

Mt Arthur Coal Extension Project EPBC 2011/5866 and 2014/7377

25 September 2019



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Introduction

Hunter Valley Energy Coal Pty Ltd (ACN 062 894 464) (HVEC) operates the Mt Arthur Coal complex, which consists of approved open cut and underground mining operations, a rail loop and associated rail loading facilities. The operations are located in the Upper Hunter Valley, NSW approximately five kilometres south west of Muswellbrook.

This report has been prepared to address the following conditions in the two approvals issued under the Environment Protection and Biodiversity Conservation Act 1999 (Cth) (EPBC), held by HVEC:

- Condition 14 of EPBC 2011/5866; and
- Condition 18 of EPBC 2014/7377.

Description of activities

EPBC No.	Project name	Approval holder ACN or ABN	Approved action	Location	Person accepting responsibility for the report	Dates for the reporting period of the report	Date of preparation of the report
2011/5866	Mt Arthur Coal Extension Project	ACN 062 894 464	The development of five new open cut extension areas to uncover additional coal reserves on the existing Mt Arthur Coal Complex	Muswellbrook in the Upper Hunter Valley, NSW	Sarah Withell	1 July 2019 to 30 June 2019	28 September 2019
2014/7377	Mt Arthur Coal open cut modification	ACN 062 894 464	The continuation of the open cut mining operations of approximately 128 million tonnes of ROM Coal within HVEC's existing mining tenements and application area – ML1487, ML 1358, ML 1548, Sublease CL 229, ML 1655 and ML 1739	Muswellbrook, NSW	Sarah Withell	1 July 2018 to 30 June 2019	28 September 2019

Compliance table

In accordance with Condition 14 of EPBC 2011/5866 and Condition 18 of EPBC 2014/7377 this report provides an update of HVEC's compliance against the relevant approval conditions.

Note: The Biodiversity Management Plan (BMP) was revised and approved during the reporting period by both the Department of Planning and Environment, on 22 May 2019, and the federal Department of the Environment and Energy, on 5 June 2019.

Condition Number	Condition	Compliant/ Non Compliant/ Not Triggered	Evidence/Comments
EPBC Approval No. 2011/5866			
5866	1	Compliant	<p>A total area of 175.6 Ha has been cleared to end of June 2019, which includes:</p> <ul style="list-style-type: none"> • 35.7 Ha of the EPBC listed White Box-Yellow Box-Blakely's Red Gum Grassy Woodland • 139.9 Ha of the EPBC listed White Box-Yellow Box-Blakely's Red Gum Grassy Woodland Derived Native Grassland
5866	2	Compliant	<p>A total area of 166.4 Ha of woodland providing suitable habitat for the EPBC listed Regent Honeyeater and Swift Parrot has been cleared to end of June 2019.</p>

Condition Number	Condition	Compliant/ Non Compliant/ Not Triggered	Evidence/Comments
5866	3	Compliant	All conservation areas and offsets were registered on title before 30 December 2017.
	<p>The person taking the action must register a legally binding conservation covenant over the conservation and offset areas identified in Table 1 (and shown in Appendix 2a and 2b) by 30 December 2017. The mechanism must provide enduring protection for no less than:</p> <ul style="list-style-type: none"> a) 707.7 ha of White Box-Yellow Box-Blakely's Red Gum Grassy Woodland and Derived Native Grassland Ecological Community (Box Gum Woodland); and b) 738.7 ha of suitable habitat for <i>Anthochaera phrygia</i> (Regent Honeyeater) and <i>Lathamus discolor</i> (Swift Parrot). <p><i>Note: Offsetting requirements for Regent Honeyeater and Swift Parrot habitat may be accommodated within the White Box-Yellow Box-Blakely's Red Gum Grassy Woodland and Derived Native Grassland Ecological Community components if this habitat is verified as present and includes specific habitat requirements for each of these species in accordance with the Department's listing advice, conservation advice and/or recovery plans.</i></p>		
5866	4	Compliant	<p>Progressive regeneration of woodland and forest communities at Mt Arthur Coal commenced in the mid-1990s.</p> <p>Rehabilitation activities are as per those reported in the Annual Review, published to the BHP Regulatory web page.</p> <p>BHP Regulatory information</p>
5866	5	Compliant	HVEC submitted the BMP to the Minister for approval on 28 June 2013. The BMP was approved by the Department of the Environment and Energy (DoEE) on 12 August 2014.

Condition Number	Condition	Compliant/ Non Compliant/ Not Triggered	Evidence/Comments
	Documentation and focus on the re- establishment and protection of a minimum of 707.7 ha of Box Gum Woodland and a minimum of 738.7 ha of suitable habitat for Regent Honeyeater and Swift Parrot. The approved BMP must be implemented.		The BMP was revised and approved during the reporting period by both the DP&E, on 22 May 2019, and the DoEE, on 5 June 2019.
5866	6	Compliant	The DoEE has reviewed the BMP and found that it meets the requirements of Condition 6. The revised BMP was approved by the DoEE on 5 June 2019.
5866	7	Compliant	The DoEE has reviewed the BMP and found that it meets the requirements of Condition 6. The revised BMP was approved by the DoEE on 5 June 2019. BHP Regulatory information

Condition Number	Condition	Compliant/ Non Compliant/ Not Triggered	Evidence/Comments
	<ul style="list-style-type: none"> ii. criteria to determine success of re-establishment of the Box Gum Woodland and other woodland and forest communities; iii. documentation including mapping of current environmental values relevant to MNES of the area; iv. where revegetation through planting seedlings and/or seeds is intended details of appropriate species and ratios of species relevant to historically occurring listed migratory and listed threatened species' habitat and the White Box-Yellow Box-Blakely's Red Gum Grassy Woodland and Derived Native Grassland Ecological Community; and the source and provenance of the seed and/or seedlings which will be used. e) details of measures to offset the impacts to the MNES described in conditions 3 and 4 including: <ul style="list-style-type: none"> i. details of management actions that will improve the condition of a minimum of 707.7 ha within the conservation and offset areas and 299.2 ha regeneration area to 'state 1' consistent with the state and transition model for Box Gum Woodland (Rawlings et al, 2010) and listing advice for the White Box-Yellow Box-Blakely's Red Gum Grassy Woodland and Derived Native Grassland Ecological Community; ii. management schedules for all conservation and offset areas, the regeneration area and the rehabilitation corridors identifying targeted actions for specific areas to protect and enhance the extent and condition of habitat values of the offset areas, a map showing areas to be managed; 		

Condition Number	Condition	Compliant/ Non Compliant/ Not Triggered	Evidence/Comments
	<ul style="list-style-type: none"> iii. type of actions for each conservation and offset area, the regeneration area and rehabilitation corridors and details of methods to be used; iv. timing of management actions for each area; v. performance criteria for each action; vi. a detailed monitoring plan for each action including, but not limited to, control sites, periodic ecological surveys to be undertaken by a qualified ecologist, as agreed to in writing by the Minister, and consistent with survey guidelines for nationally threatened species and communities, to assess the success of the management actions measured against identified milestones and objectives; vii. contingency measures to be implemented if performance criteria are not met; viii. a process to report, to the Department, the progress of management actions undertaken in the conservation and offset areas, regeneration area and rehabilitation corridors and the outcome of those actions, including identifying any need for improved management and actions to undertake such improvement; and ix. details of the various parties responsible for management, monitoring and implementing the management activities, including their position or status as a separate contractor. 		
5866	8	Compliant	The approved BMP details proposed grazing activities. This is covered in Section 11.1 of the BMP.

Condition Number	Condition	Compliant/ Non Compliant/ Not Triggered	Evidence/Comments	
	<p>identified in condition 5, details of the proposed grazing activities for each management area. This must include:</p> <ul style="list-style-type: none"> a) objectives b) details of the grazing methods to be used c) timing including seasons in which grazing will occur, period of grazing and rest period d) stocking rate per season e) monitoring of impacts of grazing including any changes in the condition of vegetation, habitat and weed density. 			
5866	9	Grazing activities must be undertaken in accordance with the guidelines for strategic grazing (Rawlings et al, 2010) and managed so that for each management unit at least 70% of the sward meets a minimum height of 10cm.	Not Applicable	No grazing activities were undertaken during the reporting year.
5866	10	If the person undertaking the action proposes to undertake any action within the conservation and offset areas and regeneration area, other than those management activities related to managing the conservation and offset areas and regeneration area, or as set out in the conditions, approval must be obtained, in writing from the Minister. In seeking the Minister's approval the person undertaking the action must provide a detailed assessment of the area where the action is proposed to take place and an assessment of all associated adverse impacts on MNES. If the Minister agrees to the action within the conservation or offset area, the area identified for the action may be excised from the proposed conservation and offset areas and alternative offsets may be required in relation to the impact on MNES.	Compliant	No activities were undertaken that did not involve managing the conservation and offset areas and regeneration area.

Condition Number	Condition	Compliant/ Non Compliant/ Not Triggered	Evidence/Comments
5866	11	Compliant	Records of data collected from conservation and offset area surveys during the reporting period are maintained by Mt Arthur Coal. No requests for survey data were made by the DoEE during the reporting period.
5866	12	Compliant	HVEC commenced the action on 21 May 2012 and advised the DoEE of the commencement of the action on 31 May 2012. Notification was made via a letter issued to Ms Adrienne Lea at the DoEE.
5866	13	Compliant	Accurate records substantiating all activities associated with or relevant to the conditions of approval are maintained by HVEC. No requests for records of activities were made by the DoEE during the reporting period.
5866	14	Compliant	All Annual Compliance Reports are published on the BHP website in September of each year: BHP Regulatory information

Condition Number	Condition	Compliant/ Non Compliant/ Not Triggered	Evidence/Comments
	<p>providing proof of the date of publication and non-compliance with any conditions of this approval must be provided to the Department at the same time as the compliance report is published. Reports must remain on the website for the period this approval has effect. The approval holder may cease preparing and publishing compliance reports required by this condition with written agreement of the Minister to do so.</p>		
5866	<p>15</p> <p>If the person taking the action wishes to carry out any activity otherwise than in accordance with the Biodiversity Offset Strategy and the Biodiversity 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 Biodiversity Offset Strategy and the Biodiversity 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 plan unless the revised plan would result in an equivalent or improved environmental outcome over time. If the Minister approves the revised Biodiversity Offset Strategy and the Biodiversity Management Plan, that Biodiversity Offset Strategy and the Biodiversity Management Plan, must be implemented in place of the Biodiversity Offset Strategy and the Biodiversity Management Plan, originally approved.</p>	Compliant	No varied activities are applicable for the 2018-2019 reporting period.
5866	<p>16</p> <p>If the Minister believes that it is necessary or convenient for the better protection of listed threatened species and communities and listed migratory species to do so, the Minister may request that the person taking the action make specified revisions to the Biodiversity Offset Strategy and the Biodiversity Management Plan, specified in the conditions and submit the revised Biodiversity Offset Strategy and the Biodiversity Management Plan for the Minister's written approval. The person taking the action must comply with any such request. The revised approved Biodiversity Offset Strategy and the Biodiversity</p>	Not triggered	No request was received from the Minister to make specified revisions to the BMP during the reporting year.

Condition Number	Condition	Compliant/ Non Compliant/ Not Triggered	Evidence/Comments
	Management Plan must be implemented. Unless the Minister has approved the revised Biodiversity Offset Strategy and the Biodiversity Management Plan then the person taking the action must continue to implement the Biodiversity Offset Strategy and the Biodiversity Management Plan originally approved, as specified in the conditions.		
5866	17	Compliant	The BMP is published on the BHP company website BHP Regulatory information
EPBC Approval No. 2014/7377			
7377	1	Compliant	Total area of EPBC-listed White Box-Yellow Box-Blakely's Red Gum Grassy Woodland and Derived Native Grassland critically endangered ecological community cleared to the end of June 2019 is 4.2 ha.
7377	2	Compliant	During the reporting year 5.8 ha of suitable habitat was cleared as defined by the condition.

Condition Number	Condition	Compliant/ Non Compliant/ Not Triggered	Evidence/Comments
7377 3	<p>The person taking the action must compensate for the loss of 58.4 ha of the White Box Yellow Box Blakely's Red Gum Grassy Woodland and Derived Native Grassland Critically Endangered Ecological Community and 53.4 hectares of native woodland which provides foraging and nesting habitat for the Regent Honeyeater (<i>Anthochaera phrygia</i>), Swift Parrot (<i>Lathamus discolor</i>) and Grey-headed Flying-fox (<i>Pteropus poliocephalus</i>) by:</p> <p>a) securing the following offsets, prior to commencement of the action, through a legally binding conservation covenant over the conservation and offset areas:</p> <p>i. 131 ha expansion of the Saddlers Creek Conservation area located approximately 1 km south of the proposed action area; and</p> <p>ii. 410 ha expansion of the Middle Deep Creek Offset area located approximately 70 km north of the Action area.</p>	Compliant	Saddlers Creek Conservation Area and Middle Deep Creek and Thomas Mitchell Drive Offsite Offset were registered on title on 4 October 2017 and 20 February 2017 respectively.
7377 4	<p>The person taking the action must submit to the Department, for approval by the Minister, a revised Biodiversity Management Plan (BMP) for the project by 30 June 2017. The BMP must reflect the proposed Mt Arthur Coal Complex Biodiversity Offset Strategy as generally described in the Preliminary Documentation for EPBC 2011/5866, and include the additional offsets which are described in the Preliminary Documentation for EPBC 2014/7377. The Preliminary Documentation states:</p> <p>a) the following offsets will be secured to compensate for the removal of the 58.4 ha of Box Gum Woodland CEEC and 53.4 ha of foraging habitat:</p> <p>i. a 410 ha expansion of the existing Middle Deep Creek offset area located approximately 70 km north of the Action area; and</p>	Compliant	The BMP was revised and approved during the reporting period by both the DP&E, on 22 May 2019, and the DoEE, on 5 June 2019

Condition Number	Condition	Compliant/ Non Compliant/ Not Triggered	Evidence/Comments
	ii. a 131 ha expansion of the existing Saddlers Creek offset area located approximately 1 km south of the Action area.		
7377	5	Compliant	The Department has reviewed the BMP and found that it meets the requirements of Condition 6. The revised BMP was approved by DoEE on 5 June 2019.
7377	6	Compliant	The BMP has been developed to address these conditions.

Condition Number	Condition	Compliant/ Non Compliant/ Not Triggered	Evidence/Comments
	<p>i. details of management actions that will improve the condition of a minimum of 541 ha within the offset areas;</p> <p>ii. management schedules for the offset areas identifying targeted actions for specific areas to protect and enhance the extent and condition of habitat values of the offset areas, a map showing areas to be managed;</p> <p>iii. type of management actions for each offset area and details of methods to be used;</p> <p>iv. timing of management actions for each offset area;</p> <p>v. performance criteria for each action;</p> <p>vi. a detailed monitoring plan for each action including, but not limited to:</p> <ul style="list-style-type: none"> ~ control sites; and ~ periodic ecological surveys to be undertaken by a qualified ecologist, as agreed to in writing by the Minister, and consistent with survey guidelines for nationally threatened species and communities, to assess the success of the management actions measured against identified milestones and objectives; <p>vii. contingency measures to be implemented if performance criteria are not met;</p> <p>viii. a process to report, to the Department, the progress of management actions undertaken in offset areas and the outcome of those actions, including identifying any need for improved management and actions to undertake such improvement; and</p>		

Condition Number	Condition	Compliant/ Non Compliant/ Not Triggered	Evidence/Comments
	ix. details of the various parties responsible for management, monitoring and implementing the management activities, including their position or status as a separate contractor.		
7377	7 Where strategic grazing is proposed as a management tool, the person undertaking the action must provide, as part of the BMP identified in condition 5, details of the proposed grazing activities for each management area. This must include: a) objectives; b) details of the grazing methods to be used; c) timing including seasons in which grazing will occur, period of grazing and rest period; d) stocking rate per season; and e) monitoring of impacts of grazing including any changes in the condition of vegetation, habitat and weed density.	Compliant	Refer to the response provided for condition 8 of 2011/5866.
7377	8 Grazing activities must be undertaken in accordance with the guidelines for strategic grazing in A Guide to Managing Box Gum Grassy Woodlands, Kimberlie Rawlings, David Freudenberger and David Carr, Department of Environment, Water, Heritage and the Arts, Canberra, 2010.	Not Applicable	Refer to the response provided for condition 9 of 2011/5866
7377	9 If the person undertaking the action proposes to undertake any action within the offset areas, other than those management activities related to managing the offset areas, or as set out in the conditions, approval must be obtained, in writing from the Minister. In seeking the Minister's approval the person undertaking the action must provide a detailed assessment of the area where the action is proposed to take place and an assessment of all associated adverse impacts on MNES. If the Minister agrees to the action within the offset area, the area	Compliant	No activities were undertaken that did not involve managing the conservation and offset areas and regeneration area.

Condition Number	Condition	Compliant/ Non Compliant/ Not Triggered	Evidence/Comments
	identified for the action must be excised from the proposed offset areas and alternative offsets secured in relation to the impact on MNES.		
7377	10	Compliant	Refer to the response provided for condition 15 of 2011/5866.
	<p>The person taking the action may choose to revise a management plan approved by the Minister without submitting it for approval under s.143A of the EPBC Act, if the taking of the action in accordance with the revised management plan would not be likely to have a new or increased impact on a protected matter under the conditions of this approval. If the person taking the action makes this choice, they must:</p> <p>a) notify the Department in writing that the approved management plan has been revised and provide the Department with an electronic copy of the revised management plan;</p> <p>b) implement the revised management plan from the date that it is submitted to the Department; and</p> <p>c) for the life of this approval, maintain a record of the reasons the person taking the action considers that taking the action in accordance with the revised management plan would not be likely to have a new or increased impact on a protected matter under the conditions of this approval.</p>		
7377	11	Not triggered	Noted.
	The person taking the action may revoke its choice under Condition 10 at any time by notice to the Department. If the person taking the action revokes the choice to implement a revised management plan, without approval under Section 143A of the EPBC Act, the management plan approved by the Minister must be implemented.		
7377	12	Not triggered	Noted.
	Condition 10 does not apply if the revisions to the approved management plan include changes to offsets provided under the management plan in relation to a matter protected by a controlling provision for the action, unless otherwise agreed in		

Condition Number	Condition	Compliant/ Non Compliant/ Not Triggered	Evidence/Comments
	writing by the Minister. This does not otherwise limit the circumstances in which the taking of the action in accordance with a revised management plan would, or would not, be likely to have new or increased impacts.		
7377	13 If the Minister gives a notice to the person taking the action that the Minister is satisfied that the taking of the action in accordance with the revised management plan would be likely to have a new or increased impact on a protected matter by the conditions of this approval, then: a) condition 10 does not apply, or ceases to apply, in relation to the revised management plan; and b) the person taking the action must implement the previous management plan most recently approved by the Minister. To avoid any doubt, this condition does not affect any operation of conditions 10, 11 and 12 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 10 does not apply for one or more specified plans required under the approval.	Not triggered.	No notice provided by the Minister.
7377	14 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.	Compliant	The action commenced during December 2017.
7377	15 Within 30 days after the commencement of the action, the person taking the action must advise the Department in writing of the actual date of commencement.	Compliant	

Condition Number	Condition	Compliant/ Non Compliant/ Not Triggered	Evidence/Comments
7377	16	Compliant	Refer to the response provided for condition 17 of 2011/5866.
7377	17	Compliant	Refer to the response provided for condition 13 of 2011/5866.
7377	18	Compliant	Refer to the response provided for condition 14 of 2011/5866.

Condition Number		Condition	Compliant/ Non Compliant/ Not Triggered	Evidence/Comments
		required by this condition with written agreement of the Minister to do so.		
7377	19	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.	Not triggered	No notice provided by the Minister.

New environmental risks

No new environmental risks from the Project were identified during the reporting period.

Declaration of accuracy

In making this declaration, I am aware that sections 490 and 491 of the *Environment Protection and Biodiversity Conservation Act 1999* (Cth) (EPBC Act) make it an offence in certain circumstances to knowingly provide false or misleading information or documents. The offence is punishable on conviction by imprisonment or a fine, or both. I declare that all the information and documentation supporting this compliance report is true and correct in every particular. I am authorised to bind the approval holder to this declaration and that I have no knowledge of that authorisation being revoked at the time of making this declaration.

Signed:

Full name (please print): Ann Perkins

Position (please print): HSE Superintendent – Non Mining

Organisation (please print including ABN/ACN if applicable): Hunter Valley Energy Coal Limited (ACN 062894464)

Date: 25 September 2019
