



Australian Government

Department of the Environment and Water Resources

Mr Alan Wells
Principal
Wells Environmental Services
PO Box 205
EAST MAITLAND NSW 2323

Date
24 October 2007

EPBC Ref
2007/3297
EPBC contact
Peter Davies
02 6274 2063
peter.davies@environment.gov.au

Dear Mr Wells

Decision on approval - Moolarben Coal Mine Proposal

I refer to a proposal to establish a coal mine and associated infrastructure 40 kilometres east of Mudgee to generate approximately 10Mtpa of product coal and as described in the referral received under the EPBC Act on 16 February 2007 (EPBC 2007/3297). 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 Moolarben Coal Mines Pty 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/provide the information specified in the conditions and who will be the contact person responsible for the administration of the approval decision.

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

It should also be noted that, although an approval has been granted under Part 9 of the EPBC Act, this approval does not relieve the person to whom it has been granted from an obligation to comply with any other law of the Commonwealth, State or Territory that is applicable to the action, and to have any right, title or interest that is required to access land or waters and to do 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:

State/Territory authority	NSW Minister for Planning
Other relevant authority	Minister for Industry, Tourism and Resources

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

Ms Vicki Middleton
Assistant Secretary
Environment Assessment Branch



APPROVAL DECISION

Moolarben Coal Mine Project, EPBC 2007/3297

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

Proposed action

Person to whom the approval is granted **Moolarben Coal Mines Pty Limited**

Proposed action The establishment of a coal mine and associated infrastructure 40 kilometres east of Mudgee to generate approximately 10Mtpa of product coal and as described in the referral received under the Act on 16 February 2007 (EPBC 2007/3297);

Approval decision

Relevant controlling provisions The approval has effect for:
Listed threatened species and communities (sections 18 & 18A)

Conditions of approval This approval is subject to the conditions specified below.

Expiry date of approval This approval has effect until 31 December 2027.

Person authorised to make decision

Name and position Ms Vicki Middleton
Assistant Secretary
Environment Assessment Branch

Date of decision 24 October 2007

Conditions attached to the approval

1. In order to protect the White Box-Yellow Box-Blakely's Red Gum Grassy Woodland and Derived Native Grassland listed ecological community, the person taking the action shall make suitable arrangements within 12 months of this approval to:
 - (a) transfer at least 130 hectares of the White Box-Yellow Box-Blakely's Red Gum Woodland and Derived Native Grassland listed ecological community to the NSW Minister for Climate Change Environment and Water to offset, on a "like for like" basis, the 65 hectares that would be cleared by the project at an offset ratio of 2:1; and

(b) provide the NSW Department of Environment and Climate Change (DECC) with funds (which at the discretion of DECC may include an in-kind contribution) to cover any reasonable costs associated with the transfer and ongoing management of this land.

2. In order to protect the White Box-Yellow Box-Blakely's Red Gum Grassy Woodland and Derived Native Grassland listed ecological community, the person taking the action shall in accordance with the Rehabilitation and Offset Management Plan (See *Condition 3* below):

- (a) revegetate at least 38 hectares of disturbed land on the "Red Hills" property with Yellow Box-White Box-Blakely's Red Gum vegetation;
- (b) revegetate at least 143 hectares of cleared land on the "Red Hills" property with suitable native vegetation to improve wildlife corridor linkages;
- (c) conserve and enhance at least 1262 hectares of existing native vegetation onsite; and
- (d) make suitable arrangements to protect these offset areas from development in the long term, to the satisfaction of the Minister for the Environment and Water Resources (the Minister).

3. In order to protect the White Box-Yellow Box-Blakely's Red Gum Grassy Woodland and Derived Native Grassland listed ecological community, the person taking the action shall prepare and implement a detailed Rehabilitation and Offsets Management Plan for the project to the satisfaction of the Minister for the Environment and Water Resources. The proponent shall progressively rehabilitate the site to the satisfaction of Minister for the Environment and Water Resources and the NSW Department of Primary Industries, in general accordance with the proposed Rehabilitation and Offset Management Plan. The Rehabilitation and Offset Management Plan must include:

- (a) the rehabilitation objectives for the site, vegetation offsets and landscaping;
- (b) a description of the short, medium, and long term measures that would be implemented to:
 - rehabilitate the site;
 - implement the vegetation offsets; and
 - landscape the environmental bunds;
- (c) performance and completion criteria for the rehabilitation of the site, implementation of the vegetation offsets, and landscaping of the environmental bunds;
- (d) a detailed description of the measures that would be implemented over the next 3 years including the progressive rehabilitation of mining areas and progressive implementation of the vegetation offset areas referred to in *Condition 2*.
- (e) a program to monitor the effectiveness of these measures, and progress against the performance and completion criteria (see (c) above);
- (f) a description of the potential risks to successful rehabilitation and/or revegetation, and a description of the contingency measures that would be implemented to mitigate these risks; and
- (g) details of who would be responsible for monitoring, reviewing, and implementing the plan.

Coal mining operations must not commence until the plan has been approved. The approved plan must be implemented.

4. In order to protect the White Box-Yellow Box-Blakely's Red Gum Grassy Woodland and Derived Native Grassland listed ecological community, the person taking the action must, by 1 July each year after the commencement of operations, provide a certificate stating that they have complied with the conditions of approval.

5. 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.

6. If the Minister believes that it is necessary or desirable for the better protection of the listed threatened species and ecological communities to do so, the Minister may request that the person taking the action make specified revisions to the plans, reports or management strategies approved pursuant to paragraphs 1, 2, and 3, and submit the revised plan, report or strategy for the Minister's approval. The person taking the action must comply with any such request. The revised approved plan, report or strategy 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 coal mining operations, the action must not thereafter be commenced without the written agreement of the Minister.

Definitions: *Coal mining operations* means the removal of coal from the pit.