



Planning &
Infrastructure

Development Assessment Systems and Approvals
Mining Projects

Contact: s47F
Phone: s47F
Fax: (02) 9228 6466
Email: s47F

Nigel Charnock
Manager – Land and property
Glencore Coal Assets Australia
Private Mail Bag 8
SINGLETON NSW 2330

Dear Nigel,

**Glencore Coal Assets Australia
Security of Biodiversity Offset Areas for NSW Mining Operations**

I refer to your letter dated 31 October 2013 requesting an extension of timing for several approval conditions relating to the long term security of biodiversity offset areas for a number of Glencore's NSW mining operations.

I understand that this extension has been sought to enable Glencore to choose an appropriate mechanism, consistent with NSW Government's preferred approach for securing the long term conservation of biodiversity offset areas.

Given the above, I would like to advise you that the Director-General has granted an extension until **30 June 2014** for the following project approval conditions:

- Bulga (DA 41-03-99) – Condition 3.5 of Schedule 2;
- Mangoola (06 0014) – Condition 40 of Schedule 3;
- Mt Owen (DA 14-1-2004) – Condition 42 of Schedule 4;
- Ulan (MP 08_0184) – Condition 43 of Schedule 3; and
- Ravensworth Operations (MP 09_0176) – Condition 35 of Schedule 3.

s47F

3.12.13

**Manager
Mining Projects**
As nominee for the Director-General

To: Monica Collins, AS, CEB [for decision]

Through: **s22** PAS

Ulan Coal Continued Operations Project EPBC 2009/5252 Variation to Conditions 2 and 4

Timing: There is no specific deadline however the request was initiated on 5 February 2016.

Recommendation/s:

1. Approve the variation to conditions 2 and 4 pursuant to section 143(1)(c) of the EPBC Act.

~~Approved / Please discuss~~

2. Sign the Notice of Variation to conditions 2 and 4 pursuant to section 143(1)(c) of the EPBC Act at **Attachment A**.

~~Signed / Not signed~~

3. Sign the letter to the approval holder advising of your decision at **Attachment B**.

~~Signed / Not signed~~

Signatory: Monica Collins, AS, CEB



Date: 11 Nov 2016.

Comments:

Key Points:

1. The Minister has delegated you as decision maker for this matter pursuant to section 515 of the Environment Protection and Biodiversity Conservation Act 1999 (Cth) (EPBC Act).
2. On 30 November 2010, a delegate of the Minister approved with conditions the extension of the open cut coal mine and the development of Ulan West underground mine, as well as the modification or construction of new infrastructure associated with these operations and the Ulan No 3 underground operations at Ulan in New South Wales. These conditions were subsequently varied on 24 December 2012, 22 May 2013, 6 January 2014, 23 July 2014 and 7 July 2015 (refer to **Attachment C**). The approval holder is Ulan Coal Mines Limited (UCML) a subsidiary of Glencore.
3. The varied condition 2 requires that to offset impacts on the listed White Box-Yellow Box-Blakely's Red Gum Grassy Woodlands and Derived Native Grasslands threatened ecological community, and foraging habitat of the listed Swift Parrot, Regent Honeyeater and Large-eared Pied Bat, the person taking the action must register a legally binding conservation covenant in perpetuity over Bobadeen Offset Area and Bobadeen East Offset Area as described in Appendix 1 of the approval. The covenants must be registered by no later than 30 April 2016 and covenant conditions must ensure that management is for the protection and enhancement of the matters of national environmental significance identified above.

4. The varied condition 4 requires that to offset the impacts on Large-eared Pied Bat, the person taking the action must provide a legally binding conservation mechanism for the long term protection of the Brokenback Conservation Area and Spring Gully Cliff Line Management Area as described in Appendix 1. The conservation mechanism must be agreed in writing by the Department and must be finalised by no later than 30 April 2016. Condition 4 requires that if the conservation mechanism cannot be finalised by 30 April 2016, the proponent must submit for the Minister's approval an alternative offset within three years of the date of this notice (before 7 July 2018). The alternative offset must provide at least an equivalent environmental outcome to those specified under condition 5.
5. On 5 February 2016, the approval holder wrote to the Department requesting a variation to conditions 2 and 4 for approval by a delegate of the Minister pursuant to section 143(1)(c) of the EPBC Act (**Attachment D**). Specifically, the approval holder has proposed variations in order to extend the timeframes for agreement and securing the offsets by 14 months (from 30 April 2016 to 30 June 2017) (refer to **Attachment A**).
6. In approving the previous variation on 9 July 2015, a delegate of the Minister advised the approval holder that 'While I note that your organisation remains committed to agreement and registration of the conservation mechanisms for this project, I advise that another timeframe extension request is not likely to be viewed favourably by the Department (refer to **Attachment E**).
7. The approval holder has advised that these variations are necessary and convenient in order to finalise negotiations regarding conservation mechanisms with the New South Wales Department of Planning and Environment (NSW DPE) along with the New South Wales Office of the Environment and Heritage (refer to **Attachment A**).
8. The Department sought advice from the NSW DPE regarding the status including anticipated timeframe for conclusion of negotiations regarding conservation mechanisms. NSW DPE has advised that they have provided an extension to secure the offset areas until 31 December 2016 (**Attachment F**).
9. The Department sought further information regarding a schedule of actions to be undertaken by UCML to achieve key milestones to evidence progression towards the final goal of securing formal conservation agreements over the relevant offset areas. This information was provided on 16 May 2016 (**Attachment G**).
10. Following confirmation that DPE would be granting the approval holder a timeframe extension, the Department proposed a new extension date of 31 December 2016 to secure the offset areas.
11. On 27 May 2016 Cumnock management wrote to the Department to request that the extension be granted until 30 June 2017 (**Attachment H**). The justification for this date is to align with the recent variation request approved for the Glencore project at Liddell Coal EPBC 2013/6908 (variation notice at **Attachment I**) and account for any unexpected delays in meeting the December target.
12. The Department has considered the proposed variations to conditions 2 and 4 and is of the view that allowing an extension of time until 30 June 2017 to secure offset sites to align with other Glencore approvals is consistent under section 143(1)(c), that the justification makes the case that the variation is necessary and convenient for the protection of a matter of NES.

13. On the above basis, PAS recommends that you approve the variation to condition 2 and condition 4 of the EPBC Approval 2010/5389 at **Attachment A** and sign the letter to the approval holder advising of your decision at **Attachment B**.

14. This brief has been prepared in accordance with SOP 5.6 variation to conditions.

Reviewed by:

s22

Director

Post Approvals Section

s22

s22

Prepared by:

s22

Project Officer

Post Approvals Section

s22

ATTACHMENTS

- A: Notice of Variation to approval conditions (for signature)
- B: Letter to UCML advising of your decision (for signature)
- C: Approval conditions of EPBC 2009/5252 and subsequent variations (for information)
- D: Letter of 5 February 2016 from UCML requesting variation to conditions (for information)
- E: Letter of 9 July 2015 from the Department approving previous variation request (for information)
- F: Advice from the NSW DPE (for information)
- G: Further information from UCML (for information)
- H: Letter from UCML requesting 30 June 2017 extension (for information)
- I: Variation notice for EPBC 2013/6908 (for information)

s22

From: s47F
Sent: Friday, 1 April 2016 4:49 PM
To: s22
Subject: Timing of Glencore Biodiversity Offsets
Attachments: Ltr to Glencore - Offset Security Ext of Time - Dec 2016.pdf



Hi s22,

I understand that the Commonwealth is considering a request by Glencore for an extension of time for securing the biodiversity offsets associated with its Ravensworth Operations.

Please find attached, for your information, a letter from the Department approving an extension to 31 December 2016 to secure a number of biodiversity offsets required for Glencore's NSW operations.

If you have any questions regarding the attached, please do not hesitate to contact me.

Regards,

s47F

s47F
Team Leader - Assessments
Resource Assessments & Compliance Division
Department of Planning & Environment
23-33 Bridge Street SYDNEY 2000 | GPO Box 39 SYDNEY 2001

s47F



Mr Nigel Charnock
Manager - Land and Property
Glencore Coal Assets Australia
Private Mail Bag 1
SINGLETON NSW 2330

Dear Mr Charnock

Glencore Coal Assets Australia - Extension to Security of Offset Areas

I refer to your letter dated 26 November 2015, seeking a further extension of time to make suitable arrangements for the long term security for biodiversity offset areas required for the Bulga, Liddell, Mangoola, Mt Owen, Glendell, Ulan and Ravensworth coal mines.

While I appreciate that Glencore has sought previous extensions of time to ensure that its offset areas are secured under appropriate mechanisms that align with NSW Government policies, I must note that Glencore has had a significant period of time to resolve these matters. In particular, I note:

- the NSW Government has clearly identified biobanking agreements as its preferred mechanism for securing biodiversity offset areas since the release of the *NSW Biodiversity Policy for Major Projects* on 1 October 2014;
- where biobanking agreements cannot be achieved, the *NSW Biodiversity Policy for Major Projects* provides a range of criteria for establishing suitable offset mechanisms;
- OEH wrote to the NSW Minerals Council in December 2014, detailing several transitional options for the long term protection of existing, unsecured offset sites; and
- Glencore and OEH have been engaged in direct negotiations over the past few years to identify appropriate mechanisms for each of Glencore's offset sites.

I also understand that in a letter to Glencore dated 1 December 2015, OEH has provided a detailed description of the NSW Government's policy position on securing offsets and confirmed a range of specific conservation measures (including biobanking and conservation agreements) that it would consider establishing for the biodiversity offset areas required under Glencore's existing approvals.

Given the NSW Government's policy position on this matter has been established for at least 12 months, the Department is of the view that a final 12 month extension should provide sufficient time for Glencore to finalise any outstanding arrangements and provide for the long term security for its offset areas.

Accordingly, the Secretary has granted an extension to the relevant completion dates until 31 December 2016, for Glencore to reach agreement with OEH and formalise its outstanding conservation obligations.

The Department advises that it will be reluctant to grant any further extension unless Glencore can provide sufficient and convincing evidence that it has undertaken every reasonable effort to formalise appropriate security mechanisms with OEH.

Should you have any further enquiries, please contact s47F on s47F.

s47F

8/12/15

Executive Director
Resource Assessments and Compliance
as the Secretary's nominee

ULAN
COAL

GLENCORE

13 May 2016

Seq: 35/16

s22

Post Approvals Section
Compliance and Enforcement Branch, ESD
Department of the Environment
GPO Box 787, Canberra City, ACT 2601

G

Dear s22,

Re: EPBC 2009/5252 - Variation request to condition 2 and 4

I write to you regarding EPBC 2009/5252 conditions 2 and 4. Ulan Coal Mines Limited (UCML) is required under these conditions to register a legally binding conservation mechanism over the Bobadeen Offset Area, Bobadeen East Offset Area, Brokenback Conservation Area and Spring Gully Cliff Line Management Area by no later than 30 April 2016.

On 11 February 2016 UCML lodged a request with Department of Environment (DoE) to make a variation to approval conditions 2 and 4 to allow until 30 June 2017 to secure offset sites.

DoE provided a response via email on 3 May 2016 and requested UCML provide a schedule of the specific actions being undertaken to achieve key milestones to evidence progression towards the final goal of securing formal conservation agreements by 31 December 2016.

In response to your request for a schedule of the specific actions being undertaken, the Table included in Attachment 1 details actions towards formal conservation agreements.

Glencore representatives Mr David O'Brien and Mr Nigel Charnock met with Mr Shane Gaddes and Mr s22 from the Department of Environment (DoE) in Canberra on 29 February 2016. At the meeting, Glencore and the DoE discussed the issue of long term security of existing Glencore biodiversity offset areas (including UCML) at some length. As an outcome of that meeting Glencore understood that the DoE were providing UCML with the option to accept a similar EPBC condition to the variation recently granted for Glencore's Liddell Mine (EPBC Approval 2013/6908, Condition 6). This condition requires Liddell to finalise offset security arrangements by 30 June 2017 or by another date agreed in writing with the Minister. Following the meeting on 29 February, Mr O'Brien sent an email to s22 on 4 March 2016 confirming that UCML would accept the Department's proposal as part of the proposed variation to EPBC 2009/5252.

As shown by the attached Schedule, Glencore are working towards submission of the signed Conservation Agreement for the Bobadeen Offset Area, Bobadeen East Offset Area, Brokenback Conservation Area and Spring Gully Cliff Line Management Area to the NSW Government by mid-December 2016.

However, should delays beyond our control be experienced, a condition similar to that granted to Liddell would avoid the need for a further formal variation of EPBC 2009/5252 and unnecessary administrative burden on the DoE and Glencore.

Landholder approval will also be required for the Brokenback Conservation Area and Spring Gully Cliff Line Management Area which are partially located on land administered by Crown Lands, with the Brokenback Conservation Area also having a small portion of privately held land. Consultation is underway to secure approval of the Conservation Agreements from these parties before submission OEH.

We look forward to your reply and please contact Robyn Stoney, on s47F if you have any questions regarding this matter.

s47F

Charlie Allan
General Manager
Ulan Coal Mines Limited

- Attachment: Actions for Securing Formal Conservation Agreements

Cc.

Mr. Shane Gaddes, Department of the Environment

s22, Department of the Environment

Dave O'Brien, Glencore Coal Assets Australia

Nigel Charnock, Glencore Coal Assets Australia

Attachment: Actions for Securing Formal Conservation Agreements

Action No.	Action	Responsibility	Target Date (Glencore)	Status
1	Glencore hold initial meeting with OEH to discuss process for securing existing biodiversity offset areas for Glencore mine sites using Conservation Agreement (CA) mechanism.	Glencore	28 February 2016	Complete Meeting held on 10 February 2016 and action list developed.
2	Complete field inspection of Glencore biodiversity offset areas with OEH.	Glencore / OEH	30 June 2016	In Progress Inspections of Ravensworth Mine, Mt Owen Mine, Glendell Mine and Mangoola Mine held on 17-18 March 2016. Dates for inspections of Ulan Mine, Liddell Mine and Bulga Mine to be scheduled with OEH after CA pro-forma template is finalised.
3	Glencore meet with Crown Lands to discuss Conservation Areas and CA process for the Ulan Coal Mine Complex	Glencore	21 April 2016	Complete Discussions with Crown Lands are ongoing
4	Following initial field inspections of biodiversity offset areas, Glencore to provide OEH with information on biodiversity offset areas for one Glencore pilot site (Ravensworth Mine) to enable OEH's generic CA template to be populated.	Glencore	30 April 2016	Complete Meeting held with OEH to discuss their generic CA template on 14 April 2016. Information for Ravensworth Mine biodiversity offset areas provided to OEH on 5 May 2016.
5	OEH populate their generic CA template using the Ravensworth Mine information provided by Glencore. OEH to consider management actions and monitoring schedule in the CA's for Glencore offset areas to allow these to be streamlined with existing approved State and EPBC Approval conditions and Management Plans.	OEH	31 May 2016	In Progress Further meeting to be held with OEH once they have populated the Ravensworth Mine CA template.
6	Glencore meet with OEH to discuss the draft Ravensworth Mine CA and agree on final format and content of the CA for all other	Glencore	14 June 2016	YTC Meeting to be organised for as soon as

Action No.	Action	Responsibility	Target Date (Glencore)	Status
	Glencore biodiversity offset areas.			practicable after OEH finalise the Ravensworth Mine CA template
7	OEH to confirm survey requirements for CAs.	OEH	14 June 2016	YTC
8	Glencore complete field survey work for each biodiversity offset area (using Registered Surveyor) to accurately define boundaries off offset areas and survey location of infrastructure within biodiversity offset areas in accordance with OEH's CA survey requirements.	Glencore	14 September 2016	YTC
9	Glencore to prepare and lodge with Crown Lands and private Landholder for review, draft CAs for the UCML biodiversity offset areas. Note this action will be undertaken concurrently with Action 8 and 10 commencing after final format and content of the CA is agreed.	Glencore	31 September 2016	YTC
10	Glencore to prepare and lodge with OEH for review, draft CAs for all the remaining Glencore biodiversity offset areas. Glencore and OEH to agree on number of CAs to be established, noting that consolidation of some offset areas under a single CA is possible. Note this action will be undertaken concurrently with Action 7 above commencing after final format and content of the CA is agreed.	Glencore	31 September 2016	YTC
11	OEH issue Final CA's to Glencore sites for execution.	OEH	31 November 2016	YTC
12	Signed copies returned to OEH for Ministerial Signoff.	Glencore	14 December 2016	YTC

To: Greg Manning, Assistant Secretary
Through: s22, Acting Director, Post Approvals Section

..... / 2 / 2018

**Ulan Continued Operations Project, Ulan, NSW – Variation to Conditions 2 & 4
(EPBC 2009/5252)**

Timing: 16 February 2018.

Recommendations:

1. That you note the revised Bobadeen East Vegetation Offset Area.

Noted/Please discuss

2. That you agree to (a) extend from 30 June 2017 to 31 August 2018 the period to secure the offset properties specified in conditions 2 and 4 of the approval for EPBC 2009/5252 and (b) trigger the requirement for alternative offsets, as specified in condition 4, if the conservation agreements are not finalised by 31 August 2018.

Agreed/Please discuss

3. If you agree to Recommendation 2, that you sign the Variation to Conditions Attached to Approval notice at **Attachment A**.

Signed / Not signed

4. That you sign the letter at **Attachment B** advising Ulan Coal Mines Limited of your decision.

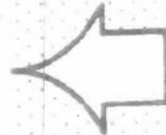
Signed / Not signed

Greg Manning, Assistant Secretary
Assessments (WA, SA, NT) & Post Approvals Branch

Date: 16 January 2018

Comments:

Addressed to trigger the alternative offsets should be made down to 31 Aug
and a high level development of that time forward.



Key Points:

1. On 30 November 2010, a delegate of the Minister approved with conditions the Ulan Coal Continued Operations Project, Ulan, NSW (at **Attachment C**), which includes the extension of the open cut mine, development of the underground mine and to modify or construct new infrastructure associated with these operations.
2. The approval conditions have been varied on 24 December 2012, 22 May 2013, 6 January 2014, 23 July 2014, 7 July 2015 and 11 November 2016. Conditions 2 and 4 have been varied on five occasions.
3. **Condition 2** of the approval requires the approval holder to offset impacts to the EPBC Act listed *White Box-Yellow Box Blakely's Red Gum Grassy Woodlands and Derived Native Grasslands* (Box Gum Woodland) and foraging habitat for the Swift Parrot, Regent Honeyeater and Large-eared Pied Bat by registering, by 30 June 2017, conservation covenants over the Bobadeen Offset Area and Bobadeen East Vegetation Offset Area.

4. **Condition 4** of the approval requires the approval holder to offset impacts to the EPBC Act listed Large-eared Pied Bat by providing a legally binding conservation mechanism for the long term protection of the Brokenback Conservation Area and Spring Gully Cliff Line Management Area. The conservation mechanism must be agreed in writing by the Department and finalised by 30 June 2017.

Variation to Conditions 2 and 4

5. On 19 June 2017 the approval holder, Ulan Coal Mines Limited (Ulan), requested an extension to the timeframe to meet the requirements of Condition 2 and 4, and for Condition 2 to be consistent with state conditions requiring only evidence of application for a Voluntary Conservation Agreement to the Office of Environment and Heritage (OEH) (**Attachment D**).
 - Delays to securing the offset properties are due to negotiating the content of the conservation covenants/agreements with landowners, and the number of conservation agreement applications with NSW OEH. Ulan, for example, are currently negotiating 27 conservation agreements with NSW OEH.
 - The Department advised Ulan that evidence of an application would not meet the approval conditions.
6. **Condition 4** specifies that if the conservation mechanism cannot be finalised by 30 June 2017, the proponent must submit for the Minister's approval an alternative offset within 3 years of the date of this approval (ie within 3 years from 30 June 2017).
 - Given the need for an alternative site has not been triggered since the original approval, and that there is progress towards a legally binding mechanism for the Brokenback Conservation and Spring Gully Cliff Line Management Areas, the Department recommends that these offset sites should be secured by 31 August 2018. If the offset sites cannot be secured by this date, the requirement for an alternative offset site will be triggered under condition 4.
7. To evaluate the 2016 variation request, the Post Approval Sections requested a schedule of actions to secure the offset properties (see **Attachment E**). Significant progress has been made since late 2016, including finalising field surveys of biodiversity offset areas, and land owner consultation on draft agreements.
8. DPE has granted Ulan an extension to 28 February 2018 to secure the offsets, and advised that they would be reticent to approving further time extensions. DPE provided the timetable of conservation agreements being assessed by NSW OEH and encouraged Ulan to respond promptly to OEH comments (see **Attachment F**).
9. OEH has advised the Department it is satisfied with progress and commitments from Ulan, however tenure issues related to the Bobadeen East Vegetation Offset Area (BEVOA) must be resolved before the conservation agreements can be finalised.

Revised Bobadeen East Vegetation Offset Area

10. On 9 May 2016, the proponent for the Liverpool Range Windfarm (EPBC 2014/7136), Epuron Pty Ltd informed the Post Approvals Section of negotiations with neighbouring landowners to construct a power transmission line traversing the BEVOA. The BEVOA adjoins the windfarm, with the transmission line impacting a portion of the vegetation on BEVOA's eastern boundary.
 - This matter was initially referred to the NSW North Assessments section as the project is being assessed under a bilateral assessment. The Department advised that Epuron should offset the impact or negotiate alternative offsets with Ulan. Correspondence between Post Approvals and Assessments is at **Attachment G**.
11. The transmission line will directly impact 13.13 ha of vegetation within the BEVOA. A further 4.97 ha will be fragmented by the transmission line. Epuron Pty Ltd propose an 18.18ha replacement site that borders the western boundary of the BEVOA. **Attachment H** shows the original and revised BEVOA. The BEVOA will not be fragmented as a result of the revised boundary.

12. The proposed transmission line has created further delays resulting in Ulan submitting a revised conservation agreement to address boundary and demarcation issues.
 - Based on its experience with delays to similar offset securing processes, the Department considers the period to finalising the offset arrangements under conditions 2 and 4 of the approval should be extended to 31 August 2018.
13. The Department received further information from Ulan, NSW DPE and NSW OEH that indicates the proposed alterations will not result in a reduced offset area, or reduced quality of Box Gum Woodland, and that the requirements of approval conditions 2 and 4 will be met (see **Attachment I**). This includes:
 - NSW OEH advised it is satisfied that the revised BEVOA meets state consent condition requirements; and
 - under the NSW DPE approval, the revised BEVOA is of sufficient size and quality to meet the NSW biodiversity offset obligations.
14. Given the above, the Department requested Ulan provide a summary of the final offset arrangements with Epuron - see request and response at **Attachment J**.
15. The Department considers the alterations to BEVOA will provide the same level of protection to matters of national environmental significance.
16. In accordance with Section 143(1) of the EPBC Act, the conditions as varied are necessary and convenient because:
 - the revised BEVOA will provide the same level of protection to matters of national environmental significance.
 - the replacement area provides contiguous landscape, and does not fragment the offset area; and
 - the requirements of approval Conditions 2 and 4 otherwise remain, and provide a suitable timeframe for securing the offsets.

Recommendations

17. Ulan is currently non-compliant with conditions 2 and 4 of EPBC Approval 2009/5252, however, the request to extend the timeframe was made prior to 30 June 2017. The proposed variation allows Ulan to be compliant with their approval. The Department's Environmental Audit Section has been notified of the potential non-compliance, and the Department's Compliance Section considers that no contravention or compliance action should be taken on this matter.
18. Ulan agreed to the proposed variation, including a revised date of 31 August 2018 to secure the offset areas (**Attachment K**).
19. The Department recommends that you:
 - note the revised Bobadeen East Vegetation Offset Area (**Attachment H**);
 - agree to (a) to trigger the requirement of alternative offsets if the conservation agreements are not finalised by 31 August 2018, as specified in Condition 4, and (b) extend from 30 June 2017 to 31 August 2018 the period to secure the offset properties specified in conditions 2 and 4;
 - sign the Variation to Conditions Attached to Approval notice (**Attachment A**), and
 - sign the letter to advising Ulan of your decision (**Attachment B**).
20. The proposed variation has been processed in accordance with the approval monitoring standard operating procedures – 1.1 Variation of approval conditions.

s22

ATTACHMENTS

- A: Notice of variation (**for signature**).
- B: Letter to the person taking the action advising of your decision (**for signature**).
- C: Conditions of EPBC 2009/5252 approval and 2016 variation (for information).
- D: Correspondence from Ulan Coal requesting variation.
- E: Timetable of commitments from 2016.
- F: Schedule of conservation agreements currently with NSW OEH (for information).
- G: Correspondence with the Department's NSW Assessments Section.
- H: Original and revised BEVOA.
- I: Approval letters from NSW DPE and NSW OEH.
- J: Department's request for further information and response from Ulan Coal.
- K: Ulan agreement to proposed conditions 2 and 4, and date for securing BEVOA.

ULAN
COAL

GLENCORE

19 June 2017

Seq No: 24 /17

Shane Gaddes
A/g Assistant Secretary
Compliance and Enforcement Branch
Environmental Assessment and Compliance Division
Department of Environment and Energy

Dear Shane,

Re: Ulan Coal Security of Biodiversity Offset Areas

I refer to your most recent letter dated 11 November 2016 approving a variation for an extension of time to secure the long term conservation of existing (approved) biodiversity offset areas for Ulan Coal Mines Limited under EPBC2009/5252. The table provided in **Attachment 1**, outlines the status of Conservation Agreements (CA's) for Ulan Coal Mines Limited. Whilst some unforeseen delays have been experienced in order to address feedback received from NSW Office of Environment and Heritage (OEH) relating to CA content, plans and survey requirements, GCAA has made substantial progress towards completion. Draft CA's Ulan have been submitted to OEH for review. There are a number of outstanding matters relating to the Ulan CA's that we are working to finalise as soon as practicable.

OEH's Conservation Department has advised GCAA that they currently have a large number of CA's to review and process, in addition to the 27 draft CA's relating to GCAA sites. At this stage OEH have not provided Glencore with a firm timeframe for them to complete their review of the draft CA's for GCAA sites. However, the overall large number of CA's for them to process suggests that this may take some time.

Given the uncertainty regarding the time that it will take OEH to complete their review, we have sought an extension from NSW Department of Planning and Environment (DPE) that requires relevant GCAA operations, including Ulan Mine, to provide appropriate long term security for existing offset areas *within 6 months of the NSW Government (OEH) providing written confirmation to the approval holder that the Conservation Agreement submitted for their approval meets Government's requirements*. The proposed extension would provide both OEH and GCAA sufficient time after CA's for each GCAA operation are approved by OEH to obtain the required signatures on the CA's (including Joint Venture parties and Crown Lands in the case of Ulan Mine) and have the CA's registered on the relevant land titles.

Alternatively, we would be pleased to discuss this matter with both the Department of Environment and Energy and DPE to agree on a suitable timeframe for completion (registration of the CA's) and an appropriate extension. We recommend that your Department contact Mr s47F from the NSW DPE in the first instance, who is dealing with this matter.

We trust that this update demonstrates our strong intent to have the CA's finalised as soon as practicable and we look forward to your reply. In the meantime, please do not hesitate to contact Robyn Stoney on s47F, if you have any questions regarding this matter.

Yours sincerely,

A large, bold, black text 's47F' is displayed on a grey rectangular background, serving as a redacted signature.

Charlie Allan
General Manager
Ulan Coal Mines Ltd

ULAN COAL --- GLENCORE

Attachment 1: Update on Conservation Agreements for UCML Biodiversity Offset Areas (as at 7 June 2017)

Site	Number of VCA's Required	Consultant Engaged	Status	Date draft CA's lodged with OEH for Review	Comments
Ulan	6	Ecological Australia	<p>Initial consultation with OEH completed.</p> <p>Additional field Ecological Survey to meet CA requirements completed.</p> <p>Mapping of easements across CA completed.</p> <p>Draft Conservation Agreements prepared and lodged with OEH for review.</p> <p>Boundary/Infrastructure survey completed and survey plans to be inserted into the final approved CA.</p>	Lodged 7 June 2017	<p>Ulan are still working to resolve a number of issues affecting some of the CA's, including:</p> <ul style="list-style-type: none"> • Final Agreement of Crown Lands for those offset areas overlying Crown Land. Draft CA's have been provided to the Crown for review. • Agreement of one private landowner partly within the Brokenback Offset Area. Negotiations on-going. • Proposal by Epuron (Transmission Line for a proposed Wind Farm) that will impact on an area of the Bobadeen East Offset Area

From: s22
To: ["Bradley.Tanswell@glencore.com.au"](mailto:Bradley.Tanswell@glencore.com.au)
Cc: s22
Subject: RE: Ulan Coal Mine Offsets [SEC=OFFICIAL]
Date: Tuesday, 18 June 2019 2:53:55 PM

Hi Brad,

I'm following up on your letter dated 24 May 2019 to s22 and s22 regarding offsets for Ulan Coal projects.

Before the Department can respond to your proposal to use a Covenant on Title under the *Conveyancing Act 1919* (NSW) as a protection mechanism for the potential offset area at Farris Hill, the Department needs clarification on several matters. Could you please clarify the following:

- The Brokenback Conservation Area was referred to in the approval conditions for the Ulan Coal Continued Operations project (EPBC 2009/5252). Is it correct that the Farris Hill arrangements are intended to be an offset exclusively to meet the conditions of that EPBC approval, not also for the Ulan West Extension (EPBC 2015/7511)?
- Your letter refers to the Brokenback covenant needing to meet the requirements of Condition 2 of the EPBC Act approval. Condition 2 refers only to the Bobadeen East offset areas. Is this intended to be a reference to meeting the requirements of Condition 4?
- Is the Covenant on Title you are considering a section 88B covenant? If so, please provide a draft text of the potential covenant, or at least of the provisions of the covenant relating to environmental management?
- If the covenant is not a section 88B covenant, please provide details of the nature of the covenant, including the circumstances under which it could be amended or removed at some point in the future, and any safeguards you propose in order to prevent such actions.
- Please confirm whether the covenant (whether section 88B or not) would be capable of preventing:
 - use of the land by mining or other extractive industries (including purely underground mining),
 - clearing of the land by any person, or
 - any other form of development.
- Please confirm how the covenant would address impacts by actions occurring outside of the covenanted area, but still impacting upon the key environmental values of the covenanted area.

Additionally, your letter advised that the Conservation Agreement for the Bobadeen Offset area has been signed and returned to the NSW Biodiversity Conservation Trust, but were still undergoing final checks. Could you please advise on the current status of that Conservation Agreement, whether it covers the Bobadeen East Offset area, and provide a copy of the signed agreement(s) for the Department's records?

Thank you,

Regards,

s22

Post Approvals Section | Assessments and Post Approvals Branch | Environment Standards Division | Phone: s22

From: Bradley.Tanswell@glencore.com.au [<mailto:Bradley.Tanswell@glencore.com.au>]

Sent: Friday, 24 May 2019 1:31 PM

To: s22 [redacted]

Cc: s22 [redacted] Robyn.Stoney@glencore.com.au

Subject: Ulan Coal Mine Offsets

Hi s22 [redacted] and s22 [redacted]

Please find attached a letter providing an update on the status of Securing Ulan Coal Mine Ltd's approved offset areas and requesting approval from the Department for the use of a Conservation Covenant under the *Conveyancing Act 1919* for the portion of the Brokenback Conservation Area located on the property "Farrs Hill".

I have been advised s22 [redacted] is no longer with the Department, and s22 [redacted] now holds s22 [redacted] position. If this is incorrect can you please refer this onto s22 [redacted] as well.

Please call me if you have any questions in relation to this.

Regards,

Brad

[Brad Tanswell](#)

Environment and Community Coordinator

Ulan Coal Mines - A Glencore managed company

s47F [redacted]

s47F [redacted]

F: +61 2 6372 5333

E: Bradley.Tanswell@glencore.com.au

www.ulancoal.com.au

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From: Bradley.Tanswell@glencore.com.au
To: s22
Cc: s22
Subject: RE: Ulan Coal Mine Offsets [SEC=OFFICIAL]
Date: Thursday, 20 June 2019 12:20:06 PM

Morning s22 ,

Thanks for your message. I will seek the answers to these questions (noting some will require legal input) and provide a response as soon as I can.

Regards

Brad

Brad Tanswell

Environment and Community Coordinator

Ulan Coal Mines - A Glencore managed company

s47F

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E: Bradley.Tanswell@glencore.com.au

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From: s22
Sent: Tuesday, 18 June 2019 2:54 PM
To: Tanswell, Bradley (Ulan No 3 - AU)
Cc: s22
Subject: RE: Ulan Coal Mine Offsets [SEC=OFFICIAL]

External sender

Hi Brad,

I'm following up on your letter dated 24 May 2019 to s22 and s22 regarding offsets for Ulan Coal projects.

Before the Department can respond to your proposal to use a Covenant on Title under the *Conveyancing Act 1919* (NSW) as a protection mechanism for the potential offset area at Farris Hill, the Department needs clarification on several matters. Could you please clarify the following:

- The Brokenback Conservation Area was referred to in the approval conditions for the Ulan Coal Continued Operations project (EPBC 2009/5252). Is it correct that the Farris Hill arrangements are intended to be an offset exclusively to meet the conditions of that EPBC approval, not also for the Ulan West Extension (EPBC 2015/7511)?
- Your letter refers to the Brokenback covenant needing to meet the requirements of Condition 2 of the EPBC Act approval. Condition 2 refers only to the Bobadeen East offset areas. Is this intended to be a reference to meeting the requirements of Condition 4?
- Is the Covenant on Title you are considering a section 88B covenant? If so, please provide a draft text of the potential covenant, or at least of the provisions of the covenant relating to environmental management?
- If the covenant is not a section 88B covenant, please provide details of the nature of the covenant, including the circumstances under which it could be amended or removed at some point in the future, and any safeguards you propose in order to prevent such actions.
- Please confirm whether the covenant (whether section 88B or not) would be capable of preventing:
 - o use of the land by mining or other extractive industries (including purely underground mining),

o clearing of the land by any person, or
o any other form of development.

- Please confirm how the covenant would address impacts by actions occurring outside of the covenanted area, but still impacting upon the key environmental values of the covenanted area.

Additionally, your letter advised that the Conservation Agreement for the Bobadeen Offset area has been signed and returned to the NSW Biodiversity Conservation Trust, but were still undergoing final checks. Could you please advise on the current status of that Conservation Agreement, whether it covers the Bobadeen East Offset area, and provide a copy of the signed agreement(s) for the Department's records?

Thank you,

Regards,

s22

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Brad

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