



Bulli Seam Operations Expansion, Bulli, NSW (EPBC 2010/5350)

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

Approved action

Person to whom the approval is granted Illawarra Coal Holdings Pty Ltd
ACN: 69 093 857 286

Approved action To expand underground mining operations at the existing Appin coal mine and West Cliff Colliery. The proposal is to develop several new underground longwall mining areas, and upgrade the existing West Cliff Washery, including the creation of a new coal wash emplacement (as described in the request to vary proposal to take an action received on 22 December 2011) [See EPBC Act Referral (2010/5350)].

Variation

Variation of conditions attached to approval The variation is:

Delete conditions 3, 5 and 16 attached to the approval and substitute with the conditions specified in the table below.

Add conditions 16A, 16B, 16C, 16D and 16E as specified in the table below.

Delete the definition of a **Stage 4 coal wash emplacement area** attached to the approval and substitute with the definitions specified in the table below.

Add the definition of **New or increased impact** as specified in the table below.

Date of effect This variation has effect on the date the instrument is signed

Person authorised to make decision

Name and position Kim Farrant
Assistant Secretary
Environment Assessments (Vic, Tas) and Post Approvals Branch

Signature

Date of decision

11 June 2021

Date of decision	Conditions attached to approval
Variation dated 22 November 2013	<p>Persoonia Hirsuta (Hairy Geebung)</p> <p>1. The approval holder must legally secure the approved offset area for conservation, including the core population, for the duration of the EPBC approval (15 May 2042), as outlined in the approved <i>Persoonia hirsuta</i> Offset Management Plan under condition 2 of the approval. A copy of the document detailing the legal security provided to the offset area must be submitted to the department by 14 May 2014.</p>
Variation dated 22 November 2013	<p>2. The person taking the action must provide a plan for the management of the <i>Persoonia hirsuta</i> offset to the Minister for approval no later than 31 December 2012. The <i>Persoonia hirsuta</i> Offset Management Plan must include but not be limited to:</p> <ol style="list-style-type: none"> a. measures for the conduct of pre-existing land management requirements or obligations in a manner that is compatible with the conservation of the species; b. information about the species' ecology, biology and conservation status to inform appropriate management actions; c. performance objectives and management actions that will enable maintenance and enhancement of <i>Persoonia hirsuta</i> plants and habitat covered by the plan; d. management responsibilities and accountabilities; e. mitigation measures to ensure operation of the action, including fire management and specifically the emplacement of coal wash, does not impact on any of the <i>Persoonia hirsuta</i> plants protected under this plan. This includes but is not limited to impacts associated with dust, shading, sedimentation, erosion or unrestricted access to areas containing <i>Persoonia hirsuta</i> plants; f. an assessment of the baseline <i>Persoonia hirsuta</i> population and distribution, including: <ol style="list-style-type: none"> i. the number of plants protected and their location; ii. plant and habitat condition; iii. age classes; g. measures for regular monitoring of the status of the <i>Persoonia hirsuta</i> plants and habitat as measured against the baseline population and distribution, including: <ol style="list-style-type: none"> i. recruitment and survivorship; ii. seedling growth rate; iii. age to reproductive maturity and peak flowering/fruit production; iv. effectiveness of management actions and mitigation measures contained within the plan; and v. impacts of threatening processes;

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	<p>h. the results of the monitoring referred to in condition 2. f. and g. must be provided to the department within 30 days of every 12 month anniversary of the implementation date of this plan; and</p> <p>i. provisions to revise the approved <i>Persoonia hirsuta</i> Offset Management Plan in response to the findings of the research required by condition 3., including the submission of the revised <i>Persoonia hirsuta</i> Offset Management Plan to the Minister for approval within 6 months of this research being finalised.</p> <p>The approved <i>Persoonia hirsuta</i> Offset Management Plan must be implemented. Clearing of native vegetation for the stage 4 coal wash emplacement area must not occur until the <i>Persoonia hirsuta</i> Offset Management Plan has been approved by the Minister.</p>
As varied on the date this instrument was signed	<p>3. The person taking the action must engage a suitably qualified expert to undertake and make publicly available targeted research to inform conservation knowledge of <i>Persoonia hirsuta</i>. The research must:</p> <p>a. document current understanding of <i>Persoonia hirsuta</i> ecology and genetics;</p> <p>b. outline previously documented management and conservation actions;</p> <p>c. investigate:</p> <p>i. pollination biology of <i>Persoonia hirsuta</i>;</p> <p>ii. requirements of its pollinators;</p> <p>iii. soil seed bank dynamics and the role of various disturbances (including fire) in germination and recruitment;</p> <p>iv. phenology and seasonal growth of <i>Persoonia hirsuta</i>;</p> <p>v. population genetic structure, levels of genetic diversity, minimum viable population size and management actions;</p> <p>vi. impact of dieback disease and control techniques on <i>Persoonia hirsuta</i> and its habitat; and</p> <p>vii. impact of fire on <i>Persoonia hirsuta</i> and its habitat;</p> <p>d. provide a general analysis of threatening processes and available management or mitigation actions; and</p> <p>e. a research report to be finalised by no later than 30 June 2021;</p> <p>f. be made publicly available on the approval holder's internet site.</p>
Variation dated 30 April 2013	<p>Shale / Sandstone Transition Forest</p> <p>4. The person taking the action must implement the approved Bulli Seam Operations Shale Sandstone Transition Forest Offset Management Plan. The person taking the action</p>

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	<p>must legally secure the offset area for long term conservation purposes by 2 March 2016.</p>
<p>As varied on the date this instrument was signed</p>	<p>5. The person taking the action must provide to the Minister for approval within 1 year of the date of this approval, a plan for the management of the Shale/ Sandstone Transition Forest Offset. The approved Shale/ Sandstone Transition Forest Offset Management Plan (the Forest plan) must include but not be limited to:</p> <ul style="list-style-type: none"> a. Specific management measures to control weed species, pest animals, public access and otherwise manage the Shale/ Sandstone Transition Forest Offset so that the ecological condition of the Shale/ Sandstone Transition Forest Offset is maintained or enhanced to a higher condition than that being lost as a result of this action; <ul style="list-style-type: none"> i. This may be demonstrated through comparisons of floristic diversity and structure, vegetation health and/or percentage cover of introduced or weed plants; b. an outline of key milestones and performance objectives; c. measures for annual monitoring of the ongoing quality (as measured against the ecological survey information referred to at Conditions 4 a) of the Shale/ Sandstone Transition Forest Offset and the effectiveness of management actions. Reports containing the monitoring results must be submitted to the department within 30 days of every 12 month anniversary of the date the Shale / Sandstone Transition Forest Offset is protected in perpetuity or as otherwise agreed to by the Minister; and d. corrective actions and contingency measures to be implemented should monitoring indicate a decrease in the quality of the Shale / Sandstone Transition Forest conservation offset. <p>The approved Forest plan must be implemented within 2 years of the date of this approval.</p>
<p>Variation dated 04 May 2018</p>	<p>5A If the Shale Sandstone Transition Forest is legally secured as a registered NSW BioBanking site, the management plan developed under the NSW BioBanking Agreement for that site is an Offset Management Plan for the purposes of Condition 4. The annual reporting required under that scheme may be provided to the department in place of the reports containing monitoring results required at Condition 5c, on the proviso that all measures specified in Condition 5 are covered.</p>
<p>Original dated 15 May 2012</p>	<p>Coal Wash Emplacement Staging and Rehabilitation Plan</p> <p>6. The person taking the action must provide a Coal Wash Emplacement Staging and Rehabilitation Plan (the Staging Plan) for the stage 4 coal wash emplacement area to the</p>

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	<p>Minister for approval. Clearing of native vegetation for stage 4 coal wash emplacement area must not occur until the Staging Plan has been approved by the Minister. The Staging Plan must include, but not be limited to:</p> <ol style="list-style-type: none"> a. measures to limit the clearing of native vegetation to no more than 60 hectares; b. provision for the progressive staging of coal wash emplacement to ensure at all times a minimum 100 m wide habitat corridor is maintained linking the <i>Persoonia hirsuta</i> core population with habitat adjacent to the stage 4 coal wash emplacement area; c. measures to ensure that, if the corridor is to include land previously used as stage 4 coal wash emplacement areas (either in whole or in part), native re-vegetation is established to the extent that it facilitates the movement of pollination vectors for <i>Persoonia hirsuta</i>; d. staging of emplacement from east to west; e. provision for progressive rehabilitation of the emplacement area, including through: <ol style="list-style-type: none"> i. staged clearing of native vegetation within the stage 4 coal wash emplacement area; ii. maximising opportunities for natural regeneration, including through salvage, storage and re-use of site top soil and maximising the retention time of suitable habitat species within the stage 4 coal wash emplacement area adjacent to active emplacement areas to assist recolonisation of native species to rehabilitated areas; iii. key performance objectives for site rehabilitation, including indicative timelines, performance measures, management actions and responsibilities and accountabilities; iv. planting only endemic species in habitat mixes appropriate for the local surrounding environment, soil, slope and aspect, in accordance with relevant published guidelines; and v. appropriate weed and pest control strategies; f. monitoring of rehabilitation actions including, but not limited to, measures to assess the success of management actions, natural regeneration and revegetation. The reporting of monitoring results must be submitted to the department within 30 days of every 12 month anniversary of the implementation date of the Staging Plan; and g. unless otherwise agreed to in writing by the Minister, the Staging Plan must be implemented and remain implemented for a minimum period of 10 years at which point a revised plan taking into account the monitoring

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	referred to above must be submitted to and approved by the Minister .
Original dated 15 May 2012	<p>Southern Brown Bandicoot and Broad Headed Snake Management Plan or Plans</p> <p>7. Within 1 year of the date of this approval the person taking the action must provide for the Minister's approval a Southern Brown Bandicoot and Broad Headed Snake conservation management plan or plans. The plan or plans must include:</p> <ol style="list-style-type: none"> a. measures to avoid, mitigate and manage impacts on the Southern Brown Bandicoot, Broad Headed Snake and their habitats occurring as result of the action; b. provisions for the contribution of no less than \$250 000 (GST exclusive) in funding towards regional Southern Brown Bandicoot and Broad Headed Snake programs. This funding must not be expended on the measures referred to in condition 6.a.; c. a description of actions to be funded and undertaken to inform and/or enhance the conservation of these species, including through survey or research, threat abatement with specific reference to predator controls and habitat restoration or rehabilitation, including public reporting or publication of information gained by these actions; d. a demonstration that management actions to be undertaken will not adversely impact EPBC Act listed species; e. a description of funding arrangements or agreements including work programs and responsible entities; and f. measures for the provision of documentary evidence within 30 days of the funding having been expended and/or that funding commitments have been met. <p>The approved plan or plans must be implemented within 2 years of the date of this approval. The clearing of native vegetation for the stage 4 coal wash emplacement cannot occur until the approved plan or plans have been implemented.</p>
Original dated 15 May 2012	<p>Surface and Ground Water Quality Monitoring and Adaptive Management Plan</p> <p>8. The person taking the action must provide a Surface and Ground Water Quality Monitoring and Adaptive Management Plan (the Water Plan) to the Minister for approval by 30 September 2012. Clearing of native vegetation for the stage 4 coal wash emplacement area and new mining activities beneath water courses containing habitat for EPBC Act listed species cannot occur until or</p>

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	<p>unless the Water Plan has been approved and implemented. The Water Plan must:</p> <ol style="list-style-type: none"> a. provide a monitoring and adaptive management framework that will identify potential water related impacts of the action on EPBC Act listed species and their habitat; b. contain a review of the ecological system that defines the ecological assets, functions and habitats to be protected and establish pre-mining baseline conditions; c. detail strategies and actions for maintaining, enhancing, and if required, restoring ecological assets, functions and habitats, for dependent EPBC Act listed species and their habitat including but not limited to the Macquarie Perch in Brennans Creek and the Georges and Nepean Rivers; d. define ecological outcomes and performance objectives; e. identify water requirements (volume, timing, duration, frequency, quality) for meeting ecological outcomes and performance objectives; f. identify monitoring, evaluating and reporting mechanisms including comprehensive water quality monitoring, incorporating the stage 4 coal wash emplacement area, that includes: <ol style="list-style-type: none"> i) detailed baseline data; ii) monitoring methods, location and effort; iii) specific performance indicators that will be used to judge performance, or guide the implementation of any required management measures; and iv) a program to monitor and report on the impacts and environmental performance of the action and effectiveness of management measures; g. identify requirements for adaptive management actions to achieve performance objectives and ecological outcomes, including a description of the measures that would be implemented to achieve these; h. include contingency plan(s) to manage any unpredicted impacts and their consequences; i. include a program to investigate and implement ways to improve the environmental performance of the project over time; and j. include protocols for periodic review of the plan and annual reporting to the Minister.
Original dated 15 May 2012	<p>Mine Closure Environmental Management Plan</p> <ol style="list-style-type: none"> 9. No less than 3 years prior to the date of expected closure of the mine, the person taking the action must submit to the Minister for approval an environmental management plan that sets out any required actions and responsibilities to ensure the closure of the mine does not result in on-going

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	<p>adverse impacts (post closure) to EPBC Act listed species. The approved plan must be implemented until the person taking the action can provide evidence that no further actions are required and cessation is agreed to in writing by the Minister.</p>
Original dated 15 May 2012	<p>10. At the cessation of mining activities, all portals and vent shafts are to be closed, decommissioned or capped in manner that prevents the death or injury of EPBC listed bats.</p>
Original dated 15 May 2012	<p>Shapefiles</p> <p>11. The person taking the action must provide the department with offset attributes, shapefiles and textual descriptions and maps to clearly define the location and boundaries of the <i>Persoonia hirsuta</i> and Shale / Sandstone Transition offsets required as a result of this approval. These must be provided within 30 days of the protection in perpetuity of these areas</p>
Original dated 15 May 2012	<p>Notification of Actual Date of Commencement</p> <p>12. 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.</p>
Original dated 15 May 2012	<p>Publication Requirements</p> <p>13. Unless otherwise agreed to or instructed in writing by the Minister, the person taking the action must publish all management plans, reports, strategies or agreements (however described) required by these conditions of approval on their website. Each management plan, report, strategy or agreement must be published on the website within 30 days of being approved.</p>
Original dated 15 May 2012	<p>Compliance Report</p> <p>14. 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.</p>
Original dated 15 May 2012	<p>Accurate Records Must be Maintained</p> <p>15. The person taking the action must maintain accurate records substantiating all activities associated with or</p>

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	<p>relevant to the conditions of approval, including measures taken to implement any management plan, report, strategy or agreement 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.</p>
<p>As varied on the date this instrument was signed</p>	<p>Minister's Approval of the Modification to a Management Plan, Report, Strategy or Agreement</p> <p>16. The approval holder may, at any time, apply to the Minister for a variation to an action management plan approved by the Minister under condition 6, 7, and, 9 or as subsequently revised in accordance with these conditions, by submitting an application in accordance with the requirements of section 143A of the EPBC Act. If the Minister approves a revised action management plan (RAMP) then, from the date specified, the approval holder must implement the RAMP in place of the previous action management plan.</p>
<p>As varied on the date this instrument was signed</p>	<p>16A. The approval holder may choose to revise an action management plan approved by the Minister under condition 6, 7 and 9 or as subsequently revised in accordance with these conditions, without submitting it for approval under section 143A of the EPBC Act, if the taking of the action in accordance with the RAMP would not be likely to have a new or increased impact.</p>
<p>As varied on the date this instrument was signed</p>	<p>16B. If the approval holder makes the choice under condition 16A to revise an action management plan without submitting it for approval, the approval holder must:</p> <ol style="list-style-type: none"> a. notify the Department in writing that the approved action management plan has been revised and provide the Department with: <ol style="list-style-type: none"> i. an electronic copy of the RAMP ii. an electronic copy of the RAMP marked up with track changes to show the differences between the approved action management plan and the RAMP iii. an explanation of the differences between the approved action management plan and the RAMP iv. the reasons the approval holder considers that taking the action in accordance with the RAMP would not be likely to have a new or increased impact

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	<p>v. written notice of the date on which the approval holder will implement the RAMP (RAMP implementation date), being at least 20 business days after the date of providing notice of the revision of the action management plan, or a date agreed to in writing with the Department.</p> <p>b. subject to condition 16D, implement the RAMP from the RAMP implementation date.</p>
As varied on the date this instrument was signed	<p>16C. The approval holder may revoke its choice to implement a RAMP under condition 16A at any time by giving written notice to the Department. If the approval holder revokes the choice under condition 16A, the approval holder must implement the action management plan in force immediately prior to the revision undertaken under condition 16A.</p>
As varied on the date this instrument was signed	<p>16D. If the Minister gives a notice to the approval holder that the Minister is satisfied that the taking of the action in accordance with the RAMP would be likely to have a new or increased impact, then:</p> <p>a. condition 16A does not apply, or ceases to apply, in relation to the RAMP</p> <p>b. the approval holder must implement the action management plan specified by the Minister in the notice.</p>
As varied on the date this instrument was signed	<p>16E. At the time of giving the notice under condition 16D, the Minister may also notify that for a specified period of time, condition 16A does not apply for one or more specified action management plans.</p> <p>Note: conditions 16A, 16B, 16C, 16D and 16E are not intended to limit the operation of section 143A of the EPBC Act which allows the approval holder to submit a revised action management plan, at any time, to the Minister for approval.</p>
Original dated 15 May 2012	<p>Minister's Modification to a Management Plan, Report, Strategy or Agreement</p> <p>17. If the Minister believes that it is necessary or convenient for the better protection of controlling provisions listed in this decision instrument to do so, the Minister may request that the person taking the action make specified revisions to the management plan, report, strategy or agreement specified in the conditions and submit the revised management plan, report, strategy or agreement for the Minister's written approval. The person taking the action must comply with any such request. The revised approved management plan, report, strategy or agreement must be implemented. Unless the Minister has approved the revised management plan,</p>

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	<p>report, strategy or agreement, then the person taking the action must continue to implement the management plan, report, strategy or agreement originally approved, as specified in the conditions.</p>
<p>Original dated 15 May 2012</p>	<p>Independent Auditor</p> <p>18. By the end of 31 December 2013 and every three years thereafter, unless the Minister directs otherwise, the person taking the action must commission and pay the full cost of an independent environmental audit of the project. This audit must:</p> <ol style="list-style-type: none"> a. be conducted by a suitably qualified, experienced and independent team of experts whose appointment has been endorsed by the Minister; b. include consultation with relevant State agencies; c. assess the environmental performance of the project and assess whether it is complying with the requirements in this approval (including any assessment, plan or program (however described) required under this approval); d. review the adequacy of strategies, plans or programs required under the abovementioned approvals; e. recommend appropriate measures or actions to improve the environmental performance of the action, and/or any assessment, plan or program required under the abovementioned approvals; and f. audit criteria must be agreed to by the Minister. g. Within 6 weeks of the completion of this audit, or as otherwise agreed by the Minister, the person taking the action must submit a copy of the audit report to the Minister. The audit report must address the criteria to the satisfaction of the Minister. <p>Note: The audit team must be led by a suitably qualified auditor and include experts in any field specified by the Minister.</p>
<p>Original dated 15 May 2012</p>	<p>Unsatisfactory Commencement of Action</p> <p>19. 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.</p>
<p>Original dated 15 May 2012</p>	<p>Note</p> <p>If a condition of the State approval held by the person taking the action requires a plan relating to EPBC Act listed species or Shale/Sandstone Transition Forest. The person taking the action may meet the relevant requirements of these conditions by submitting a plan to the department for approval that has or will be used to satisfy the state approval,</p>

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Original dated 15 May 2012	Broad-headed Snake means the EPBC Act vulnerable listed species <i>Hoplocephalus bungaroides</i> .
Original dated 15 May 2012	Clearing of native vegetation means the cutting down, felling, thinning, logging, removing, killing, destroying, poisoning, ringbarking, uprooting, or pushing over of native vegetation.
Original dated 15 May 2012	Commence/d/ment (of) (the action)) means the construction of any infrastructure or commencement of mining operations within the areas described in the <i>request to vary proposal to take an action</i> received on 22 December 2011 (See EPBC Act Referral [2010/5350]). Commencement also means any works including preparatory works required to be undertaken including clearing vegetation, the erection of any onsite temporary structures and the use of heavy duty equipment for the purpose of breaking the ground for buildings or infrastructure. Commencement excludes the erecting of fences and signage to the extent that they do not require the clearing of native vegetation .
Original dated 15 May 2012	Core population means the core population area of <i>Persoonia hirsuta</i> as identified in Annexure 1.
Original dated 15 May 2012	Department means the Australian Government Department administering the EPBC Act .
Original dated 15 May 2012	EPBC Act listed species means any species listed under the EPBC Act as vulnerable, endangered or critically endangered as of 17 March 2010.
Original dated 15 May 2012	EPBC Act means the <i>Environment Protection and Biodiversity Conservation Act 1999</i> .
Original dated 15 May 2012	EPBC listed bats means any bat species listed under the EPBC Act as vulnerable, endangered or critically endangered as of 17 March 2010.
Original dated 15 May 2012	Macquarie Perch means the EPBC Act listed endangered species <i>Macquaria australasica</i> .
Original dated 15 May 2012	Minister means the Minister responsible for the administration of the EPBC Act and includes a delegate of the Minister.
As varied on the date this instrument was signed	New or increased impact means a new or increased environmental impact or risk relating to any protected matter , when compared to the likely impact of implementing the action management plan that has been approved by the Minister under condition 6, 7 and 9, including any subsequent revisions approved by the Minister , as outlined in the <i>Guidance on 'New or Increased Impact' relating to changes to approved management plans under EPBC Act environmental approvals (2017)</i> .
Original dated 15 May 2012	Offset attributes mean an '.xix' file capturing relevant attributes of the Offset Area, including the EPBC Act reference ID number, the

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	physical address of the offset site, coordinates of the boundary points in decimal degrees, the EPBC Act protected matters that the offset compensates for, any additional EPBC Act protected matters that are benefiting from the offset, and the size of the offset in hectares
Original dated 15 May 2012	Published guidelines means published guidelines on flora species selection, propagation, translocation or land rehabilitation or restoration. For example, <i>Guidelines for the Translocation of Threatened Plants in Australia</i> 2nd Ed (2004) Published by the Australian Network for Plant Conservation.
Original dated 15 May 2012	Shale/Sandstone Transition Forest means the Shale/Sandstone Transition Forest threatened ecological community listed as endangered under the EPBC Act .
Original dated 15 May 2012	Shale/ Sandstone Transition Forest Offset means the protection in perpetuity for conservation purposes of the land occurring in Lot 7 DP 1082237, Lot 1 DP216237 and lot 1 DP1101129 as identified at <u>Annexure 2</u> , including the Shale/Sandstone Transition Forest occurring within this land.
Original dated 15 May 2012	Shapefiles means an ESRI ArcGIS Shapefile, containing '.shp', '.shx.' and '.dbf' files and other files. Shapefiles must include appropriate metadata capturing attributes including but not limited to the EPBC reference number of the approved action and details of the EPBC protected matters present within the offset, covenant or legal protection details, including type and identification. The department prefers shapefiles using the Geocentric Datum of Australia (GOA) 94.
Original dated 15 May 2012	Southern Brown Bandicoot means the EPBC Act listed endangered species <i>Isodon obesulus obesulus</i> .
As varied on the date this instrument was signed	Stage 4 coal wash emplacement area means the West Cliff Coal Wash Emplacement areas as identified in Annexure 1.
Original dated 15 May 2012	Suitably qualified expert means a suitably qualified botanist, ecologist, or environmental scientist with demonstrated expertise in the survey and management or native flora.

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Original dated 15 May 2012	Annexure 1 - West Cliff Coal Wash Emplacement Core <i>Persoonia hirsuta</i> population
Original dated 15 May 2012	Annexure 2 – Proposed Shale Transition Forest Offset



