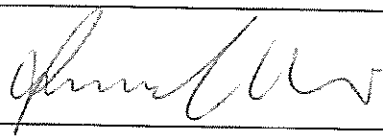




APPROVAL DECISION

Ulan Coal Continued Operations Project, Ulan, NSW – EPBC No 2009/5252

This decision is made under sections 130 and 133 of the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act).

person to whom the approval is granted	Ulan Coal Mines Limited ACN 000 189 248
proposed action	To extend the open cut coal mine, develop Ulan West underground mine and modify or construct new infrastructure associated with these operations and the Ulan. No 3 underground operation, Ulan, New South Wales and as described in the referral received under the Act on 18 December 2009.
approval decision	The approval has effect for: <ul style="list-style-type: none">• Listed threatened species and communities (sections 18 & 18A)• Listed migratory species (sections 20 & 20A)
conditions of approval	This approval is subject to the conditions specified below.
expiry date of approval	This approval has effect until September 2031
Person authorised to make decision	
name and position	James Barker A/g Assistant Secretary Environment Assessment Branch
signature	
date of decision	30 November 2010

Conditions attached to the approval

<p>1. The person taking the action must not clear more than 69 hectares of White Box – Yellow Box Blakely's Red Gum Grassy Woodlands and Derived Native Grasslands ecological community in the project area.</p>
<p>2. To offset impacts on the listed White Box – Yellow Box Blakely's Red Gum Grassy Woodlands and Derived Native Grasslands threatened ecological community, and foraging habitat of the listed Swift Parrot, Regent Honeyeater and Large – eared Pied Bat, the person taking the action must register a legally binding conservation covenant in perpetuity over Bobadeen Offset Area and Bobadeen East Offset Area as described in Appendix 1. The covenants must be registered within 2 years of the date of this approval and covenant conditions must ensure that management is for the protection and enhancement of the matters of national environmental significance identified above.</p>
<p>3. To offset the impacts to the White Box – Yellow Box Blakely's Red Gum Grassy Woodlands and Derived Native Grasslands ecological community, and to the habitat for the Swift Parrot, Regent Honeyeater and Large – eared Pied Bat, the person taking the action must, before commencement of operations (excluding first workings), obtain the Minister's approval of an Offset Management Plan for the Bobadeen and the Bobadeen East Offset Area.</p> <p>This plan must include details of:</p> <ol style="list-style-type: none">the desired outcomes/objectives of implementing the plan;details of the Bobadeen Offset area, clearly define the location and boundaries of Bobadeen Offset area, through maps and / or textual descriptions as well as an accompanying <i>shapefile</i>;details of the Bobadeen East offset area, clearly define the location and boundaries of the Bobadeen East Offset area, through maps and / or textual descriptions as well as an accompanying <i>shapefile</i>;management actions that are proposed to protect offset areas and to enhance the extent and condition of the White Box – Yellow Box – Blakely's Red Gum Grassy Woodlands and Derived Native Grasslands ecological community and habitat values including weed control, fire management, erosion and sediment control, exclusion of livestock and restrictions on access;measures for the long-term protection of the established White Box – Yellow Box – Blakely's Red Gum Grassy Woodlands and Derived Native Grasslands ecological community and habitat for the Swift Parrot, Regent Honeyeater and Large – eared Pied Bat;measures to monitor subsidence and any proposed remediation works should subsidence occur;the timing responsibilities and performance criteria for such actions;the development and implementation of a monitoring program;a process to report to the Department the offset area management actions undertaken and the outcome of those actions, identifying any need for improved management. For the five years after the commencement of operations, reports are to be submitted annually on or before the anniversary of the commencement of operations. Subsequently reports are to be submitted every fifth year on or before the anniversary of the commencement of operations;a description of the potential risks to successful management and rehabilitation in the offset areas, and a description of the contingency measures that would be implemented to mitigate these risks; anddetails of parties responsible for monitoring, reviewing and implementing the plan. <p>The approved Offset Management Plan must be implemented. Any changes to the Offset Management Plan must be approved by the Minister and approved variations to the Plan must be implemented. This plan may be made publicly available on the internet by the Department.</p>

4. To offset the impacts on Large – eared Pied Bat, the person taking the action must provide a legally binding conservation mechanism for the long term protection of the Brokenback Conservation Area and Spring Gully Cliff Line Management Area as described in Appendix 1. The conservation mechanism must be agreed to in writing by the Department and must be finalised within 2 years of the date of this approval.

If the conservation mechanism cannot be finalised within 2 years of the date of this approval, the proponent must submit for the Minister's approval an alternative offset within 3 years of the date of this approval. The alternative offset must provide at least an equivalent environmental outcome to those specified under condition 5.

5. To offset the impacts on the Large – eared Pied Bat, the person taking the action must, before commencement of operations, (excluding first workings), obtain the Minister's approval of an Offset Management Plan for the Brokenback Conservation Area and Spring Gully Cliff Line Management Area.

This plan must include details of:

- a. the desired outcomes/objectives of implementing the plan;
- b. details of the Brokenback Conservation Area, clearly define the location and boundaries of the Brokenback Conservation Area, through maps and / or textual descriptions as well as an accompanying *shapefile*;
- c. details of the Spring Gully Cliff Line Management Area, clearly define the location and boundaries of the Spring Gully Line Management Area, through maps and / or textual descriptions as well as an accompanying *shapefile*;
- d. management actions that are proposed to protect areas and to enhance their value to Large – eared Pied Bat including weed control, fire management, erosion and sediment control, livestock management, and restrictions on access;
- e. measures for the long-term protection of these areas;
- f. the timing responsibilities and performance criteria for such actions;
- g. the development and implementation of a monitoring program;
- h. a process to report to the department the offset area management actions undertaken and the outcome of those actions, identifying any need for improved management. For the five years after the commencement of operations, reports are to be submitted annually on or before the anniversary of the commencement of operations. Subsequently reports are to be submitted every fifth year on or before the anniversary of the commencement of operations;
- i. a description of the potential risks to successful management and rehabilitation in the offset areas, and a description of the contingency measures that would be implemented to mitigate these risks; and
- j. details of parties responsible for monitoring, reviewing and implementing the plan.

The approved Offset Management Plan must be implemented. Any changes to the Offset Management Plan must be approved by the Minister and approved variations to the Plan must be implemented. This plan may be made publicly available on the internet by the Department.

6. Within 14 days after commencement of operations, the person taking the action must advise the Department in writing of the actual date of commencement of operations.

7. On or before every 12 month anniversary of the commencement of the operations, the person taking the action must submit to the Department an annual report addressing compliance with the conditions of this approval. The annual reports must list each approval condition and the actions taken to address each approval condition. Annual reports must be provided until the Minister is satisfied that the proponent has complied with all conditions of the approval and the Department has advised the person taking the action, in writing, that all the approval conditions have been complied with. This report may be made publicly available on the internet by the Department.

<p>8. On the direction of the Minister, the person taking the action must ensure that an independent audit of compliance with these 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. The report of the independent auditor may be made publicly available on the internet by the Department.</p>
<p>9. If the Minister believes that it is necessary or desirable for the better protection of the White Box – Yellow Box – Blakely's Red Gum Grassy Woodlands and Derived Native Grasslands ecological community, Regent Honeyeater, Swift Parrot or Large-eared Pied Bat to do so, the Minister may request that the person taking the action make specified revisions to any plans approved pursuant to these conditions. The person taking the action must comply with any such request. The revised plans must be implemented.</p>
<p>10. If commencement of operations has not occurred within 5 years of the date of this approval, operations must not commence without the written agreement of the Minister.</p>

Definitions:

The Department: the Australian Government Department responsible for the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act)

Minister: the Minister responsible for the EPBC Act

First Workings: the construction of development headings within the Ulan No.3 Underground operations which are designed for stability during development and longwall mining

Commencement of operations: any preparatory works required to be undertaken in relation to the action described in the EPBC referral 2009/5252 (other than first workings within Ulan No. 3 Underground operations) including clearing of vegetation, the erection of any on-site temporary structures and/or the use of construction or excavation equipment on site for the purposes of breaking the ground

Project area: the area described in the referral received under the EPBC Act on 18 December 2009.

Shapefile: an ESRI Shapefile, containing '.shp', '.shx.' and '.dbf' files and other files capturing attributes including at least the EPBC reference ID number and EPBC protected matters present at the relevant site. Attributes should also be captured in '.xls' format.

Ulan Coal Continued Operations Project EPBC 2009/5252

Offsets

Bobadeen Vegetation Offset Area		Bobadeen East Vegetation Offset Area		Brokenback Conservation Area		Spring Gully Cliffline Management Area	
Lot	DP	Lot	DP	Lot	DP	Lot	DP
4	701346	73	750736	41	750735	83	704077
45	750735	61	750736	3	534014	54	750736
15	750735	81	750736	22	750735		
54	750736	1	701346	42	750735		
2	750736			43	750735		
3	701346			46	750735		
4	701346						
54	750736						
3	701346						
4	701346						
45	750735						
15	750735						
54	750736						
45	750735						
15	750735						
54	750736						
2	840034						
4	701346						
45	750735						
15	750735						
45	750735						
54	750736						



Australian Government

Department of Sustainability, Environment, Water, Population and Communities

Mr Dan Clifford
General Manager
Western & Southern Operations
Ulan Coal Mines Limited
PMB 3006
MUDGEES NSW 2850

Date: 30 November 2010

EPBC Ref: 2009/5252

EPBC contact: Jeannine Lisle
02 6274 1657
Jeannine.lisle@environment.gov.au

Dear Mr Clifford

**Decision on Approval
Continued Mining Operations and Construction of Associated Infrastructure, Ulan, NSW**

I refer to your proposal to extend the open cut coal mine, develop Ulan West underground mine and modify or construct new infrastructure associated with these operations and the Ulan. No 3 underground operation, Ulan, New South Wales.

I have considered the proposal in accordance with Part 9 of the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) and have decided to grant an approval to Ulan Coal Mines Limited. The details of my decision are attached. The proposal must be undertaken in accordance with the conditions specified in the approval.

I would appreciate your assistance by informing me when you start the action and provide the information specified in the conditions. Please advise the details of the contact person responsible for the administration of the approval decision.

Please note that any plans required as conditions of approval will be regarded as public documents unless you provide sufficient justification to warrant commercial-in-confidence status.

You should also note that this EPBC Act approval does not affect obligations to comply with any other laws of the Commonwealth, state or territory that are applicable to the action. Neither does this approval confer any right, title or interest that may be required to access land or waters to take the action.

The Department has an active audit program for proposals that have been referred or approved under the EPBC Act. The audit program aims to ensure that proposals are implemented as planned and that there is a high degree of compliance with any associated conditions. You should be aware that your project may be selected for audit by the Department at any time and all related records and documents may be subject to scrutiny. Information about the Department's audit strategy is enclosed.

I have also written to the following parties to advise them of this decision:

Consultant	Umwelt Environmental Consultants
State/territory authority/authorities	NSW Department of Planning
Other relevant authority/authorities	Minister for Resources and Energy Mid Western Regional Council

If you have any questions about this decision, please contact the project manager and quote the EPBC reference number shown at the beginning of this letter.

Yours sincerely

James Barker
A/g Assistant Secretary
Environment Assessment Branch

