



Approval

Warkworth Mine Extension, Warkworth NSW (EPBC 2009/5081)

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 **Warkworth Mining Limited.**

proponent's ABN 42 001 385 842

proposed action The proposed action is to extend the existing Warkworth coal mine over an additional 705 hectares of land at Warkworth, NSW, including associated modifications to existing mine infrastructure. [see EPBC Act Referral 2009/5081].

Approval decision

Controlling Provision	Decision
Listed threatened species and communities (sections 18 & 18A)	Approved
Listed migratory species (sections 20 & 20A)	Approved

conditions of approval

This approval is subject to the conditions specified below.

expiry date of approval

This approval has effect until 31 March 2033

Decision-maker

name and position David Calvert
Acting Assistant Secretary
Environment Assessment Branch

signature

date of decision

9 August 2012

Conditions attached to the approval

Offset areas

Mechanism to secure offsets

1. To offset the impact on foraging habitat of the regent honeyeater and swift parrot the person taking the action must register a legally binding conservation mechanism over the Warkworth Mine extension project biodiversity management areas (offset areas) identified in the map at Appendix 1 and an additional area of at least 750 hectares of foraging habitat (together, the Offset Areas). The mechanism/s must provide enduring protection for the offset area and be registered within 2 years of the date of this approval.
2. To offset the impacts to the regent honeyeater and swift parrot, the person taking the action must submit to the **Minister** for approval an *Offset management plan* for all of the offset areas within 12 months of the date of this approval. The approved *Offset management plan* must be implemented.

The *Offset management plan* must include, but not be limited to the following:

- a. a textual description and map to clearly define the location and boundaries of all of the offset areas). This must be accompanied with the **offset attributes** and a **shapefile**
- b. details of management actions to protect and enhance the extent and condition of habitat values of the offset areas including but not limited to rehabilitation, weed control, fire management, erosion and sediment control, management of livestock and restrictions on access of no less than 2626 hectares of habitat for the regent honeyeater and swift parrot
- c. the timing, responsibilities and performance criteria for management actions
- d. a monitoring plan including the undertaking of ecological surveys by a qualified ecologist to assess the success of the management actions against identified milestones and objectives
- e. a process to report, to the **department**, the management actions undertaken in the offset areas and the outcome of those actions, including identifying any need for improved management
- f. 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
- g. details of parties responsible for management, monitoring and implementing the plan, including their position or status as a separate contractor.

Note: For clarity, the offset areas specified in condition 2 can accommodate offset requirements for more than one species habitat within the one area, if suitable habitat is verified as present and includes specific habitat requirements for the relevant species.

Offset management plan

3. If the person undertaking the action proposes to undertake any action within the offset areas secured under condition 2, 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 matters of national environmental significance (MNES). If the **Minister** agrees to the action within the offset areas, the area identified for the action must be excised from the proposed offset areas and alternative offsets secured at a ratio of 20:1 in relation to the impact on MNES.

Re-establishment of Woodland in the Biodiversity Management Areas (Offset Areas)

4. Within 12 months of the commencement of construction the person undertaking the action must provide, for the approval of the **Minister**, a *Re-establishment plan* for the offset areas secured under condition 2. The approved *Re-establishment plan* must be implemented.
5. The *Re-establishment plan* must include but not be limited to the following:
 - a. details of the areas to be re-established (re-establishment areas) including location and maps
 - b. documentation including mapping of current environmental values relevant to MNES of the re-establishment areas
 - c. 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
 - d. the source and provenance of the seed and/or seedlings which will be used
 - e. measures to address threats to MNES including but not limited to grazing pressure and damage by livestock and adverse impacts from feral animals and weeds
 - f. measures to provide fire management regimes appropriate for the MNES
 - g. measures to manage the MNES in accordance with the recommendations of the approved recovery plan for the migratory and threatened species
 - h. monitoring measures including ecological surveys to measure the establishment and ongoing success of the revegetation based on a comparison with high quality habitat for MNES
 - i. performance measures and reporting requirements against identified objectives, including trigger levels for contingency measures to be taken to ensure performance measures and objectives are met
 - j. identify persons responsible and arrangements for implementing the *Re-establishment plan* and for reporting on performance.

Other Matters of National Environmental Significance

6. As a precautionary approach, the person taking the action must within 6 months of the date of this approval, or such other timeframe specified in writing by the **Minister**, provide to the **Minister** the NSW government approved water management plans as identified in condition 32 of the NSW state government Project Approval dated 3 February 2012 (application number 09_0202).
7. The person taking the action must within 6 months of the date of this approval, or such other timeframe specified by the **Minister**, provide to the **Minister** a report on:
 - a. any updated modelling of surface and groundwater impacts that has been undertaken in preparing the water management plans
 - b. how the water management plans have addressed groundwater and surface water impacts on nationally listed threatened species and ecological communities
8. If, after receiving the water management plans, the **Minister** is not satisfied the water management plans adequately address impacts on listed threatened species and ecological communities, the **Minister** may require in writing that the person taking the action provide additional information within a specified timeframe.

Mine site rehabilitation

9. The person taking the action must, within 12 months of the commencement of construction, submit to the **Minister** for approval a *Mine site rehabilitation plan* for the progressive rehabilitation and revegetation of no less than 2,335 ha of woodland habitat on the project area (as identified in Appendix 2).
10. This *Mine site rehabilitation plan* (the plan) must include, at a minimum, the following information:

- a. the desired outcomes/objectives of implementing the plan
 - b. details of the vegetation communities to be rehabilitation and the timing of progressive rehabilitation
 - c. a process to progressively report to the department the rehabilitation management actions undertaken and the outcome of those actions, and the mechanisms to be used to identify the need for improved management
 - d. a description of the potential risks to successful management and rehabilitation on the project site, and a description of the contingency measures that would be implemented to mitigate these risks
 - e. details of parties responsible for reviewing and implementing the plan
 - f. details of long-term management and protection of the mine site.
11. The person undertaking the action must submit to the **Minister** for approval a *Mine closure plan*, at least 6 months prior to the mine closure. The approved *Mine closure plan* must be implemented.

Note: to avoid doubt, the proponent may develop a single mine rehabilitation plan to align with the requirements of the NSW Government requirements and this approval.

Survey data

12. All survey data collected for the project must be collected and recorded so as to conform to data standards notified from time to time by the **department**. When requested by the **department**, the proponent must provide to the **department** all species and ecological survey data and related survey information from ecological surveys undertaken for MNES. This survey data must be provided within 30 business days of request, or in a timeframe agreed to by the **department** in writing. The **department** may use the survey data for other purposes.

Reporting and Auditing

13. Within 14 days after the commencement of construction, the person taking the action must advise the **department** in writing of the actual date of **commencement of construction**.
14. Within three months of every 12 month anniversary of the commencement of construction, 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 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. The person taking the action must also notify any non-compliance with this approval to the **department** in writing within two business days of becoming aware of the non-compliance.
15. 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**.
16. Where the conditions require the person undertaking the action to submit a plan for the **Minister's** approval, the person undertaking the action must maintain a register recording:
- a. the date on which each plan was approved by the Minister
 - b. if a plan has not been approved, the date on which it was, or is expected to be, submitted to the Minister
 - c. the dates on which reports on the outcomes of reviews have been approved by the Minister
 - d. the dates on which the subsequent reviews are due.

17. The register must be submitted to the **department**, at the time the annual compliance report is published, but does not form part of the report.
18. If the person taking the action wishes to carry out any activity otherwise than in accordance with the plans, 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 plan. The varied activity shall not commence until the Minister has approved the revised plan in writing. The **Minister** will not approve a revised plan, unless the revised plan would result in an equivalent or improved environmental outcome. If the **Minister** approves the revised plan that plan must be implemented in place of the plan originally approved.
19. If the **Minister** believes that it is necessary or convenient for the better protection of listed threatened species and communities or listed migratory species to do so, the **Minister** may request that the person taking the action make specified revisions to the management plan specified in the conditions and submit the revised plan for the **Minister's** written approval. The person taking the action must comply with any such request. The revised approved plan must be implemented. Unless the **Minister** has approved the revised plan then the person taking the action must continue to implement the originally approved plan, as specified in the conditions.
20. 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**.

Publication of plans

21. The person taking the action must maintain accurate records substantiating all activities and outcomes associated with or relevant to the above conditions of approval, including measures taken to implement the management plans required by this 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.
22. Unless otherwise agreed to in writing by the **Minister**, the person taking the action must publish all management plans referred to in these conditions of approval on their website. Each management plan must be published on the website within 1 month of being approved.

Definitions

Department - the Australian Government Department responsible for the *Environment Protection and Biodiversity Conservation Act 1999*.

Minister - the Minister administering the *Environment Protection and Biodiversity Conservation Act 1999* and includes a delegate of the Minister

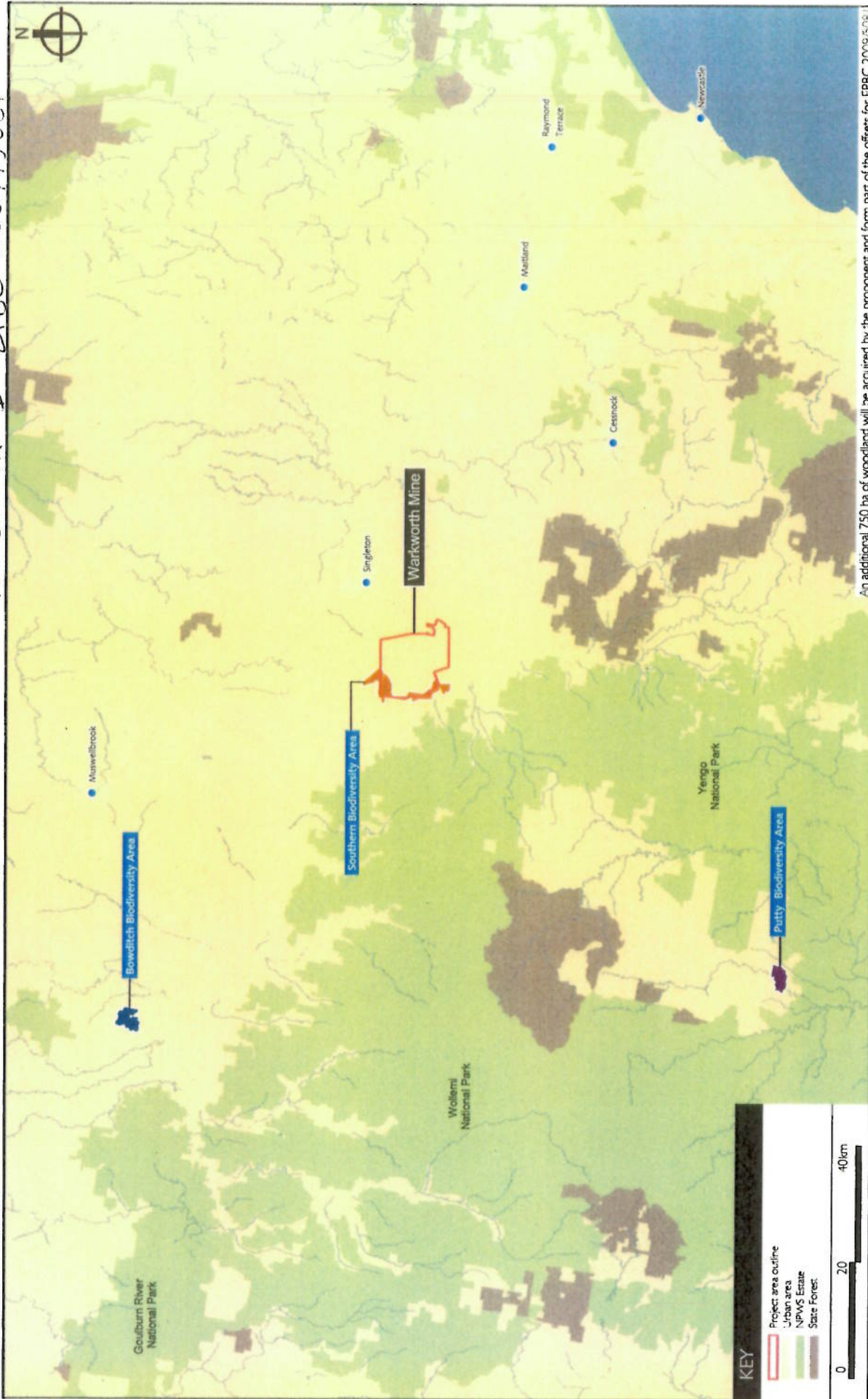
Shapefile -means an ESRI Shapefile containing '.shp', '.shx' and '.dbf' files and other files capturing attributes of the Offset Area, including the shape, EPBC reference ID number and EPBC protected matters present at the relevant site. Attributes should also be captured in '.xls' format.

Offset attributes -mean an '.xls' file capturing relevant attributes of the Offset Area, including the EPBC reference ID number, the physical address of the offset site, coordinates of the boundary points in decimal degrees, the EPBC protected matters that the offset compensates for, any additional EPBC protected matters that are benefiting from the offset, and the size of the offset in hectares.

Commencement of construction- means any preparatory works required to be undertaken including clearing vegetation, the erection of any onsite temporary structures and the use of heavy duty equipment for the purpose of breaking the ground for mining, buildings or infrastructure.

Substantially commence the action – means the extraction of coal from the Warkworth Extension Project for the purpose of commercial production. Substantial commencement does not include test extraction or extraction of coal samples for quality assurance.

Appendix 1 EPBC 2009/5081



An additional 750 ha of woodland will be acquired by the proponent and form part of the offsets for EPBC 2009/5081

Offsets for EPBC 2009/5081

Proposed Warkworth Extension





G30741, SA-F1.1, Rev 2, 18 February, 2010

Proposed Warkworth Extension
Proposed Warkworth Extension
FIGURE I.1



VARIATION TO CONDITIONS ATTACHED TO APPROVAL

Warkworth Mine Extension, Warkworth NSW Project (EPBC No 2009/5081)

This decision to vary a condition of approval is made under section 143 of the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act).

Approved action

Person to whom the approval is granted	Warkworth Mining Ltd ABN: 42 001 385 842
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Approved action	The proposed action is to extend the existing Warkworth coal mine over an additional 705 hectares of land at Warkworth, NSW, including associated modifications to existing mine infrastructure [see EPBC Act Referral 2009/5081]
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Variation

Variation of conditions of approval	The variation is: Delete condition 1 attached to the variation notice dated 23 December 2013 and substitute with the condition specified below. Note: All other conditions of the variation notice dated 23 December and varied 9 October 2015 remain unchanged.
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Date of effect	This variation has effect on the date the instrument is signed
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Person authorised to make decision

Name and position	Monica Collins Assistant Secretary Compliance & Enforcement Branch
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Signature

Date of decision	14 November 2016
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Conditions attached to the approval

1. To offset the impact on the foraging habitat for *Anthochaera phrygia* (Regent Honeyeater) and *Lathamus discolor* (Swift Parrot), the person taking the action must register a legally binding conservation mechanism over 94ha of land, as illustrated in the map at Attachment A as the Phase 1 Offset. The conservation mechanism must provide enduring protection for the Phase 1 Offset (Putty Road) and must be registered by 17 February 2018 unless otherwise agreed to by the **Minister** in writing. The person taking the action must notify the **Department** in writing within 1 month of the registration of the conservation mechanism.