



**Approval**

**Wilpinjong open cut coal mine extension project, NE Mudgee, NSW (EPBC 2015/7431)**

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** Wilpinjong Coal Pty Ltd

**proponent's ACN (if applicable)** ABN 87 104 594 694

**proposed action** To extend the existing Wilpinjong open cut coal mine within Wilpinjong Coal Pty Ltd's existing mining tenements and application area – ML 1573, EL6169 and EL7091. The action is located approximately 40 kilometres north-east of Mudgee, NSW [See EPBC Act referral 2015/7431].

**Approval decision**

Controlling Provision	Decision
Listed threatened species and communities (sections 18 & 18A)	Approve
Water resources/trigger (section 24D & 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 2033.

**Decision-maker**

**name and position** Kim Farrant  
Assistant Secretary  
Assessments (NSW, ACT) and Fuel Branch

**signature**

**date of decision**

8.8.17

## Conditions attached to the approval

### Compliance with conditions on the New South Wales development consent

1. For the protection of **listed threatened species and communities** and **water resources**, the person taking the action must comply with the following conditions of the **New South Wales development consent**, where relevant to the Wilpinjong Extension Project (EPBC 2015/7431):

Schedule	NSW Development Consent Condition	Subject
2	2	requirement to undertake action generally in accordance with the Wilpinjong Extension Project EIS and the NSW Development Consent.
3	<b>WATER</b>	
	23	requirement to ensure sufficient water supply for all stages of development otherwise to adjust scale of operations to match supply.
	24	requirement for compensatory water supply (as required).
	29	performance measures for water management.
	30	preparation and approval of a water management plan.
	31	requirement to implement the approved water management plan.
	<b>BIODIVERSITY</b>	
	32	requirement to implement the biodiversity offset strategy.
	35	requirement to secure offset areas and transferring the land to adjoining National Park estate and/or enter into a BioBanking Agreement.
	36	requirement to demonstrate that there are sufficient biodiversity credits .
	37	develop rehabilitation performance and completion criteria.
	38	requirement to retire the relevant number of credits if rehabilitation does not meet the completion criteria.
	39	requirement to contribute \$660,000 towards the Regent Honeyeater Recovery Plan.
	40	requirement for a setback of at least 20 metres from the boundary of the Munghorn Gap Nature Reserve.
	41	requirement to identify the boundary of Munghorn Gap Nature Reserve and provide relevant Geographic Information System data to the DP&E and OEH.
42	preparation and approval of a biodiversity management plan.	

	43	requirement to implement the approved biodiversity management plan.
	44	requirement to lodge a revised Conservation Bond.
	<b>REHABILITATION</b>	
	60	requirement to rehabilitate the action site.
	61	preparation and approval of a rehabilitation strategy.
	62	requirement to rehabilitate the action site progressively.
	63	requirement to commence the ecosystem and land use establishment phase of rehabilitation.
	64	preparation and approval of a rehabilitation management plan.
	65	requirement to revise the rehabilitation management plan to include the approved performance and completion criteria.
	66	requirement to revise the rehabilitation management plan following the approval of the rehabilitation strategy.
	67	requirement to implement the rehabilitation management plan.
5	<b>ENVIRONMENTAL MANAGEMENT</b>	
	1	prepare and approve an environmental management strategy.
	2	requirement to assess and manage development-related risks.
	3	requirement that management plans are prepared in accordance with relevant guidelines.
	6	ensure strategies, plans and programs are updated on a regular basis.

2. If at the end of five (5) years after **landform establishment** the **Minister** determines that the rehabilitation to address Conditions 36 and 37 of Schedule 3 of the **New South Wales development consent** does not meet the applicable interim performance criteria detailed in the rehabilitation management plan, the person taking the action must prepare and submit additional rehabilitation management measures, for the **Minister's** approval, no later than six (6) months after the **Minister's** determination.

Once approved, the approved additional rehabilitation management measures must be implemented.

#### **Administrative conditions**

3. Within fourteen (14) days after the **commencement of the action**, the person taking the action must advise **the Department** in writing of the actual date of **commencement of the action**.
4. The person taking the action must maintain accurate records substantiating all activities associated with or relevant to the conditions of 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.

5. In accordance with Condition 4 and Condition 12 of Schedule 5 of the **New South Wales Development Consent**, the person taking the action 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. Reports must remain on the website for the length of this approval. Reports must continue to be published until all requirements of this approval are satisfied and the person taking the action has been advised otherwise by the **Minister** in writing.
6. The person taking the action must advise the **Department** of any potential non-compliance with any of these conditions of approval in writing within seven (7) days of becoming aware of the potential non-compliance.
7. 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**.
8. If, any time after two (2) years from the date of this approval, the person taking the action has not **commenced the action**, then the person taking the action must not **commence the action** without the written agreement of **the Minister**.
9. Unless otherwise agreed to in writing by **the Minister**, the person taking the action must publish all management documents referred to in these conditions of approval on their website. This includes documents required indirectly through the **New South Wales development consent**. Each document must be published on the website within one (1) month of being approved by the **New South Wales Consent Authority**.

### **Definitions**

**Commencement of the action** (also **commence the action** etc.) means the first instance of an activity described in the **environmental impact statement** as being part of the action, or, in relation to Condition 1, has the meaning given through the **New South Wales development consent**, where relevant to the Wilpinjong Extension Project (EPBC 2015/7431).

**The Department** means the Australian Government Department responsible for administering **the EPBC Act**.

The **environment impact statement** is the environmental impact statement prepared for the Wilpinjong Extension Project (EPBC 2015/7431) in accordance with the assessment of the action under the **EP&A Act**.

**EP&A Act** is the (New South Wales) *Environmental Planning & Assessment Act 1979*.

**The EPBC Act** means the (Commonwealth) *Environment Protection and Biodiversity Conservation Act 1999*.

**Landform establishment** is a recognised stage of rehabilitation when the final land shape has been developed prior to growth medium development and ecosystem development (as described in the **New South Wales development consent**).

**Listed threatened species and communities** refers to the flora and fauna species (and their habitat) and ecological communities that are listed under the **EPBC Act**, that may be impacted by the proposed action, including:

- *Ozothamnus tessellatus*
- Regent Honeyeater (*Anthochaera phrygia*)
- White Box-Yellow Box-Blakely's Red Gum Grassy Woodland and Derived Native Grassland

**The Minister** means the Australian Government minister responsible for administering **the EPBC Act** and includes any delegates of the Minister.

**The New South Wales Consent Authority** refers to the New South Wales Minister for Planning.

**The New South Wales development consent** means the development consent under Section 89E of the **EP&A Act**, for application number SSD\_6764 dated 24 April 2017 as in force or existing from time to time.

**Water resources** refers to any water resource, in relation to coal seam gas development and large coal mining development, as defined in the **EPBC Act**, that may be impacted by the proposed action.

