plans to ensure better protection of the relevant matter/s.

4. In order to ensure the protection of **water resources**, the **approval holder** must:
 - a. provide compensatory water supply to any landholder whose water supply is adversely impacted by the **action**, in accordance with **NSW approval condition 27**. This must include bores listed in **NSW approval condition 27** and any other bores that are adversely impacted by the action during the life of the approval;
 - b. prepare a **Water Management Plan** in accordance with **NSW approval condition 31**. This plan must demonstrate how the mitigation and management measures described in this Plan will protect **water resources** likely to be impacted directly or indirectly by the action; maintain aquatic and riparian ecosystems, including semipermanent refuge pools in Sandy Creek and Laheys Creek, in accordance with **NSW approval condition 29**; and
 - c. update the surface and groundwater modelling for the project in accordance with **NSW approval condition 30**.
5. In addition to the requirements of condition 4, the **Water Management Plan** must:
 - a. include a description of how the measures identified in Table 10 of **NSW approval condition 29** will be achieved;
 - b. be submitted to the **Minister** for approval. The **action** must not **commence** until this plan is approved in writing by the **Minister**;
 - c. include a description of any changes to predicted impacts as a result of the modelling updates required by **NSW approval condition 30** and a summary of how these impacts have been addressed in the **Water Management Plan**; and
 - d. include details of, and a justification for, the methodology used to derive baseline data, performance criteria and trigger values described in **NSW approval condition 30**.
 - e. The approved plan must be implemented before **commencement**.
 - f. A revised copy of the **Water Management Plan**, based on the results of ongoing monitoring, must be submitted to the **Minister** for approval before each five-year anniversary of **commencement**. The plan must be approved within six months of each five-year anniversary of **commencement**. The plan must include:
 - i. a description of updates to the groundwater numerical model, as the result of additional data or any other changes, and the results of the updated model; and
 - ii. any changes to the groundwater conceptual model and surface water and groundwater monitoring networks.
6. The **approval holder** must rehabilitate the **disturbance areas** in accordance with the **NSW approval condition 50** and **NSW approval condition 51**.
7. The **approval holder** must prepare a Rehabilitation Management Plan, as described in **NSW approval condition 52**. The Rehabilitation Management Plan must be submitted to the **Minister** for approval and must be approved by the **Minister** before **commencement**. The approved Rehabilitation Management Plan must be implemented before **commencement**.

Offsetting of residual impacts

8. In order to compensate for residual significant impacts on **threatened species** and **water resources**, the **approval holder** must prepare and implement a Biodiversity Offset Package. The package must include:
 - a. implementation of the Biodiversity Offset Strategy as described in the **Environmental Impact Statement** and **NSW approval condition 32** prior to commencement;
 - b. protection of the **offset areas** in perpetuity in accordance with **NSW approval condition 36**, before commencement; and
 - c. lodgement of a conservation bond with the **NSW Department of Planning and Environment** in accordance with **NSW approval condition 37** prior to commencement.
9. To ensure that offsets for **Ingram's Zieria**, ***Tylophora linearis*** and ***Homoranthus darwinioides*** meet the requirements of the **Department's Offsets Policy**, in addition to the requirements of condition 8 the **approval holder** must prepare a **Propagation Plan**. This plan must be submitted to the **Minister** for approval and must be approved prior to commencement. This plan must:
 - a. detail propagation trials of **Ingram's Zieria**, ***Tylophora linearis*** and ***Homoranthus darwinioides***;
 - b. detail methodologies proposed to propagate and plant sufficient numbers of **Ingram's Zieria**, ***Tylophora linearis*** and ***Homoranthus darwinioides*** in the **offset areas** in order to meet the requirements of condition 11;
 - c. be reviewed by a **suitably qualified expert** or **suitably qualified experts**, approved by the **Minister** in writing. The review must be provided to the **Department** as an appendix to the **Propagation Plan**; and
 - d. include clear key milestones, monitoring, performance indicators, corrective actions and timeframes for the completion of all actions outlined in the plan.

The Propagation Plan may be incorporated into another **management plan** and must be implemented prior to commencement.
10. To ensure that the offsets for **Ingram's Zieria**, ***Tylophora linearis*** and ***Homoranthus darwinioides*** meet the requirements of the **Department's Offsets Policy**, in addition to the requirements of condition 8 and condition 9, within ten years of the date of commencement, the **approval holder** must demonstrate through an independent report written by a **suitably qualified expert** and submitted to the **Minister** in writing that:
 - a. the **offset areas** contain at least an additional 325 individuals of **Ingram's Zieria** that have been successfully propagated and are **surviving in the wild**;
 - b. the **offset areas** contain at least an additional 114 individuals of ***Homoranthus darwinioides*** that have been successfully propagated and are **surviving in the wild**; and
 - c. the **offset areas** contain at least an additional 15 individuals of ***Tylophora linearis*** that have been successfully propagated and are **surviving in the wild**.
11. The number of individuals specified in condition 10 may be reduced by the **Minister** if new surveys in the **offsets areas**, prior to commencement, find additional individuals of **Ingram's Zieria**, ***Homoranthus darwinioides***, or ***Tylophora linearis*** that are located in the

offset areas and at least 100 m from any population identified in the Biodiversity Offsets Package dated 12 August 2013. If the **approval holder** wishes to seek this reduction, they must submit a report to the **Department** detailing the locations and numbers of such individuals. Following receipt of a report, the **Minister** will provide revised numbers of individuals required to meet the requirements of the **Department's Offsets Policy**, in accordance with the requirements of condition 10.

12. If the **approval holder** cannot demonstrate propagation and survival in the wild of the required number of individuals of **Ingram's Zieria**, ***Homoranthus darwinioides*** and ***Tylophora linearis***, then the **approval holder** must, within 12 years of the date of this approval and for each species for which this requirement is not met, ensure protection and management of additional individuals in land-based offsets. The offsets must be in accordance with the **Department's Offsets Policy** and must be approved by the **Minister**. The offsets must:
 - a. include the following minimum numbers of the species listed below:
 - i. 1340 individuals of **Ingram's Zieria**;
 - ii. 65 individuals of ***Tylophora linearis***; and
 - iii. 460 individuals of ***Homoranthus darwinioides***.
 - b. comprise individuals that are:
 - i. located in the **offset areas** and at least 100 m from any population identified in the Biodiversity Offsets Package dated 12 August 2013; or
 - ii. populations in additional land-based **offset areas** that are protected in perpetuity through a legal instrument.
13. Within 21 calendar days after the **commencement** of the **action**, the **approval holder** must advise the **Department** in writing of the actual date of **commencement**.
14. 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 plans, 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.
15. 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 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. Non-compliance with any of the conditions of this approval must be reported to the **Department** within 2 business days of becoming aware of the non-compliance.
16. 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**.

17. If the **approval holder** wishes to carry out any activity other than in accordance with the management plan, package 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. The varied activity shall not commence until the **Minister** has approved the varied management plan 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, package, or strategy, agreement, must be implemented in place of the management plan, package or strategy originally approved.
18. If the **Minister** believes that it is necessary or convenient for the better protection of listed **threatened species** and communities, listed migratory species or a **water resource**, in relation to coal seam gas development and large coal mining development to do so, the **Minister** may request that the **approval holder** make specified revisions to the **management plans** 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 plan must be implemented. Unless the **Minister** has approved the revised management plan, then the **approval holder** must continue to implement the management plan originally approved, as specified in the conditions.
19. If, at any time after five 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**.

Publication of Plans

20. 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 within 28 calendar days of being approved. Approved plans must remain on the website until the **approval holder** receives written agreement from the **Minister** that the publication of the plans may cease.

Definitions

Action - To construct and operate an open cut coal mine – and associated infrastructure, including a coal handling and preparation plant, coal conveyer, and upgrades to transport infrastructure – approximately 5 km south of Cobbora and 56 km north-northeast of Dubbo, NSW.

Approval holder - the person to whom the approval is granted, or to whom the approval is transferred under s145B of the **EPBC Act**.

Australasian Bittern – the species *Botaurus poiciloptilus*, listed as a threatened species under the **EPBC Act**.

Box Gum Woodland – the ecological community – White Box-Yellow Box-Blakely's Red Gum Grassy Woodland and Derived Native Grassland – listed as critically endangered under the **EPBC Act**.

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

Commencement or commenced – **clearance** of any vegetation to undertake the **action**

Department – The Australian Government Department administering the **EPBC Act**.

Department's Offsets Policy – the *Environment Protection and Biodiversity Conservation Act 1999* Environmental Offsets Policy dated October 2012.

Disturbance areas – the areas marked as Infrastructure and maximum extent of Mine Area in the figure at Annexure 3.

Environmental Impact Statement - Environmental Assessment titled “*Cobbora Coal Project Environmental Assessment*” dated September 2012 (5 volumes), as amended by the Preferred Project Report and Response to Submissions provided in the report “*Cobbora Coal Project – Preferred Project Report and Response to Submissions, February 2012*” and clarification letters addressed to the Department of Planning and Infrastructure dated 15 January 2014 and 22 January 2014.

EPBC Act - the *Environment Protection and Biodiversity Conservation Act 1999*

Flora survey expert – a person with at least five years’ experience in undertaking flora surveys and with experience in identifying Ingram’s *Zieria*, *Homoranthus darwinioides* and *Tylophora linearis*.

Fauna survey expert – a person with at least five years’ experience in undertaking fauna surveys in New South Wales and with experience in locating tree-dwelling bat species and the **Spotted-tailed Quoll**.

Grey Box Woodland – the ecological community – Grey Box (*Eucalyptus microcarpa*) Grassy Woodlands and Derived Native Grasslands of South-eastern Australia – listed as endangered under the **EPBC Act**.

Homoranthus darwinioides – the species of that name listed as a threatened species under the **EPBC Act**.

Ingram’s Zieria – the species *Zieria ingramii*, listed as a threatened species under the **EPBC Act**.

Large-eared Pied Bat – the species *Chalinolobus dwyeri*, listed as a threatened species under the **EPBC Act**.

Management plans – the Biodiversity Management Plan, the Integrated Land Management Plan, the Propagation Plan, the Rehabilitation Management Plan, and the Water Management Plan.

Minister - The Minister administering the **EPBC Act** or a delegate of the Minister.

NSW approval conditions – the conditions of approval specified in schedule 3 of the New South Wales Government’s **project approval decision** for the Cobbora Coal Project, dated 9 May 2014.

NSW Department of Planning and Environment – the NSW Government Department administering the *Environmental Planning and Assessment Act 1979*.

Offset Areas – the Adelyne SCA addition, Cobbora SCA addition, Eastern link areas, Goonoo SCA addition, Southern NPWS addition and Zieria patch as listed in Annexure 1 and depicted in the map at Annexure 2.

Project approval decision – the New South Wales Government’s decision document that grants approval to the Cobbora Coal Project under section 75J of the *Environmental Planning & Assessment Act 1979*.

Regent Honeyeater – the species *Anthochaera phrygia*, listed as a threatened species under the **EPBC Act**.

Shapefile – ESRI Shapefile containing ‘.shp’, ‘.shx’ and ‘.dbf’ files and other files capturing attributes of the Offset Area, including the shape, **EPBC Act** reference ID number and **EPBC Act** protected matters present at the relevant site. Attributes should also be

captured in '.xls' format. A geographically referenced raster 'img' file/s must be provided to provide context for the shapefiles.

Southern Long-eared Bat – the species *Nyctophilus corbeni*, listed as a threatened species under the **EPBC Act**.

Spotted-tailed Quoll – the species *Dasyurus maculatus maculatus*, listed as a threatened species under the **EPBC Act**.

Superb Parrot – the species *Polytelis swainsonii*, listed as a threatened species under the **EPBC Act**.

Suitably qualified expert – a person with at least five years' experience in propagating *Homoranthus*, *Zieria* and *Tylophora*.

Surviving in the wild – a population of plants that that is maintaining itself without external assistance and possessing the ecological, demographic and genetic attributes required to persist in both the short and long term.

Swift Parrot – the species *Lathamus discolor*, listed as a threatened species under the **EPBC Act**.

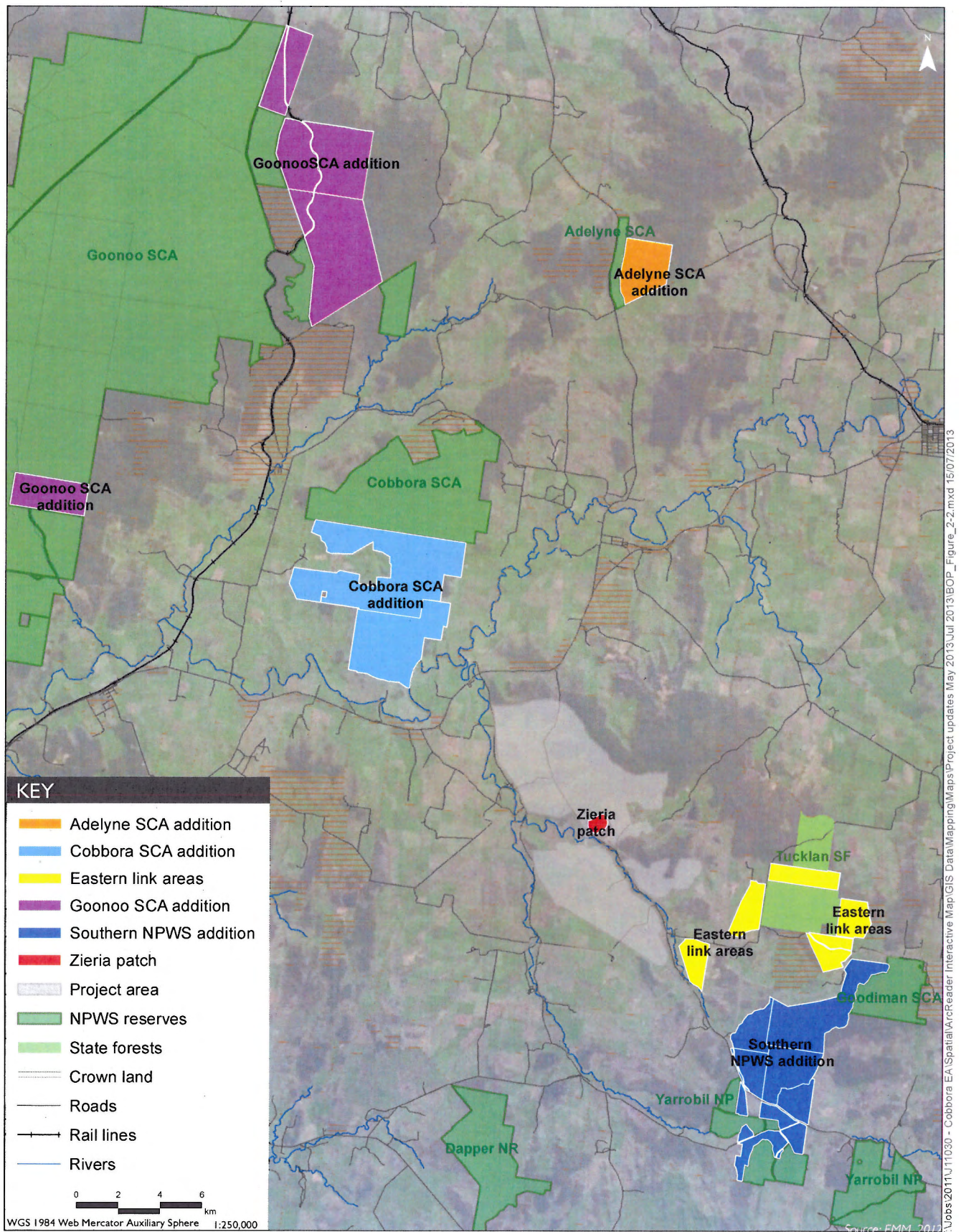
Threatened species – Box Gum Woodland, Grey Box Woodland, *Homoranthus darwinioides*, Ingram's *Zieria*, *Tylophora linearis*, the Australasian Bittern, the Large-eared Pied Bat, the Regent Honeyeater, the Southern Long-eared Bat, the Spotted-tailed Quoll, the Superb Parrot and the Swift Parrot, or any threatened species listed under the **EPBC Act**, not identified in the **Environment Impact Statement**

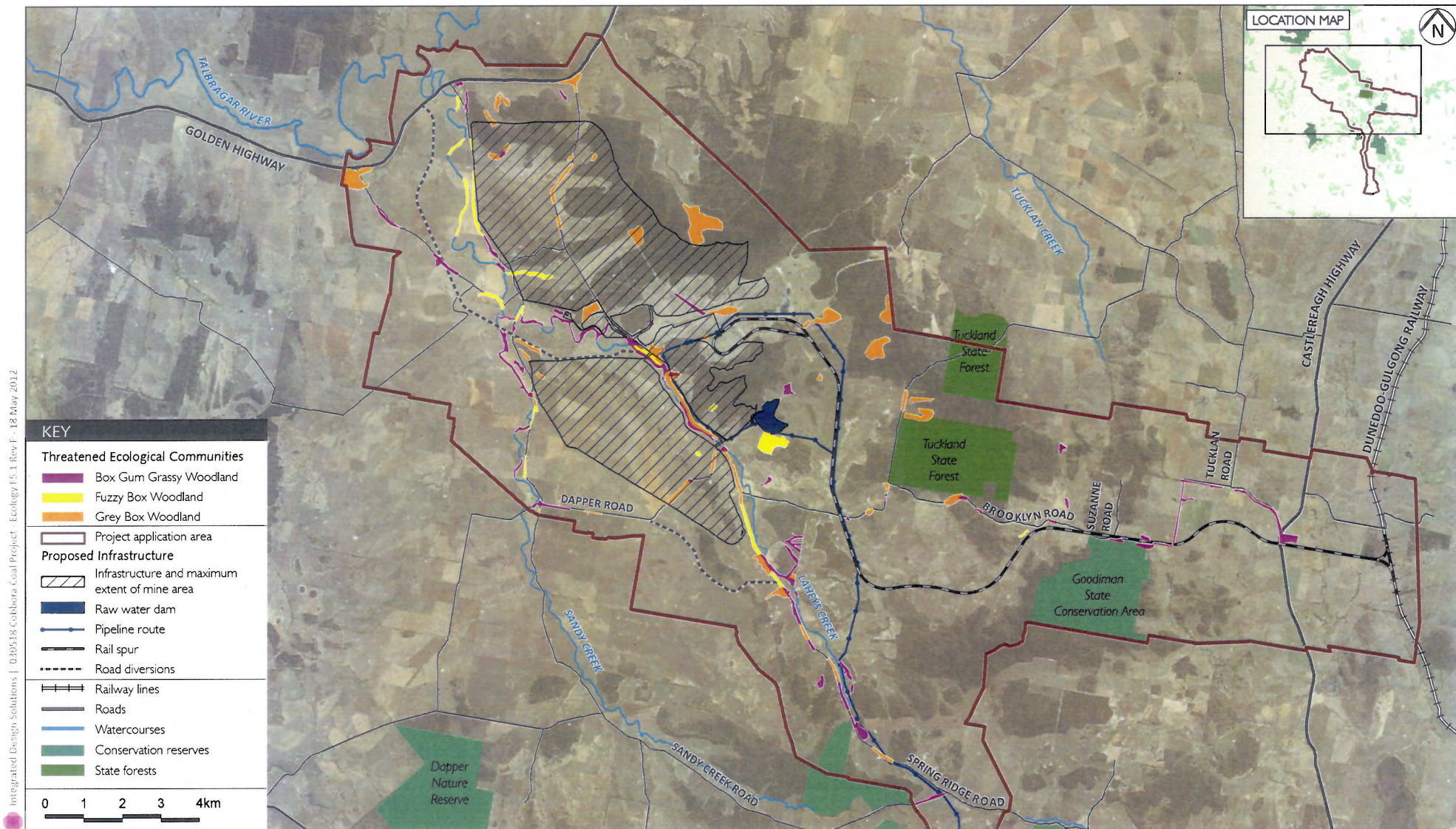
Tylophora linearis – the species of that name listed as a threatened species under the **EPBC Act**.

Water resource – has the same meaning as in the *Water Act 2007*.

Annexure 1

Property/offset area	Minimum offset area (ha)
Southern NPWS additions	1,977
Lot 2 and 3-839623, Lot 3-1112933, Lot 2-1112933, Lot 3-802679, Lot 88-750780, Lot 1-1072945, Lots 78 and 79-750751, Lots 46, 48 and 49-754329, Lot 2-1072945, Lot 45-754329, part Lot 115-721236, and part Lots 16, 17, 25, 26-754329.	
Eastern link areas	875
Lots 20, 21 and 23-754329, Lot 9-130575, Part Lot 31-754329, Lot 102-754334, Part Lot 30-754329, part Lot 2 and part 3-586911, and part Lot 141-721256.	
Zieria patch	43
Part Lot 36-754289 and part Lot 44-754289.	
Cobbora SCA additions	2,281
Lot 45-720311, Lot 42-257240 and Lot 18-754312.	
Adelyne additions	413
Lot 35-754326.	
Goonoo additions	3,238
Lot 3-754325, Lot 39-754330, Lot 36-754330, Lot 17-754293 and Lot 9-721223	
Total	8,827





Threatened Ecological Communities

Cobbora Coal Project - Terrestrial Ecology Assessment

Figure 5.1

From Appendix H to the EIS, p86