



VARIATION TO CONDITIONS ATTACHED TO APPROVAL

Caval Ridge Coal Mine Project – EPBC 2008/4417

This decision to vary a condition of approval is made under section 143 of the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act).

Approved action

Person to whom the approval is granted BM Alliance Coal Operations Pty Limited
ABN: 67096412752

Approved action To develop a new open cut coal mine at Caval Ridge located approximately 6.2 km south of Moranbah and approximately 160 km south - west of Mackay, Queensland and as described in the referral received 26 August 2008, variation to referral request dated 12 October 2010, Environment Impact Statement dated July 2009, Supplementary Environment Impact Statement dated November 2009 and the BMA Caval Ridge Mine Project Change Request dated September 2010 – [See EPBC Act referral 2008/4417]

Variation

Variation of conditions of approval

The variation is:

Revoke condition 3, the definition for 'Shapefile', Appendix 1 and Appendix 2 of the approval.

Replace 'person taking the action' with 'approval holder' throughout.

Delete conditions 1, 2, 4, 6, 8, 9, 11 and 12 and the definitions for 'Department' and 'Minister' and substitute the conditions and definitions specified below.

Add conditions 8A, 9A, 13 and 14, and the definitions for 'BioCondition Assessment Manual', 'Bluegrass ecological community', 'Brigalow ecological community', 'Legally secured offset mechanism' and 'New or increased impact' specified below.

Date of effect

This variation has effect on the date the instrument is signed.

Person authorised to make decision

name and position Shane Gaddes
Assistant Secretary
Compliance and Enforcement Branch

Signature

Date of decision

15 January 2016

Conditions attached to the approval

1. The approval holder must not clear more than 25.2 ha of **Brigalow ecological community** and 124.6 ha of **Bluegrass ecological community**.
2. To offset the impacts to **Brigalow ecological community** and **Bluegrass ecological community**, the approval holder must protect (under a **legally secured offset mechanism**) an offset area of:
 - a. 126 ha of **Brigalow ecological community**; and
 - b. 733.3 ha of **Bluegrass ecological community**.
4. Before **commencement of operations** (excluding **early works**), the approval holder must submit to the **Minister** for approval a "Threatened Flora and Fauna Species and Ecological Communities Management Plan". The Plan must contain, but is not limited to, the following:
 - a. Management actions relating to EPBC listed species and ecological communities; and
 - b. Mitigation actions relating to EPBC listed species and ecological communities.

The approved Threatened Flora and Fauna Species and Ecological Communities Management Plan must be implemented.

6. By 1 July 2017, and then by 1 July of every 2nd year onwards, the approval holder must submit to the **Department** a report addressing compliance with the conditions of this approval including the outcomes required under condition 13, in accordance with the **Department's Annual Compliance Report Guidelines**. Compliance reports must be submitted to the **Department** until the **Minister** notifies the approval holder that they are no longer required.
8. The approval holder may choose to revise a management plan approved by the **Minister** under condition 4 without submitting it for approval under section 143A of the EPBC Act, if the taking of the action in accordance with the revised plan would not be likely to have a **new or increased impact**. If the approval holder makes this choice they must:
 - i. notify the **Department** in writing that the approved plan has been revised and provide the **Department** with an electronic copy of the revised plan;
 - ii. implement the revised plan from the date that the plan is submitted to the **Department**; and
 - iii. for the life of this approval, maintain a record of the reasons the approval holder considers that taking the action in accordance with the revised plan would not be likely to have a **new or increased impact**.
- 8A. The approval holder may revoke their choice under condition 8 at any time by notice to the **Department**. If the approval holder revokes the choice to implement a revised plan, without approval under section 143A of the Act, the plan approved by the **Minister** must be implemented.
9. If the **Minister** gives a notice to the approval holder that the **Minister** is satisfied that the taking of the action in accordance with a revised plan would be likely to have a **new or increased impact**, then:

- i. Condition 8 does not apply, or ceases to apply, in relation to the revised plan; and
- ii. The approval holder must implement the plan approved by the **Minister**.

To avoid any doubt, this condition does not affect any operation of conditions 8 or 8A in the period before the day the notice is given.

At the time of giving the notice the **Minister** may also notify that for a specified period of time that condition 8 does not apply for a specified plan required under the approval.

- 9A. Conditions 8, 8A, and 9 are not intended to limit the operation of section 143A of the EPBC Act which allows the approval holder to submit a revised plan to the **Minister** for approval.
- 11. The approval holder must maintain accurate records substantiating all activities associated with or relevant to the above conditions of approval, including measures taken to achieve the outcomes required under condition 13, 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.
- 12. 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 by the **Minister** or being submitted under condition 8.i.
- 13. To offset impacts to **Brigalow ecological community** and **Bluegrass ecological community**, the approval holder must achieve the following outcomes (relative to baseline monitoring as discussed in condition 14):
 - a. Over time, there must be no net loss to the extent and condition of **Brigalow ecological community** within the offset area required under condition 2a; and
 - b. Over time, there must be no net loss to the extent and condition of **Bluegrass ecological community** within the offset area required under condition 2b.
- 14. The approval holder must undertake a monitoring program (which includes baseline monitoring) at the offset areas required under conditions 2a and 2b and at control sites. The results of the monitoring program must be adequate to inform adaptive management and demonstrate whether the outcomes described in condition 13 are being met. Monitoring must be undertaken by a suitably qualified person and must take into consideration the **BioCondition Assessment Manual**. Performance indicators which must be monitored include:
 - a. for **Brigalow ecological community**: ecosystem functionality and condition; and cover of plant species that are known to make up the ecological community as defined in the *Approved Conservation Advice for Brigalow (Acacia harpophylla dominant and co-dominant)*; and

- b. for **Bluegrass ecological community**: ecosystem functionality and condition; including presence of perennial grass indicator species, tussock cover, woody shrub cover and introduced species cover as described in Table 1 of the *Commonwealth Listing Advice on Natural Grasslands of the Queensland Central Highlands and the northern Fitzroy Basin*.

Definitions

BioCondition Assessment Manual - the document: *BioCondition- A Condition Assessment Framework for Terrestrial Biodiversity in Queensland- Assessment Manual* by the Queensland Herbarium, Science Delivery, Version 2.2 February, 2015 (or any later revised version), or other manual approved in writing by the **Minister**.

Bluegrass ecological community - Bluegrass (*Dichanthium* spp) dominant grasslands of the Brigalow Belt Bioregions (North and South) endangered ecological community, (included within the *Natural Grasslands of the Queensland Central Highlands and the northern Fitzroy Basin* ecological community).

Brigalow ecological community - 'Brigalow (*Acacia harpophylla* dominant and co-dominant)' as protected under the *Environment Protection and Biodiversity Conservation Act 1999*.

Department - the Australian Government Department or other agency responsible for the *Environment Protection and Biodiversity Conservation Act 1999* (Cth) from time to time.

Minister - the Minister responsible for the *Environment Protection and Biodiversity Conservation Act 1999* and includes a delegate of the Minister.

Legally secured offset mechanism - is either:

- an Environmental Offset Protection (EOP) area under the *Environmental Offset Act 2014* (Queensland);
- a Nature Refuge Agreement under the *Nature Conservation Act 1994* (Queensland);
- a voluntary declaration under section 19 of the *Vegetation Management Act 1999*; or
- any other mechanism that has been agreed in writing by the **Department**.

New or increased impact - a new or increased impact on any matter protected by the controlling provisions for the action, when compared to the plan that has been approved by the **Minister**.