

HUNTER VALLEY OPERATIONS

Hunter Valley Operations

EPBC 2016/7640

Annual Compliance Report- 1 November 2017 to 1
November 2018

Date of Submission: 15 January 2019

Declaration of accuracy

In making this declaration, I am aware that sections 490 and 491 of the Environment Protection and Biodiversity Conservation Act 1999 (Cth) (EPBC Act) make it an offence in certain circumstances to knowingly provide false or misleading information or documents.

I declare that all the information presented in this compliance report is technically accurate.



Signed

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Position (please print) Environmental & Community Coordinator

Organisation (please print including ABN/ACN if applicable)

HV Operations Pty Limited (ABN 76 606 478 399)

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1. Introduction

Hunter Valley Operations (HVO) became a jointly controlled operation between Glencore (49%) and Yancoal (51%) on the 1 September 2017. HVO operates under the Commonwealth approval, EPBC 2016/7640.

This annual compliance report has been prepared in accordance with the Annual Compliance Report Guidelines (Commonwealth of Australia 2014) and addresses compliance with the conditions of the **EPBC 2016/7640** Approval for the period **1 November 2017 to 31 October 2018** (the reporting period).

1.1 Background

Hunter Valley Operations is located at Lemington, a approximately 24 kilometres northwest of Singleton in the Hunter Valley, NSW. The Commonwealth Minister for the Environment, under provisions of the Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act), issued a approval **EPBC 2016/7640** for the continuation of open cut coal mining operations, within the HVO mine complex, in areas that were previously approved by the State after the commencement of the EPBC Act 1999. Approval was granted on **10 October 2016** and the action commenced on **1 November 2016**.

The EPBC 2016/7640 approval (last modified in August 2017), requires various offsets to be established as a result of the following impacts upon Matters of National Environmental Significance (**MNES**), the offsets required are described below as:

- Central Hunter Valley Eucalypt Forest (CHVEF) - **61ha**;
- Swift Parrot (*Lathamus discolor*) foraging habitat – **68.1ha**;
- Regent Honeyeater (*Anthochaera phrygia*) breeding and foraging habitat – **68.4ha**; and
- Green and Golden Bell Frog (*Litoria aurea*) breeding (**2.6ha**) and foraging habitat (**102.7ha**).

The Offset Strategy (*Biodiversity Offset Strategy – State Approved Mining (EPBC2016/7640)*), approved by the Minister on the 23 October 2017, details the offset areas that are to be secured and managed in relation to this approval. The offset areas are summarised below as the:

- **Wandewoi Biodiversity Area BA** – To offset approximately 63% of the action's impacts on Central Hunter Valley Eucalypt Forest (CHVEF) and 100% of the action's impacts on the Swift Parrot.
- **Mitchellhill BA** - To offset the residual 37% of the action's impacts on CHVEF and 53.9% of the Regent Honeyeater impacts.
- **Condon View BA** - To offset the remaining 46.1% of the Regent Honeyeater impacts.
- **Crescent Head BA** - To offset 99.25% of the action's impacts on the Green and Golden Bell Frog. The residual 0.75% offset for the Green and Golden Bell Frog will be provided through other compensatory measures, which are likely to comprise contribution to a research program.

In accordance with the approval, the Mitchellhill BA, Condon View BA and the Crescent Head BA offset sites are to be secured in perpetuity, with legally binding agreements in place by **23 October 2018**.

Additionally, the Wandewoi BA is required to be secured in perpetuity by **10 October 2019**.

An extension request was submitted to the Department of the Environment and Energy (DoEE) on 27 September 2018 but was not finalised during the reporting period.

2. Condition Compliance

2.1 EPBC 2016/7640

Condition Number	Condition	Compliance status	Evidence/Comments
1	The person taking the action must not clear more than 54.4 hectares of the Central Hunter Valley Eucalypt Forest and woodland (CHVEF) ecological community from the Riverview Pit and 6.6 ha of the CHVEF ecological community from within the West Pit and must limit all vegetation clearing to within the project disturbance boundaries defined at Schedule 1, Figures 1 - 4.	Compliant	Disturbance limited to within project disturbance boundaries through the HVO Ground Disturbance Permit process.
2	The person taking the action must prepare and submit a Vegetation Clearance Plan (VCP) for the Minister's approval to mitigate impacts of the action on the CHVEF ecological community, the Regent Honeyeater (<i>Anthochaera phrygia</i>), Swift Parrot (<i>Latharus discolor</i>) and the Green and Golden Bell Frog (<i>Litoria aurea</i>). The VCP must include:	Compliant	Vegetation Clearance Plan (VCP) submitted to the Department of Environment and Energy (DoEE) for approval 24 October 2016. VCP approved by Acting Assistant Secretary 24 October 2016.
2a	Clear delineation of vegetation to be cleared, as per the disturbance boundary shown in Schedule 1 Figures 1 - 4, and vegetation that is to be retained.	Compliant	Section 2.1 and Chapter 3 of the VCP.
2b	Pre-clearance survey methods, which must include but not be limited to the following requirements: <ul style="list-style-type: none"> i. A qualified ecologist must undertake a pre-clearance survey within 24 hours prior to the removal of potential foraging, nesting or breeding habitat for the Regent Honeyeater or foraging habitat for the Swift Parrot in areas identified in Schedule 2, Figures 1 - 5. ii. If during pre-clearance surveys, Regent Honeyeater or Swift Parrot individuals are identified within the clearance area the VCP must specify the use of a two stage clearing protocol where non-habitat trees are cleared 24 hours prior to any habitat trees being cleared, to encourage fauna to move out of a habitat area. iii. In the event an active Regent Honeyeater nest is identified during pre-clearance surveys, vegetation clearing and overburden removal within 100 m of the active nest should be delayed up until the Regent Honeyeater nest is no longer actively being used. iv. A qualified ecologist must undertake pre-clearance surveys within a 2 week period prior to the removal of potential breeding habitat for the Green and Golden Bell Frog. Surveys are to be undertaken within all potential breeding habitat areas identified in Schedule 2, Figure 2 as well as a 200m buffer around each potential breeding habitat area. v. Pre-clearance survey methods for the Green and Golden Bell Frog must meet the survey effort requirements for the Green and Golden Bell Frog stipulated in the Survey Guidelines for Australia's threatened frog (2010) Commonwealth of Australia. vi. In the event Green and Golden Bell Frog individuals, metamorphs or tadpoles are located during pre-clearance surveys, they are to be handled and translocated in accordance with the Hygiene protocols for the control of diseases in frogs (2008) Department of Environment and Climate Change (NSW). 	Compliant	Chapter 3 of the VCP Section 3.2 and 3.3 of the VCP Section 3.2 of the VCP Section 3.3 of the VCP Section 3.3 of the VCP Section 3.3 of the VCP
2c	Include measures to avoid, suppress and control the spread of plant pathogens (such as <i>Phytophthora cinnamomi</i>) and <i>chytrid</i> fungus that may degrade habitat for protected matters . The action must not commence until the Vegetation Clearance Plan, required by Condition 2, has been approved by the Minister .	Compliant	Chapter 4 of the VCP VCP approved by Acting Assistant Secretary (DoEE) 24 October 2016 prior to action commencing on 1 November 2016.
3	The approved Vegetation Clearance Plan must be implemented.	Compliant	Measures required by the VCP have been implemented for disturbance associated with the following Ground Disturbance Permits (GDP's): GDP-HVO-372, GDP-HVO-527, GDP-HVO- 564, GDP-HVO-573, GDP-HVO-593, GDP-HVO-601, GDP-HVO-602, GDP-HVO-604, GDP- HVO-627, GDP-HVO-639, GDP-HVO-640, GDP-HVO-648, GDP-HVO-649, GDP-HVO-651
4	To compensate for residual impacts to protected matters the person taking the action must, under a legally binding agreement , secure in perpetuity 405.8 ha at the Wandewoi Biodiversity Area , described in 4(a)(b) and (c) within three (3) years from the date of this approval. The Wandewoi Biodiversity Area must include:	Not triggered	Wandewoi Biodiversity Area required to be secured in perpetuity by 10 October 2019.

4a	405.8 hectares of the CHVEF ecological community;	Compliant	Section 3.1 of the Wandewoi Biodiversity Area (BA) Management Plan summarises the vegetation communities within the BA: 175.8ha of Grey Box Woodland (CHVEF CEEC) and 230ha of Grey Box Derived Native Grassland (DNG). The DNG areas at Wandewoi will be regenerated to CHVEF by supplementary planting of canopy and mid-storey species.
4b	175.8 hectares of foraging habitat for the Swift Parrot; and	Compliant	Section 3.1 of the Wandewoi Biodiversity Area (BA) Management Plan summarises the vegetation communities within the BA: 175.8ha of Grey Box Woodland (CHVEF CEEC).
4c	40 ha of regenerating foraging habitat for the Swift Parrot.	Compliant	Section 3.1 of the Wandewoi Biodiversity Area (BA) Management Plan summarises the vegetation communities within the BA: 230ha of Grey Box Derived Native Grassland (DNG). The DNG areas at Wandewoi will be regenerated to CHVEF, including 40ha of foraging habitat for the Swift Parrot.
5	To compensate for residual significant impacts to 22.7 ha of Class A condition CHVEF from the Riverview Pit extension area the person taking the action must identify a direct offset site that meets requirements of the EPBC Act Offset Policy and secure the offset in perpetuity under a legally binding agreement within 12 months from the date of approval of the Offset Strategy at Condition 10.	Ongoing	Direct Offset Site at Mitchelhill detailed in Biodiversity Offset Strategy (Condition 10) is to be protected under a legally binding agreement by 23 October 2018. HVO has been in negotiations throughout 2018 with the NSW Biodiversity Conservation Trust and the Office of Environment and Heritage regarding a suitable conservation mechanism to secure the BAs. A suitable mechanism could not be agreed upon and the DoEE has agreed that a s305 conservation mechanism may be appropriate. An extension to the required date is being prepared by the DoEE.
6	To compensate for residual significant impacts to 68.4 ha of breeding and foraging habitat for the Regent Honeyeater the person taking the action must identify a direct offset site that meets requirements of the EPBC Act Offset Policy and secure the offset in perpetuity under a legally binding agreement within 12 months from the date of approval of the Offset Strategy at Condition 10.	Ongoing	Direct Offset Sites at Mitchelhill and Condon View detailed in Biodiversity Offset Strategy (Condition 10) are to be protected under a legally binding agreement by 23 October 2018. HVO has been in negotiations throughout 2018 with the NSW Biodiversity Conservation Trust and the Office of Environment and Heritage regarding a suitable conservation mechanism to secure the BAs. A suitable mechanism could not be agreed upon and the DoEE has agreed that a s305 conservation mechanism may be appropriate. An extension to the required date is being prepared by the DoEE.
7	To compensate for residual significant impacts to 2.6 ha of breeding habitat and 102.7 ha of foraging habitat for the Green and Golden Bell Frog the person taking the action must identify an offset package that meets requirements of the EPBC Act Offset Policy and secure a direct offset site in perpetuity under a legally binding agreement within 12 months from the date of approval of the Offset Strategy at Condition 10	Ongoing	Direct Offset Sites at Crescent Head (north) and Crescent Head (south) detailed in Biodiversity Offset Strategy (Condition 10) are to be protected under a legally binding agreement by 23 October 2018. HVO has been in negotiations throughout 2018 with the NSW Biodiversity Conservation Trust and the Office of Environment and Heritage regarding a suitable conservation mechanism to secure the BAs. A suitable mechanism could not be agreed upon and the DoEE has agreed that a s305 conservation mechanism may be appropriate. An extension to the required date is being prepared by the DoEE.
8	Prior to securing the direct offsets required by Conditions 4, 5, 6 and 7 the direct offset sites and legally binding agreements must be agreed to by the Minister .	Compliant	Direct offset sites have been approved by the Assistant Secretary (DoEE) on 23 October 2017 through approval of the Biodiversity Offset Strategy – State Approved Mining (EPBC2016/7640) dated October 2017.
9	The action cannot continue for more than 12 months from the date of approval of the Offset Strategy at Condition 10, unless the direct offset sites required by Conditions 5, 6 and 7 have been secured in perpetuity under a legally binding agreement by the person taking the action .	Ongoing	Direct Offset Sites detailed in Biodiversity Offset Strategy (Condition 10) are to be protected under a legally binding agreement by 23 October 2018. Following extensive discussions with the DoEE, a variation to extend the date required to secure the BAs was submitted on 27 September 2018. The DoEE has agreed to the date extension and was preparing the applicable paperwork as of 1 November 2018.
10	Within six (6) months from the commencement of the action the person taking the action must prepare and submit an Offset Strategy for the Minister's approval. The Offset Strategy must specify the development of the offset package and how direct offset sites required by Conditions 5, 6 and 7 will be identified, secured and managed in perpetuity. The Offset Strategy must:	Compliant	Biodiversity Offset Strategy (BOS) – State Approved Mining (EPBC2016/7640) submitted to DoEE on 1 May 2017.
10a	Describe the development of the offset package and identify the proposed direct offset sites required by Conditions 5, 6 and 7, include a detailed description of the direct offset sites and demonstrate how the direct offset sites meet the EPBC Act Offset Policy and provide an adequate offset for the residual significant impacts to protected matters .	Compliant	Chapter 3, 4 and 5 of the BOS.
10b	Include proposed timeframes in which the direct offset sites will be secured by a legal binding agreement and a detailed description of how the legally binding agreement will secure the direct offset sites in perpetuity.	Compliant	Section 6.1 and 6.2 of the BOS.
10c	Proposed measures for the long term management of the direct offset sites .	Compliant	Section 6.3, 6.4 and 6.5 of the BOS.
	The Offset Strategy approved by the Minister must be implemented	Compliant	Biodiversity Offset Strategy (BOS) – State Approved Mining (EPBC2016/7640) approved by the Assistant Secretary (DoEE) on 23 October 2017. Direct Offset sites detailed in the BOS have been purchased
11	For the protection of the CHVEF as well as habitat for the Regent Honeyeater, Swift Parrot and Green and Golden Bell Frog the person taking the action must prepare and submit a Biodiversity Offset Management Plan (BOMP) for the Minister's approval within 12 months from the date of this approval. At a minimum, the BOMP must:	Compliant	Biodiversity Offset Management Plans were submitted to the DoEE for approval on the 10 October 2017 for the following: Wandewoi BA; Mitchelhill BA;

			Condon View BA; and Crescent Head BA.
11a	Clearly identify the direct offset sites described in Conditions 4, 5, 6 and 7. This must include offset attributes, shapefiles , textual descriptions and maps to clearly define the location and boundaries of the direct offset sites .	Compliant	The Minister's comments have been incorporated into the BOMPs prior to final submission. Section 3.1 of the Wandewoi BA Management Plan (MP) describes the direct offset site for CHVEF and Swift Parrot relevant to Condition 4 of the approval. Section 3.1 of the Mitchelhill BA Management Plan (MP) describes the direct offset site for CHVEF and Regent Honeyeater relevant to Condition 4 and Condition 6 respectively of the approval. Section 3.1 of the Condon View BA Management Plan (MP) describes the direct offset site for Regent Honeyeater relevant to Condition 6 of the approval. Section 3.1 of the Crescent Head BA Management Plan (MP) describes the direct offset site for Green and Golden Bell Frog relevant to Condition 7 of the approval
11b	Provide a description of the offset attributes for each protected matter and how the offset site meets the offset requirements under Conditions 4, 5, 6 and 7.	Compliant	Section 3.2 of the Wandewoi BA MP describes the offset attributes for the CHVEF and Swift Parrot relevant to Condition 4 of the approval. Section 3.2 of the Mitchelhill BA MP describes the offset attributes for the CHVEF and Regent Honeyeater relevant to Condition 4 and Condition 6 respectively of the approval. Section 3.2 of the Condon View BA MP describes the offset attributes for Regent Honeyeater relevant to Condition 6 of the approval. Section 3.2 of the Crescent Head BA MP describes the offset attributes for Green and Golden Bell Frog relevant to Condition 7 of the approval
11c	Provide a survey and description of the current condition (prior to any management activities) of the direct offset sites identified in Conditions 4, 5, 6 and 7.	Compliant	Section 3.2 of the Wandewoi BA MP describes the current condition of the CHVEF and Swift Parrot habitat relevant to Condition 4 of the approval. Section 3.2 of the Mitchelhill BA MP describes the current condition of the CHVEF and Regent Honeyeater relevant to Condition 4 and Condition 6 respectively of the approval. Section 3.2 of the Condon View BA MP describes the current condition of the Regent Honeyeater relevant to Condition 6 of the approval. Section 3.2 of the Crescent Head BA MP describes the current condition of the Green and Golden Bell Frog relevant to Condition 7 of the approval
11d	Include detailed management actions, including regeneration and revegetation strategies to be undertaken at the direct offset sites to improve the ecological quality of these areas. The BOMP must also include: <ul style="list-style-type: none"> i. Management actions relating to improving habitat quality for protected matters including but not limited to: weed management, feral animal management, erosion and sediment control and fire management. ii. A description and timeframes that management measures would be implemented to improve the condition of CHVEF and habitat for the Regent Honeyeater, Swift Parrot and the Green and Golden Bell Frogs on the direct offset sites. iii. Performance and completion criteria for evaluating the management of the direct offset sites, and criteria for triggering remedial action. iv. A program to monitor and report on the effectiveness of these measures, and progress against the performance and completion criteria. v. A description of potential risks to the successful implementation of the plan, a description of the measures that will be implemented to mitigate against these risks and a description of the contingency measures that will be implemented if defined triggers arise. vi. Details of who would be responsible for monitoring, reviewing, and implementing the plan. 	Compliant	Chapter 5 of the Wandewoi BA MP describes the detailed management actions, timing, performance criteria and completion criteria relevant to the direct offset site for the CHVEF and Swift Parrot. Chapter 5 of the Mitchelhill BA MP describes the detailed management actions, timing, performance criteria and completion criteria relevant to the direct offset site for the CHVEF and Regent Honeyeater. Chapter 5 of the Condon View BA MP describes the detailed management actions, timing, performance criteria and completion criteria relevant to the direct offset site for the Regent Honeyeater. Chapter 5 of the Crescent Head BA MP describes the detailed management actions, timing, performance criteria and completion criteria relevant to the direct offset site for the Green and Golden Bell Frog Chapter 6 of the Wandewoi, Mitchelhill, Condon View and Crescent Head BA MP describes the monitoring program. Chapter 7 of the Wandewoi, Mitchelhill, Condon View and Crescent Head BA MP provides a description of potential risks and corrective actions. Section 2.4 of the Wandewoi, Mitchelhill, Condon View and Crescent Head BA MP provides responsibilities for the MP
12	The BOMP approved by the Minister must be implemented at the direct offset sites required to meet the requirements of Conditions 5, 6 and 7 within three (3) months from the date the offsets are secured under a	Not triggered	Direct Offset Sites required to meet Conditions 5, 6 and 7 are to be protected under a legally binding agreement by 23 Oct 2018. Following extensive discussions, the DoEE has agreed that a

	legally binding agreement.		s305 conservation mechanism may be appropriate. A variation to extend the date required to secure the BAs was submitted on 27 September 2018. The DoEE has agreed to the date extension and was preparing the applicable paperwork as of 1 November 2018. Note that the direct offset sites are being managed in accordance with the DoEE-reviewed draft management plans.
13	To ensure timely compensation for significant impacts to protected matters , the approved BOMP must be implemented at the Wandewoi Biodiversity Area within one (1) month from the date the BOMP is approved, regardless if the Wandewoi Biodiversity Area has been secured under a legally binding agreement .	Not triggered	Wandewoi BA Management Plan was submitted to DoEE for review and approval on the 10 October 2017. Management activities outlined in the OMP have commenced including: cultural heritage surveys, fencing, removal of grazing activities, track repairs, soil testing, securing revegetation contractor, seed collection and tubestock raising.
14	The person taking the action may choose to revise a management plan approved by the Minister without submitting it for approval under Section 143A of the EPBC Act , if the taking of the action in accordance with the revised management plan would not be likely to have a new or increased impact on a protected matter under the conditions of this approval. If the person taking the action makes this choice, they must:	Not triggered	
14a	Notify the Department in writing that the approved management plan has been revised and provide the Department with an electronic copy of the revised management plan;	Not triggered	
14b	Implement the revised management plan from the date that it is submitted to the Department; and	Not triggered	
14c	For the life of this approval, maintain a record of the reasons the person taking the action considers that taking the action in accordance with the revised management plan would not be likely to have a new or increased impact on a protected matter under the conditions of this approval.	Not triggered	
15	The person taking the action may revoke its choice under Condition 14 at any time by notice to the Department . If the person taking the action revokes the choice to implement a revised management plan, without approval under Section 143A of the EPBC Act, the management plan approved by the Minister must be implemented	Not triggered	
16	Condition 14 does not apply if the revisions to the approved management plan include changes to offsets provided under the management plan in relation to a matter protected by a controlling provision for the action, unless otherwise agreed in writing by the Minister . This does not otherwise limit the circumstances in which the taking of the action in accordance with a revised management plan would, or would not, be likely to have new or increased impacts .	Not triggered	
17	If the Minister gives a notice to the person taking the action that the Minister is satisfied that the taking of the action in accordance with the revised management plan would be likely to have a new or increased impact on a protected matter by the conditions of this approval, then:	Not triggered	
17a	Condition 14 does not apply, or ceases to apply, in relation to the revised management plan; and	Not triggered	
17b	The person taking the action must implement the previous management plan most recently approved by the Minister	Not triggered	
	To avoid any doubt, this condition does not affect any operation of conditions 14, 15 and 16 in the period before the day the notice is given. At the time of giving the notice the Minister may also notify that for a specified period of time that Condition 14 does not apply for one or more specified plans required under the approval	Not triggered	
18	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 .	Compliant	The action has commenced as per the Commencement of Action (1 November 2016).
19	Within 30 days after the commencement of the action, the person taking the action must advise the Department in writing of the actual date of commencement .	Compliant	Department of Environment and Energy advised by letter dated 9 November 2016 that the action had commenced in accordance with the approved Vegetation Clearance Plan on the 1 November 2016.
20	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 by the Minister or being submitted under Condition 14.a	Not triggered	Biodiversity Area Management Plans will be published when approved by the Minister.
21	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 the VCP, Offset Strategy and Biodiversity Offset Management Plan 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.	Compliant	Records of activities and outcomes are maintained by site personnel and stored within the document management system. No audits conducted during the reporting period by the Department or independent auditor.

22	<p>Within three months of every 12 month anniversary of the commencement of the action, 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. Reports must remain on the website for the period this approval has effect. The approval holder may cease preparing and publishing compliance reports required by this condition with written agreement of the Minister to do so.</p>	Compliant	<p>Compliance report due before 1 February each year (based on date of commencement of construction 1 November 2016). 2017 Compliance Report published on website 31 January 2018.</p>
23	<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 triggered	

3. New environmental risks and potential threats to Matters of National and State Environmental Significance

No new environmental risks have been identified during the reporting period.