



**WAMBO COAL PTY LTD**  
**2023 ANNUAL COMPLIANCE REPORT**  
(EPBC 2016/7636 and EPBC 2016/7816)

1 January – 31 December 2023

## Document Control

<b>Title</b>	Wambo Coal 2023 Annual Compliance Report (EPBC 2016/7636 and EPBC 2016/7816)
<b>General Description</b>	Review of compliance with the conditions of EPBC 2016/7636 and EPBC 2016/7816
<b>Document Owner</b>	Manager: Environment & Community

## Revisions

Rev No	Date	Description	By	Checked	Signature
1	March 2024	Original	WCPL	ND	

This report addresses Condition 5 of the Wambo Coal Pty Limited (WCPL) Environment Protection and Biodiversity Conservation (EPBC) Approval 2016/7636 for the South Wambo Underground Mine, which states:

*The person taking the action must publish a report on the website addressing compliance with each of the conditions of this approval, including implementation of any management plan, program, strategy and review required by condition 1. The reporting period and report publication must comply with conditions D10 and D15 of Schedule 2 of the **state development consent**. 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** (by email to [EPBCMonitoring@environment.gov.au](mailto:EPBCMonitoring@environment.gov.au) or an address as stipulated by the **Department**) at the same time as the compliance report is published. The person taking the action must continue to publish the report until such time as agreed in writing by the **Minister**.*

**Table 1** provides a reconciliation of the conditions of EPBC 2016/7636 and their compliance status.

This report also addressed Condition 5 of the WCPL EPBC Approval 2016/7816 for the South Bates Extension Underground Mine, which states:

*The person taking the action must publish a report on the website addressing compliance with each of the conditions of this approval, including implementation of any management plan, program, strategy and review required by condition 1. The reporting period and report publication must comply with conditions D10 and D15 of Schedule 2 of the **state development consent**. Documentary evidence providing proof of the date of publication must be provided to the **Department** (by email to [EPBCMonitoring@environment.gov.au](mailto:EPBCMonitoring@environment.gov.au) or an address as stipulated by the **Department**) at the same time as the compliance report is published. The person taking the action must continue to publish the report until such time as agreed in writing by the **Minister**.*

**Table 2** provides a reconciliation of the conditions of EPBC 2016/7816 and their compliance status.

**Table 1: EPBC Approval 2016/7636 Compliance Summary**

Condition	Status	Comment
1. The person taking the action must: <ol style="list-style-type: none"> <li>a. Not clear more than 0.9 ha of Central Hunter Valley Eucalypt Forest and 3.4 ha of foraging habitat for the Regent Honeyeater (<i>Anthochaera phrygia</i>).</li> </ol>	Compliant	The action has not yet been commenced. WCPL has not cleared more than 0.9 hectares (ha) of Central Hunter Valley Eucalypt Forest or more than 3.4 ha of foraging habitat for the Regent Honeyeater ( <i>Anthochaera Phrygia</i> ) as part of the action.
<ol style="list-style-type: none"> <li>b. Implement conditions A1 and A2 of Schedule 2 of the <b>state development consent</b> to minimise the impacts of the action on <b>protected matters</b>.</li> </ol>	Not-compliant	WCPL implements Conditions A1 and A2, Schedule 2 of the Development Consent (DA 305-7-2003).  An Independent Environmental Audit (Onward Consulting, 2023) prepared in accordance with Condition D11 of Development Consent DA 305-7-2003 identified a non-compliance with Condition A2 of Development Consent DA 305-7-2003 based on the following “administrative” or “low risk” non-compliances with Development Consent DA 305-7-2003 conditions: <ul style="list-style-type: none"> <li>• Condition B45 – air quality monitoring equipment malfunction (administrative).</li> <li>• Condition B62 – groundwater quality performance criteria exceedance (low risk).</li> <li>• Condition B77 – late lodgement of Conservation Bond (administrative).</li> <li>• Condition D9 – late non-compliance notifications (administrative).</li> </ul> These non-compliances are considered to not be related to the EPBC 2016/7636 Action nor would they result in any significant impacts to relevant Matters of National Environmental Significance.
<ol style="list-style-type: none"> <li>c. Implement environmental performance conditions B1-B11, B51-B55, B62-B73 and B75-B77 of Schedule 2 of the <b>state development consent</b>, where the conditions relate to avoiding, mitigating, managing, offsetting, monitoring or recording, or reporting on impacts to <b>protected matters</b>. In implementing these conditions, the approval holder must protect at least 18.3 ha of Central Hunter Valley Eucalypt Forest and at least 27.7 ha of foraging habitat for the Regent Honeyeater (<i>Anthochaera phrygia</i>) in perpetuity.</li> </ol>	Compliant	WCPL implements Conditions B1-B11, B51-B55, B62-B73 and B75-B77 of Schedule 2 of the Development Consent (DA 305-7-2003). WCPL has amended an existing VCA under the NSW <i>National Parks and Wildlife Act 1974</i> to conserve Remnant Woodland Enhancement Program Area E in perpetuity, which includes 18.3 ha of Central Hunter Valley Eucalypt Forest and Woodland and 27.7 ha of foraging habitat for the Regent Honeyeater.

Condition	Status	Comment
<p>2. Within 30 days after the <b>commencement of the action</b>, the person taking the action must advise the <b>Department</b> in writing of the actual date of <b>commencement of the action</b>.</p>	Not applicable	<p>The action has not yet been commenced.</p> <p>Mining at the approved South Wambo Underground Mine is planned to commence after completion of mining at the South Bates Extension Underground Mine.</p> <p>WCPL will advise the Department in writing of the commencement of the action within 30 days of commencement.</p>
<p>3. Unless otherwise agreed to in writing by the <b>Minister</b>, the person taking the action must publish all management plans, programs, strategies and reviews required by condition 1. Each management plan, program, strategy and review must be published on the <b>website</b>, and notification must be provided to the <b>Department</b>, within 1 month of being approved by the Secretary of the NSW Department of Planning &amp; Environment (or nominee of the Secretary).</p>	Compliant	<p>Copies of all management plans, programs, strategies and reviews required by condition 1 of EPBC 2016/7636 are available to the public on the Peabody Energy website <a href="https://www.peabodyenergy.com/Operations/Australia-Mining/New-South-Wales-Mining/Wambo-Approvals,-Plans-Reports">https://www.peabodyenergy.com/Operations/Australia-Mining/New-South-Wales-Mining/Wambo-Approvals,-Plans-Reports</a>.</p> <p>Relevant management plans include the Site Water Management Plan and Biodiversity Management Plan. An Extraction Plan for areas related to the Action has not yet been prepared.</p> <p>Notification is provided to the Department within one month of the approval of any management plans, programs, strategies and reviews by the Secretary of the NSW Department of Planning &amp; Environment (or nominee of the Secretary).</p>
<p>4. The person taking the action must maintain accurate records substantiating all activities associated with or relevant to the conditions of approval, including measures taken to implement a management plan, program, strategy and review required by condition 1, and make them available upon request to the <b>Department</b>. Such records may be subject to audit by the <b>Department</b> or an independent auditor in accordance with section 458 of the <b>EPBC Act</b>, or used to verify compliance with the conditions of approval.</p>	Compliant	<p>WCPL maintains accurate records substantiating all activities associated with or relevant to the conditions of approval, including measures taken to implement a management plan, program, strategy and review required by condition 1.</p> <p>WCPL will make these records available upon request to the Department.</p>
<p>5. The person taking the action must publish a report on their <b>website</b> addressing compliance with each of the conditions of this approval, including implementation of any management plan, program, strategy and review required by condition 1. The reporting period and report publication must comply with conditions D10 and D15 of Schedule 2 of the <b>state development consent</b>. 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 <b>Department</b> (by email to <a href="mailto:EPBCmonitoring@environment.gov.au">EPBCmonitoring@environment.gov.au</a> or an address as stipulated by the <b>Department</b>) at the same time as the compliance report is published. The person taking the action must continue to publish the report until such time as agreed in writing by the <b>Minister</b>.</p>	Compliant	<p>The WCPL 2023 Annual Review (including this report) will be published on the Peabody Energy website <a href="https://www.peabodyenergy.com/Operations/Australia-Mining/New-South-Wales-Mining/Wambo-Approvals,-Plans-Reports">https://www.peabodyenergy.com/Operations/Australia-Mining/New-South-Wales-Mining/Wambo-Approvals,-Plans-Reports</a>.</p>

Condition	Status	Comment
<p>6. Any potential or actual contravention of the conditions of this approval, including contravention of a commitment made in a management plan, program, strategy and review required by condition 1 must be reported to the <b>Department</b> within 7 days of the person taking the action becoming aware of the actual or potential contravention.</p>	Not applicable	No events contravening (or potentially contravening) the conditions of this approval have occurred.
<p>7. Upon the direction of the <b>Minister</b>, 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 <b>Minister</b>. The independent auditor and audit criteria must be approved by the <b>Minister</b> prior to the commencement of the audit. The audit report must address the criteria to the satisfaction of the <b>Minister</b>.</p>	Not applicable	Upon the direction of the Minister, WCPL will ensure that an independent audit of compliance with the conditions of approval is conducted and a report submitted to the Minister.
<p>8. 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 <b>Minister</b>.</p>	Not applicable	<p>WCPL did not substantially commence the South Wambo Underground Mine prior to 30 April 2022 (i.e. five years after the date EPBC 2016/7636 was granted). In September 2023 DCCEEW approved WCPL's request to delay commencement of the action, noting the action must now commence by 31 December 2024.</p> <p>Mining at the approved South Wambo Underground Mine is planned to commence after completion of mining at the South Bates Extension Underground Mine.</p>

**Table 2: EPBC Approval 2016/7816 Compliance Summary**

Condition	Status	Comment
1. The person taking the action must: <ol style="list-style-type: none"> <li>a. Implement administrative conditions A1 and A2 of Schedule 2 of the state development consent to minimise the impacts of the action on protected matters.</li> </ol>	Not-compliant	WCPL implements Conditions A1 and A2, Schedule 2 of the Development Consent (DA 305-7-2003). An Independent Environmental Audit (Onward Consulting, 2023) prepared in accordance with Condition D11 of Development Consent DA 305-7-2003 identified a non-compliance with Condition A2 of Development Consent DA 305-7-2003 based on the following “administrative” or “low risk” non-compliances with Development Consent DA 305-7-2003 conditions: <ul style="list-style-type: none"> <li>• Condition B45 – air quality monitoring equipment malfunction (administrative).</li> <li>• Condition B62 – groundwater quality performance criteria exceedance (low risk).</li> <li>• Condition B77 – late lodgement of Conservation Bond (administrative).</li> <li>• Condition D9 – late non-compliance notifications (administrative).</li> </ul> These non-compliances are considered to not be related to the EPBC 2016/7816 Action nor would they result in any significant impacts to relevant Matters of National Environmental Significance.
<ol style="list-style-type: none"> <li>b. Implement environmental performance conditions B1-B3, B7-B10, B51-B55 and B62- B68 of Schedule 2 of the <b>state development consent</b>, where the conditions relate to avoiding, mitigating, managing, offsetting, monitoring or recording, or reporting on impacts to <b>protected matters</b>.</li> </ol>	Compliant	WCPL implements Conditions B1-B3, B7-B10, B51-B55 and B62-B68, Schedule 2 of the Development Consent (DA 305-7-2003).
<ol style="list-style-type: none"> <li>c. Notify the <b>Department</b> in writing of any proposed change to the <b>conditions</b> of the <b>state development consent</b>, referred to in conditions 1a and 1b, within 5 <b>business days</b> of formally proposing a change or becoming aware of any other proposed change.</li> </ol>	Compliant	WCPL consulted with DCCEEW in August 2022 to advise that a Modification to DA305-7-2003 was being prepared to allow for the reorientation of longwall 24 and 25, and the proposed addition of Longwall 26.
<ol style="list-style-type: none"> <li>d. Notify the <b>Department</b> in writing of any change to conditions of the <b>state development consent</b>, referred to in conditions 1a to 1b, within 5 <b>business days</b> of a change to <b>conditions</b> being finalised.</li> </ol>	Compliant	DA 305-7-2003 Modification 19 was approved 25 January 2023. WCPL notified DCCEEW by email January 27, 2023.
2. Within 25 <b>business days</b> after the <b>commencement of the action</b> , the person taking the action must advise the <b>Department</b> in writing of the actual date of <b>commencement of the action</b> .	Notification provided 3 December 2018.	WCPL provided a notification to the Department of the actual date of commencement of the action (3 December 2018), however this was not completed within 30 days of the commencement of the action.

Condition	Status	Comment
<p>3. Unless otherwise agreed to in writing by the <b>Minister</b>, the person taking the action must publish all management plans and strategies required by conditions B1-B3, B7-B10, B51-B55 and B62-B68 of Schedule 2 of the <b>state development consent</b> on their website. Each management plan and strategy must be published on the <b>website</b> within 1 month of being approved by the <b>Secretary</b> and remain there for a period of no less than 5 years.</p>	Compliant	<p>Copies of all management plans, programs, strategies and reviews required by condition 1 of EPBC 2016/7636 are available to the public on the Peabody Energy website <a href="https://www.peabodyenergy.com/Operations/Australia-Mining/New-South-Wales-Mining/Wambo-Approvals,-Plans-Reports">https://www.peabodyenergy.com/Operations/Australia-Mining/New-South-Wales-Mining/Wambo-Approvals,-Plans-Reports</a>. Relevant management plans include the Extraction Plan for South Bates Extension Underground Mine Longwalls 24 to 26, Site Water Management Plan, Biodiversity Management Plan and Life of Mine Rejects Emplacement Strategy.</p>
<p>4. The person taking the action must maintain accurate records substantiating all activities associated with or relevant to these conditions of <b>approval</b>, including measures taken to implement the management plans and strategies required by conditions B1-B3, B7-B10, B51-B55 and B62-B68 of Schedule 2 of the <b>state development consent</b>, and make them available upon request to the <b>Department</b>. Such records may be subject to audit by the <b>Department</b> or an independent auditor in accordance with section 458 of the <b>EPBC Act</b>, or used to verify compliance with the conditions of this <b>approval</b>.</p>	Compliant	<p>WCPL maintains accurate records substantiating all activities associated with or relevant to the conditions of approval, including measures taken to implement a management plan, program, strategy and review required by Conditions B1-B3, B7-B10, B51-B55 and B62-B68, Schedule 2.</p> <p>WCPL will make these records available upon request to the Department.</p>
<p>5. The person taking the action must publish a report on their website addressing compliance with each of the <b>conditions</b> of this <b>approval</b>, including implementation of any management plans and strategies required by condition 1. The reporting period and report publication must comply with conditions D10 and D15 of Schedule 2 of the <b>state development consent</b>. Documentary evidence providing proof of the date of publication must be provided to the <b>Department</b> (by email to <a href="mailto:EPBCMonitoring@environment.gov.au">EPBCMonitoring@environment.gov.au</a> or an address as stipulated by the <b>Department</b>) at the same time as the compliance report is published. The person taking the action must continue to publish the report until such time as agreed in writing by the <b>Minister</b>.</p>	Compliant	<p>The WCPL 2023 Annual Review (including this report) will be published on the Peabody Energy website <a href="https://www.peabodyenergy.com/Operations/Australia-Mining/New-South-Wales-Mining/Wambo-Approvals,-Plans-Reports">https://www.peabodyenergy.com/Operations/Australia-Mining/New-South-Wales-Mining/Wambo-Approvals,-Plans-Reports</a>.</p>
<p>6. Any potential or actual contravention of the conditions of this <b>approval</b>, including contravention of a commitment made in a management plan or strategy required by condition 1 must be reported to the <b>Department</b> no later than <b>7 business days</b> of the person taking the action becoming aware of the actual or potential contravention, by email to <a href="mailto:EPBCMonitoring@environment.gov.au">EPBCMonitoring@environment.gov.au</a> or an address as stipulated by the <b>Department</b>.</p>	Not applicable	<p>No events contravening (or potentially contravening) the conditions of this approval have occurred.</p>

Condition	Status	Comment
<p>7. Upon the direction of the <b>Minister</b>, the person taking the action must ensure that an independent audit of compliance with the conditions of <b>approval</b> is conducted and a report submitted to the <b>Minister</b>. The independent auditor and audit criteria must be approved by the <b>Minister</b> prior to the commencement of the audit. The audit report must address the criteria to the satisfaction of the <b>Minister</b>.</p>	<p>Not applicable</p>	<p>Upon the direction of the Minister, WCPL will ensure that an independent audit of compliance with the conditions of approval is conducted and a report submitted to the Minister.</p>
<p>8. If, at any time after 5 years from the date of this <b>approval</b>, the person taking the action has not substantially <b>commenced the action</b>, then the person taking the action must not <b>commence the action</b> without the written agreement of the <b>Minister</b>.</p>	<p>Compliant</p>	<p>WCPL commenced the action within five years of the date of the approval of EPBC 2016/7816.</p>