

COMMONWEALTH OF AUSTRALIA

ENVIRONMENT PROTECTION AND BIODIVERSITY CONSERVATION ACT 1999

DECISION TO APPROVE THE TAKING OF AN ACTION

Pursuant to section 133 of the *Environment Protection and Biodiversity Conservation Act 1999*, I, GERARD PATRICK EARLY, First Assistant Secretary, Approvals and Wildlife Division, a delegate for the purposes of section 133, approve the taking of the following action:

To expand open cut and underground mining operations at the Wambo Coal Mine and the development and operation of rail and train loading infrastructure (EPBC 2003/1138)

by Wambo Coal Pty Ltd subject to the conditions set out in ANNEXURE 1.

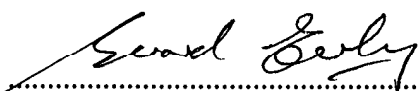
This approval has effect for:

Sections 18 and 18A (Listed threatened species and ecological communities) of the *Environment Protection and Biodiversity Conservation Act 1999*; and

Sections 20 and 20A (Listed migratory species) of the *Environment Protection and Biodiversity Conservation Act 1999*

This approval has effect until 31 December 2029.

Dated this 23rd day of November 2004



GERARD PATRICK EARLY
FIRST ASSISTANT SECRETARY
APPROVALS AND WILDLIFE DIVISION

ANNEXURE 1

1. The person taking the action must not clear any vegetation in the area designated as Remnant Woodland Enhancement Area A without the prior written agreement of the Minister.
2. Prior to the commencement of the mine expansion, the person taking the action must submit for the Minister's approval a plan for managing the impacts of the mine expansion on listed threatened and migratory species. The plan must include measures to:
 - (a) define and implement an offsets strategy that provides:
 - protection in perpetuity for Remnant Woodland Enhancement Area A; and
 - long-term protection of Remnant Woodland Enhancement Areas B and C;
 - (b) define and implement a Remnant Woodland Enhancement Program that includes the fencing of remnants to exclude livestock, weed and feral animal management, restrictions on site access, and bushfire management;
 - (c) define and implement a Vegetation Clearance Protocol that includes the delineation of areas of remnant vegetation to be cleared, progressive clearing, and the salvage and reuse of materials;
 - (d) define and implement a Threatened Species Management Protocol that includes surveys for threatened species, the implementation of threatened species management strategies, and the development and implementation of a Flora and Fauna Monitoring Program;
 - (e) define and implement a Project Area Rehabilitation Programme that includes progressive rehabilitation, erosion and sediment control, revegetation, and maintenance and monitoring;
 - (f) a process to review and report annually on this plan and the offsets strategy; and
 - (g) outline a process for stakeholder consultation.The mine expansion must not commence until the plan has been approved. The approved plan must be implemented.

3. Within three months of the date of this approval, the person taking the action must submit for the Minister's approval a plan for managing the impacts of the rail spur on listed threatened and migratory species. The plan must include measures for:
 - (a) the permanent protection and ongoing management of woodland areas in the vicinity of the rail spur;
 - (b) defining and implementing a Vegetation Clearance Protocol;
 - (c) a revegetation and landscaping plan that includes the fencing of woodland remnants to exclude livestock, weed and feral animal management, restrictions on site access, and bushfire management; and
 - (d) a process to review and report annually on this plan.

Construction of the rail spur must not commence until the plan has been approved. The approved plan must be implemented.

4. Within five years of the commencement of this action, and every subsequent five years, 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.
5. If the person taking the action wishes to carry out any activity otherwise than in accordance with the plans referred to in paragraphs 2 and 3, the person taking the action may submit for the Minister's approval a revised version of any such plan. If the Minister approves such a revised plan, that plan must be implemented in place of the plan originally approved.
6. If the Minister believes that it is necessary or desirable for the better protection of the listed threatened and migratory species to do so, the Minister may request that the person taking the action make specified revisions to the plans approved pursuant to paragraphs 2 and 3 and submit the revised plan for the Minister's approval. The person taking the action must comply with any such request. The revised approved plan must be implemented.
7. If, at any time after 5 years from the date of this approval, the Minister notifies the person taking the action in writing that the Minister is not satisfied that there has been substantial commencement of the Wambo Coal Mine expansion, the Wambo Coal Mine expansion must not thereafter be commenced.

Definitions:

Remnant Woodland Enhancement Areas: the remnant woodland vegetation identified as Areas A, B, and C in Annexure 2 that would be managed to maintain and enhance inherent conservation value.

Woodland areas in the vicinity of the rail spur: areas of remnant woodland vegetation outlined in light blue in Annexure 3 that would be managed to maintain and enhance inherent conservation value.