

**MILLENNIUM COAL PTY LTD  
MILLENNIUM EXPANSION PROJECT EPBC NO 2009/4821  
JUNE 2016**

C	29/06/2016	Issued for Review	D Railey	Simon Cobb	Simon Cobb
B	18/08/2015	Issued for Review	D Railey	Simon Cobb	Simon Cobb
A	1/07/2014	Issued for Review	N Keipert	Simon Cobb	Simon Cobb
Rev	Date	Description	Prepared By	Reviewed By	Approved By

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## 1 Executive Summary

In 2008 Millennium Coal Pty Ltd (**Peabody**) referred the Millennium Expansion Project (**MEP**) for approval pursuant to the *Environment Protection and Biodiversity Conservation Act 1999* (**EPBC Act**). The MEP resulted in unavoidable impacts to a 'matter of national environmental significance' (**MNES**) which was listed under the EPBC Act (Brigalow – *Acacia harpophylla* dominant and co-dominant). As a condition of the EPBC Act approval (2009/4821) for the MEP, Peabody was required to secure a minimum of 112.5 ha of Brigalow as an offset.

On 3 November 2011, Peabody formalised the Wotonga Offset Area Management Plan – Millennium Expansion Project to provide an offset area on the Peabody related body corporate-owned property of Wotonga Pastoral Holding (Lot 13 SP178466) for the listed threatened species and communities as part of the requirement for the MEP.

On 20 June 2014, in response to the Department of Natural Resources and Mines declared area offer, Peabody requested that a voluntary declaration under the *Vegetation Management Act 1999* be made in respect of Lot 13 on SP 178466

This document sets out Peabody's compliance with EPBC Approval 2009/4821 in relation to the MEP including by way of the Wotonga Area Offset Management Plan and voluntary declaration.

## 2 Conditions Attached to the Approval



Australian Government

Department of Sustainability, Environment, Water, Population and Communities

### Approval

#### Millennium Expansion Project – EPBC No 2009/4821

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** Peabody Energy Australia Pty Ltd

**proponent's ACN (if applicable)** 93 096 909 410

**proposed action** To extend the current open cut mining operation on the existing ML 70313 and additionally into two adjoining leases Mining Lease Application MLA 70401 "North Poitrel" and Mineral Development Licence MDL 136 "Mavis Downs", 22km east of Moranbah and 16km south west of Coppabella in central Queensland as described in the referral received 27 March 2009 and the Millennium Expansion Project Environment Impact Statement dated December 2010 (see EPBC Act Referral 2009/4821).

#### Approval decision

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

#### conditions of approval

This approval is subject to the conditions specified below.

#### expiry date of approval

This approval has effect until 28 October 2031.

#### Decision-maker

**name and position** David Calvert  
A/g Assistant Secretary  
Environment Assessment Branch

**signature**

**date of decision**

3 November 2011

### Condition attached to the approval

1. To offset the impact to the Brigalow (*Acacia harpophylla* dominant and co-dominant) ecological community, the person taking the action must register a legally binding conservation mechanism over a minimum of 112.5 hectares of the Brigalow (*Acacia harpophylla* dominant and co-dominant) ecological community (the offset area) as identified in the offset management plan referred to in condition 2. The mechanism/s must provide enduring protection for protection for the offset area and be registered before 1 July 2014.

The conditions of the conservation mechanism must ensure that management actions are undertaken for the protection and enhancement of the Brigalow (*Acacia harpophylla* dominant and co-dominant) ecological community. The person taking the action must obtain agreement from any third parties responsible for management actions and provide details of the responsible parties, including their position or status as a separate contractor, to the **department**.

2. To offset the impacts to the Brigalow (*Acacia harpophylla* dominant and co-dominant) ecological community, the person taking the action must submit to the **Minister** for approval an Offset Management Plan within 12 months of the date of this approval.

This Offset Management Plan must include, at a minimum, the following information:

- a. the desired outcomes/objectives of implementing the plan;
- b. details of Brigalow (*Acacia harpophylla* dominant and co-dominant) endangered ecological community offset areas, including a textual description and map to clearly define the location and boundaries of the offset area. This must be accompanied with the **offset attributes** and a **shapefile**;
- c. details of management actions to protect and enhance the extent and condition of the threatened species habitat values including rehabilitation, weed control, fire management, erosion and sediment control, management of livestock and restrictions on access, within the offset area;
- d. the timing, responsibilities and performance criteria for such actions;
- e. a monitoring plan including ecological surveys that must be undertaken to assess the success of the management measures against identified milestones and objectives;
- f. 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;
- g. 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; and,
- h. details of parties responsible for monitoring, reviewing and implementing the plan.

The Offset Management Plan must be implemented.

3. Before impacting or removing any EPBC listed ecological community or species, the person taking the action must provide to the **Minister** a Threatened Flora and Fauna Species and Ecological Communities Management Plan. The Plan must contain, but is not limited to, the following:
  - a. Management actions relating to EPBC listed species; and
  - b. Mitigation actions relating to EPBC listed species.

The Threatened Flora and Fauna Species and Ecological Communities Management Plan must be implemented. This plan may be made publicly available on the internet by the **department**.

Note: Condition 8 provides that, if the **Minister** believes that it is necessary or desirable for the better protection of the environment, the **Minister** may require the person taking the action to make, within a period specified by the **Minister**, revisions to a plan required under these conditions.

4. Within 14 days from the **commencement of construction**, the person taking the action must advise the **department** in writing of the actual date of **commencement of construction**.
5. 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 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.
6. 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**.
7. If the person taking the action wishes to carry out any activity otherwise than in accordance with the Plans referred to in conditions 2 and 3, 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. If the **Minister** approves the revised plan, that plan must be implemented in place of the plan originally approved.
8. If the **Minister** believes that it is necessary or convenient for the better protection of listed threatened species and communities to do so, the **Minister** may request that the person taking the action make specified revisions to plans 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 plan must be implemented. Unless the **Minister** has approved the revised plan then the person taking the action must continue to implement the original plan.
9. 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**.
10. 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.

**Note:** To avoid doubt, if a condition of a State (QLD) approval held by the proponent requires a plan relating to EPBC-listed species the proponent may simultaneously meet the relevant requirements of these conditions by submitting a single plan.

### 3 COMPLIANCE TABLE - EPBC approval conditions status

Condition Number/ reference	Condition	Is the project compliant with this condition?	Evidence/Comments (provide evidence to support claims regarding compliance or non-compliance)
1	<p>To offset the impact to the Brigalow (<i>Acacia harpophylla</i> dominant and co-dominant) ecological community, the person taking the action must register a legally binding conservation mechanism (such as a nature Refuge Agreement) over a minimum of 112.5 hectares of the Brigalow (<i>Acacia harpophylla</i> dominant and co-dominant) ecological community (the offsets area) as identified in the offsets management plan referred to in condition 2. The mechanism/s must provide enduring protection for the protection for the offsets area and be registered before 1 July 2014.</p> <p>The conditions of the conservation mechanism must ensure that management actions are undertaken for the protection and enhancement of the Brigalow (<i>Acacia harpophylla</i> dominant and co-dominant) ecological community. The person taking the action must obtain agreement from any third parties responsible for management actions and provide details of the responsible parties, including their position or status as a separate contractor, to the department.</p>	Compliant	<p>On 25 June 2014, in response to DNRM's declared area offer, Peabody's related body corporate Peabody (Burton Coal) Pty Ltd requested a voluntary declaration under the <i>Vegetation Management Act 1999</i> be made in respect of 112.5 hectares located within Lot 13 on SP178466 to offset the impact of the MEP on the Brigalow (<i>Acacia harpophylla</i> dominant and co-dominant) ecological community (Appendix A).</p> <p>The voluntary declaration incorporates the Wotonga Offset Area Management Plan – Millennium Expansion Project dated 28 November 2013 which includes suitable management actions to protect and enhance the Brigalow ecological community.</p> <p>Millennium has undertaken a tender process to engage a suitable consultant to ensure the management actions are completed. The successful consultant is Ecology and Heritage Partners and will address the following:</p> <p>Ecological assessments as detailed in Table 6: Proposed monitoring schedule, of the Wotonga Offset Area Management Plan. This will include visual assessments, photo-monitoring &amp; a bio-condition assessment</p> <p>Land management will be as detailed in Table 5: Schedule of management actions, of the Wotonga Offset Area Management Plan. This will include:</p> <ul style="list-style-type: none"> <li>• Fence installation and maintenance (as required)</li> <li>• Fire break installation and maintenance</li> <li>• Weed control</li> <li>• Feral animal control (baiting)</li> <li>• Installation of erosion control measures and any erosion repairs</li> </ul>

2	<p>To offset the impacts to the Brigalow Acacia <i>harpophylla</i> dominant and co-dominant) ecological community, the person taking the action must submit to the Minister for approval an Offset Management Plan within 12 months of the date of this approval.</p> <p>This offsets management Plan must include, at a minimum, the following information:</p> <ul style="list-style-type: none"> <li>a) The desired outcomes/objectives of implementing the plan;</li> <li>b) details of Brigalow endangered ecological community</li> <li>c) details of management actions to protect and enhance the extent and condition of the threatened species habitat values including rehabilitation, weed control, fire management, erosion and sediment control livestock and restrictions on access, within the offset area;</li> <li>d) and timing, responsibilities and performance criteria for such actions;</li> <li>e) a monitoring plan including ecological surveys that must be undertake to assess the success of the management measures against identified milestones and objectives;</li> <li>f) a process to report, to the department, the management actions undertaken in the offsets areas and the outcome of those actions, including identifying and need for improved management;</li> <li>g) a description of the potential risks to successful management and rehabilitation in the offsets area, and a description of the contingency measures that would be implemented to mitigate these risks; and ,</li> <li>h) The details of parties responsible for monitoring, reviewing and implementing the plan.</li> </ul> <p>The Offset Management Plan must be implemented.</p>	Compliant	<p>2a to g): The Wotonga Offset Area Management Plan – Millennium Expansion Project dated 28 November 2013 was lodged and accepted by the Department of Environment on 14 February 2014 (refer to Appendix B including letter of acceptance) and addresses all items (a)-(g).</p> <ul style="list-style-type: none"> <li>• Millennium has undertaken a tender process to engage a suitable consultant to ensure the management actions are completed. The successful consultant is Ecology and Heritage Partners.</li> <li>• Year 1 Biocondition assessment completed on 4 August 2015</li> <li>• Year 1 Fauna assessment completed between 9 – 13 December 2015</li> <li>• Year 2 Visual inspection assessment on 13 April 2016</li> </ul>
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3	<p>Before impacting or removing any EPBC listed ecological community or species, the person taking that action must provide to the Minister a Threatened Flora and Fauna Species and Ecological Communities Management Plan. The Plan must contain, but is not limited to, the following:</p> <ul style="list-style-type: none"> <li>a. Management actions relating to EPBC listed species; and</li> <li>b. Mitigation actions relating to EPBC listed species.</li> </ul> <p>The Threatened Flora and Fauna Species and Ecological Communities management Plan must be implemented. This plan may be made publicly available on the internet by the department.</p>	Compliant	<p>The Threatened Flora and Fauna Species and Ecological Communities Plan was submitted to the Department of Environment on the 13<sup>th</sup> of May 2014 (refer to Appendix C).</p>
4	<p>Within 14 days from the commencement of construction, the person taking the action must advise the department in writing of the actual date of commencement of construction.</p>	Non-Compliant	<p>Peabody has been able to locate the relevant construction date, being 29 October 2011 (vegetation clearing for mining of the Mavis Pit boxcut). However, the approved Wotonga Offset Strategy – Millennium Expansion Project dated 28 November 2013 addresses offsets required as a consequence of the clearance of a total 22.5 hectares of Brigalow <i>Acacia harpophylla</i> which occurred both prior to and subsequent to the referral of the MEP for approval pursuant to the EPBC Act (Appendix D).</p>

5	<p>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 management plans as specified in the conditions.</p> <p>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.</p>	Compliant	<p>June 2014 report completed and uploaded to Millenniums website.</p> <p>August 2015 report completed and uploaded to Millennium website.</p> <p>June 2016 report completed and uploaded to Millennium website.</p>
6	<p>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.</p>	Not Applicable	Upon direction of Minister

7	If the person taking the action wished to carry out any activity otherwise than in accordance with the Plans referred to in conditions 2 and 3, 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. If the Minister approves the revised plan, that plan must be implemented in place of the plan originally approved.	Not Applicable	No variation required.
8	If the Minister believes that it is necessary or convenient for the better protection of listed threatened species and communities to do so, the Minister may request that the person taking the action make specified revisions to plans 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 plan must be implemented. Unless the Minister has approved the revised plan then the person taking the action must continue to implement the original plan.	Not Applicable	No requests from the Minister
9	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.	Not Applicable	The action has already commenced.

10	<p>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.</p> <p>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.</p>	Compliant	<p>Peabody has a Compliance Action Tracker system (PCAT) and the conditions of the approval and actions associated to the management of this area (Management plan) are being entered along with any supporting documentation.</p>
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## 4.4 Offset Strategy (Appendix D Condition 4)



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## 4.5 Year 1 Assessment Reports



## 4.6 Year 2 Assessment Reports

