



## CONSOLIDATED APPROVAL NOTICE

### Mount Pleasant Project (EPBC 2011/5795)

The attached notice (Attachment A) is provided to consolidate the approval conditions for the above project, approved on 29 February 2012. The approval was transferred from Coal & Allied Operations Pty Ltd to Mach Energy Australia Pty Ltd on 12 May 2016. The approval conditions were subject to variation on the date of this consolidated approval notice and at various times during the post approval phase. These decisions are publicly available on the Department's website at [epbcnotices.environment.gov.au/publicnoticesreferrals](http://epbcnotices.environment.gov.au/publicnoticesreferrals)

The publication of this notice does not alter the dates of: effect for the approval; the variations to conditions; the expiry date of the approval; or any other dates mentioned in conditions. The consolidated approval notice is for ease of reference only.

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**Name and position**

Monica Collins  
Assistant Secretary  
Compliance and Enforcement Branch

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**Date of Consolidated  
Approval Notice**

23 / 2 / 2017

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Australian Government

Department of the Environment and Energy

**Mount Pleasant Project – EPBC 2011/5795**

This decision is made under sections 130(1) and 133 of the *Environment Protection and Biodiversity Conservation Act 1999*.

**Proposed action**

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person to whom the approval is granted	<b>Mach Energy Australia Pty Ltd</b>
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proponent's ACN	<b>34 608 495 441</b>
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proposed action	The proposed action is for the construction and operation of a open cut mine and associated infrastructure approximately 4km north-west of the township of Muswellbrook NSW [See EPBC Act Referral 2011/5795.
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**Approval**

Controlling Provision	Decision
Listed threatened species and communities (sections 18 & 18A)	Approved
Listed migratory species (sections 20 & 20A)	Approved

**conditions of approval**

This approval is subject to the conditions specified below.

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**expiry date of approval**

This approval has effect until 28 October 2035

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**Decision-maker**

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name and position	<b>Adrienne Lea</b> <b>Assistant Secretary</b> <b>Environment Assessment Branch</b>
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signature

SIGNED

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date of decision

29 February 2012

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## Conditions attached to the approval

### Disturbance Areas

1. The person taking the action must not clear more than 2,591 ha of the EPBC listed White Box – Yellow Box – Blakely's Red Gum Grassy Woodland and Derived Native Grassland Ecological Community (572 ha of woodland and 2019 ha derived native grassland) within the Mount Pleasant Project Area identified in Appendix A of these conditions.

### Offset Areas

#### *Mechanism to secure offsets*

2. The person taking the action must register a legally binding conservation covenant over the Biodiversity Management Areas identified in the map at Appendix B no later than 2 years after **commencement of construction**. The mechanism/s must provide enduring protection of no less than:
  - a) 12 875 ha of White Box – Yellow Box – Blakely's Red Gum Grassy Woodland and Derived Native Grassland Ecological Community
  - b) 8 475 ha of suitable habitat for *Anthochaera Phrygia* (regent honeyeater) and *Lathamus discolor* (swift parrot)
  - c) 8 475 ha of suitable habitat for *Dasyurus machulatus* (spotted-tail quoll)
  - d) 8 475 ha of suitable habitat for *Nyctophilus corbeni* (greater-long-eared Bat).

Note: Offsetting requirements for some species' habitat may be accommodated within the White Box – Yellow Box – Blakely's Red Gum Grassy Woodland and Derived Native Grassland Ecological Community components if this habitat is verified as present and includes specific habitat requirements for each relevant species.

#### Offset Management Plan

3. The person taking the action must submit to the **Minister** for approval an Offset Management Plan for the Biodiversity Management Areas by no later than 31 May 2013, or as otherwise agreed to in writing by the **Minister**. The Offset Management Plan must contain details of measures to offset the impacts to the White Box – Yellow Box – Blakely's Red Gum Grassy Woodland and Derived Native Grassland Ecological Community, and fauna species identified in condition 2. The approved Offset Management Plan must be implemented.
4. The Offset Management Plan must include, but not be limited to, the following information:
  - a) a text description and map to clearly define the location and boundaries of the Biodiversity Management Areas. This must be accompanied with the **offset attributes** and a **shapefile**.

- b) a detailed survey and description (prior to any management activities, hence a baseline) of the current condition of the extant vegetation of each Biodiversity Management Area. This must be consistent with the **State and Transition Model** and include but not limited to:
- i location of survey points (gps reference)
  - ii vegetation condition mapping
  - iii photo reference points
  - iv tree age class representation
  - v percentage tree canopy cover
  - vi number of native plant species in ground layer
  - vii percentage of nativeness of total plant groundcover (herbaceous plants and small shrubs, 1m tall), measured using basal area
  - viii description of fauna habitat including condition, type and connectivity
  - ix bird and reptile surveys.

The detailed description will provide the baseline condition for the purpose of monitoring;

- c) details of management actions that will improve the baseline condition (referred to in condition 2 (b)), of a minimum of 12,875 ha within the Biodiversity Management Areas consistent with the **State and Transition Model**, listing advice and recovery plan for the White Box – Yellow Box – Blakelys Red Gum Grassy Woodland and Derived Native Grassland Ecological Community
- d) management implementation schedules for all Biodiversity Management Areas identifying targeted activities for specific areas to protect and enhance the extent and condition of habitat values of the Biodiversity Management Areas, including but not limited to:
- i a map showing areas to be managed
  - ii type of actions for each area and details of methods to be used
  - iii timing of management activity for each area
  - iv performance criteria for each area
  - v a monitoring plan to assess the success of the management activities measured against the baseline condition. The monitoring must be statistically robust and able to quantify change in the condition of White Box – Yellow Box – Blakelys Red Gum Grassy Woodland and Derived Native Grassland Ecological Community. This should include, but not limited to, control sites, periodic ecological surveys to be undertaken by a qualified ecologist as agreed to in writing by the **Minister**
  - vi contingency measures to be implemented if performance criteria are not met
  - vii a process to report, to the **department**, the progress of management activities undertaken in the Biodiversity Management Areas and the

outcome of those activities, including identifying any need for improved management and activities to undertake such improvement

- viii details of the various parties responsible for management, monitoring and implementing the management activities, including their position or status as a separate contractor
- ix details of the independent committee review of the Offset Management Plan as set out in condition 24.

Note: Unless otherwise agreed to in writing by the **department** the baseline surveys must be undertaken between September and November, and monitoring must include September and November.

5. Where the person undertaking the action has proposed cropping activities on non-offset areas within the offset properties, a minimum 150m buffer zone surrounding the cropping area must be established in order to protect the proposed offset areas.
6. No cropping activities are to be undertaken within 10m of a **tree**.
7. The person undertaking the action must submit to the **department**, as part of the Offset Management Plan identified in condition 3, a map identifying cropping areas and buffer zones.
8. Where strategic grazing has been proposed as a management activity, the person undertaking the action must provide, as part of the Offset Management Plan identified in condition 3, details of the proposed grazing activities for each Biodiversity Management Area. This must include:
  - a. objectives
  - b. a map showing areas to be grazed
  - c. details of the grazing methods to be used
  - d. timing including seasons in which grazing will occur, period of grazing and rest period
  - e. proposed stocking rate per season
  - f. monitoring of impacts of grazing including any changes in the condition of vegetation, habitat and weed density
9. Grazing activities must be undertaken in accordance with the guidelines for Strategic Grazing (Rawlings et al, 2010). A minimum **sward** height of 10cm and 70 groundcover must be maintained at all times on at least 50 of the area to be grazed, as identified in condition 8(b).

Note: Conditions 5,6,7,8 and 9 must be implemented unless otherwise agreed to in writing by the **department**.

10. If the person undertaking the action proposes to undertake any action within the Biodiversity Management Areas secured under condition 2, other than those management activities related to managing the Biodiversity Management Areas, or as set out in the conditions approval must be obtained, in writing from the **Minister**. In seeking the **Minister's** approval the person undertaking the action must provide a detailed assessment of the area where the action is proposed to take place and an assessment of all associated adverse impacts on **MNES**. If the **Minister** agrees to the action within the Biodiversity Management Area, the area identified for the action must be excised from the proposed Biodiversity Management Areas and alternative offsets secured at a ratio of 20:1 in relation to the impact on MNES.

## Re-establishment of Woodland in the Biodiversity Management Areas

11. Within 3 years of the **commencement of construction** the person undertaking the action must provide, for the approval of the **Minister**, a Re-establishment Plan for the Biodiversity Management Areas secured under condition 2. The approved Re-establishment Plan must be implemented.
12. The Re-establishment Plan must provide for commitments and activities to deliver the increase in the spatial extent and improvement in the condition of existing remnants by at least 677 ha within 5 years of the **commencement of construction**, and for the establishment of self sustaining functional remnant vegetation community, with the capacity to provide habitat for the species identified in condition 2.
13. The Re-establishment Plan must include:
  - a) details of the areas to be re-established (re-establishment areas) including location and maps
  - b) documentation including mapping of current environmental values relevant to **MNES** of the re-establishment areas
  - c) where revegetation through planting seedlings and/or seeds is intended details of appropriate species and ratios of species relevant to historically occurring listed migratory and listed threatened species habitat and the White Box-Yellow Box-Blakelys Red Gum Grassy Woodland and Derived Native Grassland Ecological Community
  - d) the source and provenance of the seed and/or seedlings which will be used
  - e) measures to address threats to **MNES** including but not limited to grazing pressure and damage by livestock and adverse impacts from feral animals and weeds
  - f) measures to provide fire management regimes appropriate for the **MNES**
  - g) measures to manage the White Box – Yellow Box –Blakelys Red Gum Grassy Woodland and Derived Native Grassland Ecological Community in accordance with the recommendations of the approved recovery plan for the ecological community
  - h) monitoring measures including ecological surveys to measure the establishment and ongoing success of the revegetation based on a comparison with high quality habitat for listed migratory and listed threatened species, and ecological community reference sites
  - i) performance measures and reporting requirements against identified objectives, including trigger levels for contingency measures to be taken to ensure performance measures and objectives are met
  - j) identify persons responsible and arrangements for implementing the Re-establishment Plan and for reporting on performance.
14. To ensure the long term protection of the Re-establishment Areas, as described in condition 13a, the proponent must:
  - a) manage and maintain the White Box – Yellow Box –Blakelys Red Gum Grassy Woodland and Derived Native Grassland Ecological Community components of the Re-establishment Area define contingency measures which will be undertaken if performance measures and reporting indicate that

successful re-establishment has not been achieved within 10 years of **commencement of construction**

- b) Define contingency measures which will be undertaken if performance measures and reporting indicate that successful re-establishment has not been achieved within 10 years of **commencement of construction**.

## **Indirect Offsets**

### *Indirect offsets security*

15. To compensate for the loss of the White Box – Yellow Box –Blakelys Red Gum Grassy Woodland and Derived Native Grassland Ecological Community the person taking the action must provide 1,000,000 over the life of the project to fund **high priority weed** activities that are consistent with the recovery actions identified in the National Recovery Plans for the White Box – Yellow Box –Blakelys Red Gum Grassy Woodland and Derived Native Grassland Ecological Community. A detailed Weed Project Plan governing the provision and timing of the 1,000,000 funding for the activities and outcomes must be developed. The Weed Project Plan must be provided to the **Minister** for approval, within 12 months of the **commencement of construction** or otherwise agreed in writing by the **Minister**.
16. To compensate for the loss of habitat for the regent honeyeater and swift parrot the person taking the action must provide 2,000,000 over the life of the project to deliver activities that implement the priority recovery actions identified in the National Recovery Plans for the regent honeyeater and swift parrot. A detailed Woodland Birds Project Plan governing the provision and timing of the 2,000,000 funding for the activities and outcomes must be developed. The Woodland Birds Project Plan must be provided to the Minister for approval, within 18 months, of the **commencement of construction**, or otherwise agreed in writing by the Minister.
17. The approved Weed and Woodland Birds Project Plan must be implemented.

### *Project plans for the listed species and ecological communities*

18. The Weed and Woodland Birds Project Plans must include, at a minimum, the following information:
  - a) details of governance arrangements for an independent Trust, which may include representatives of Coal and Allied or similar organisation to oversee the implementation of the funded activities, including:
    - i. roles and responsibilities of individuals or organisations involved with implementation of the Project Plan
    - ii. measures to account for recovery actions identified as priorities by the White Box – Yellow Box –Blakelys Red Gum Grassy Woodland and Derived Native Grassland Ecological Community, regent honeyeater and swift parrot recovery teams
    - iii. consultation with organisations aiming to facilitate the conservation of the White Box – Yellow Box –Blakelys Red Gum Grassy Woodland and Derived Native Grassland Ecological Community, regent honeyeater and swift parrot.
  - b) the specific activities that will be funded and the aims and objectives of the activities
  - c) the timing of commencement and duration of activities;

- d) the mechanisms to monitor and assess the effectiveness of the activities undertaken
- e) the mechanisms to demonstrate the benefit to the White Box – Yellow Box – Blakelys Red Gum Grassy Woodland and Derived Native Grassland Ecological Community, regent honeyeater and swift parrot
- f) the mechanisms to ensure that new or different activities will be funded, from within the agreed funding package of 1,000,000 over the life of the project for White BoxYellow BoxBlakelys Red Gum Grassy Woodland and Derived Native Grassland Ecological Community and 2,000,000 over the life of the project for regent honeyeater and swift parrot, on the basis of monitoring information, advances in knowledge of species ecology, or the changing priorities as identified by recovery teams
- g) the mechanisms to ensure that knowledge and information gained from these activities is easily available and useable to the department, to the general public and the scientific community, including website details
- h) measures to ensure that funds are spent in accordance with the uses specified in these conditions of approval
- i) a mechanism for proof of payment to agreed parties to undertake agreed activities
- j) measures to incorporate and integrate with any relevant separately funded activities (if any) for the conservation of the White Box – Yellow Box –Blakelys Red Gum Grassy Woodland and Derived Native Grassland Ecological Community, regent honeyeater and swift parrot and associated habitat for EPBC-listed species and communities at the landscape level, consistent with priorities identified by recovery teams for the relevant species or communities.

### **Mine Site Rehabilitation**

19. The person taking the action must, within 12 months of the **commencement of construction**, submit to the **Minister** for approval a Mine Site Rehabilitation Plan for the progressive rehabilitation and revegetation of no less than 1,000ha of White Box – Yellow Box –Blakelys Red Gum Grassy Woodland and Derived Native Grassland Ecological Community on the project area (as identified in Appendix A).
20. This Mine Site Rehabilitation Plan must include, at a minimum, the following information:
  - a) the desired outcomes/objectives of implementing the Plan
  - b) details of the vegetation communities to be rehabilitation and the timing of progressive rehabilitation
  - c) criteria to determine success of rehabilitation of White Box – Yellow Box – Blakelys Red Gum Grassy Woodland and Derived Native Grassland Ecological Community
  - d) a process to progressively report to the **department** the rehabilitation management actions undertaken and the outcome of those actions, and the mechanisms to be used to identify the need for improved management
  - e) a description of the potential risks to successful management and rehabilitation on the project site, and a description of the contingency measures that would be implemented to mitigate these riskS

- f) details of parties responsible for reviewing and implementing the Plan
  - g) details of long-term management and protection of the mine site.
21. The person undertaking the action must submit to the Minister for approval the Mine Closure Plans, at least 6 months prior to the mine closure. The approved Plan must be implemented.

#### **Advisory committee**

22. The person undertaking the action must, within 6 months of this approval, establish an advisory committee to review and provide advice on the management activities of the Biodiversity Management Areas.
23. Within 3 months of establishing the advisory committee, the person undertaking the action must provide to the Minister for approval the terms of reference for the advisory committee. The terms of reference must include:
- a) Purpose
  - b) membership including the roles and responsibilities of members
  - c) timeframes
  - d) governance (operating guidelines)
  - e) describe how the committee will consult with relevant stakeholders (e.g. recovery planning teams, Catchment Management Authority)
  - f) reporting
  - g) resources and funding.
24. The person taking the action will be required to submit all plans referred to in the conditions, (with the exception of the mine closure plan referred to in condition 21), to the advisory committee for review. Once reviewed the plans must be submitted to the Minister for approval as specified in the conditions.
25. All expenses incurred by the establishment and ongoing function of the advisory committee will be at the funding of the person undertaking the action.

#### **Survey data**

26. All survey data collected for the project must be collected and recorded so as to conform to data standards notified from time to time by the **department**. When requested by the **department**, the proponent must provide to the **department** all species and ecological survey data and related survey information from ecological surveys undertaken for **MNES**. This survey data must be provided within 30 business days of request, or in a timeframe agreed to by the **department** in writing. The **department** may use the survey data for other purposes.

#### **Reporting and Auditing**

27. Within 14 days after the **commencement of construction**, the person taking the action must advise the **department** in writing of the actual date of **commencement of construction**.
28. Within three months of every 12 month anniversary of the **commencement of construction**, the person taking the action must publish a report on their website

addressing compliance with each of the conditions of this approval, including implementation of any management plans as specified in the conditions. Documentary evidence providing proof of the date of publication and non-compliance with any of the conditions of this approval must be provided to the **department** at the same time as the compliance report is published. The person taking the action must also notify any non-compliance with this approval to the department in writing within two business days of becoming aware of the non-compliance.

29. 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**.
30. Where the conditions require the person undertaking the action to submit a plan for the Ministers approval, the person undertaking the action must maintain a register recording:
  - a) the date on which each plan was approved by the Minister
  - b) if a plan has not been approved, the date on which it was, or is expected to be, submitted to the Minister
  - c) the dates on which reports on the outcomes of reviews have been approved by the Minister
  - d) the dates on which the subsequent reviews are due.
31. The register must be submitted to the **department**, at the time the annual compliance report is published, but does not form part of the report.
32. If the person taking the action wishes to carry out any activity otherwise than in accordance with the plans, as specified in the conditions, the person taking the action must submit to the **department** for the **Minister's** written approval a revised version of that plan. The varied activity shall not commence until the **Minister** has approved the revised plan in writing. The **Minister** will not approve a revised plan, unless the revised plan would result in an equivalent or improved environmental outcome. If the **Minister** approves the revised plan that plan must be implemented in place of the plan originally approved.
33. If the **Minister** believes that it is necessary or convenient for the better protection of listed threatened species and communities or listed migratory species to do so, the **Minister** may request that the person taking the action make specified revisions to the management plan specified in the conditions and submit the revised plan for the **Minister's** written approval. The person taking the action must comply with any such request. The revised approved plan must be implemented. Unless the **Minister** has approved the revised plan then the person taking the action must continue to implement the originally approved plan, as specified in the conditions.
34. The person taking the action must **substantially commence** the action by December 2020. If the action has not **substantially commenced** by December 2020, the person taking the action must seek written agreement of the **Minister**.

#### **Publication of plans**

35. The person taking the action must maintain accurate records substantiating all activities and outcomes associated with or relevant to the above conditions of approval, including measures taken to implement the management plans required by this approval, and make them available upon request to the **department**. Such

records may be subject to audit by the **department** or an independent auditor in accordance with section 458 of the EPBC Act, or used to verify compliance with the conditions of approval. Summaries of audits will be posted on the departments website. The results of audits may also be publicised through the general media.

36. 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.

### **Definitions:**

**Commencement of construction** - means works undertaken commencing mining operations, the construction of buildings or infrastructure including clearing vegetation and the erection of any onsite temporary structures but does not include any preparatory studies or investigations required to be undertaken prior to such works occurring.

**Clearance of native vegetation** - means the cutting down, felling, thinning, logging, removing, killing, destroying, poisoning, ringbarking, uprooting or burning of native vegetation

**Department**- the Australian Government Department responsible for the Environment Protection and Biodiversity Conservation Act 1999.

**Ground Cover**- the structural layer closest to the ground containing grasses, forbs and subshrubs.

**Minister**- the Minister administering the Environment Protection and Biodiversity Conservation Act 1999.

**MNES**- means matters of national environmental significance, being the relevant matters protected under Part 3 of the EPBC Act.

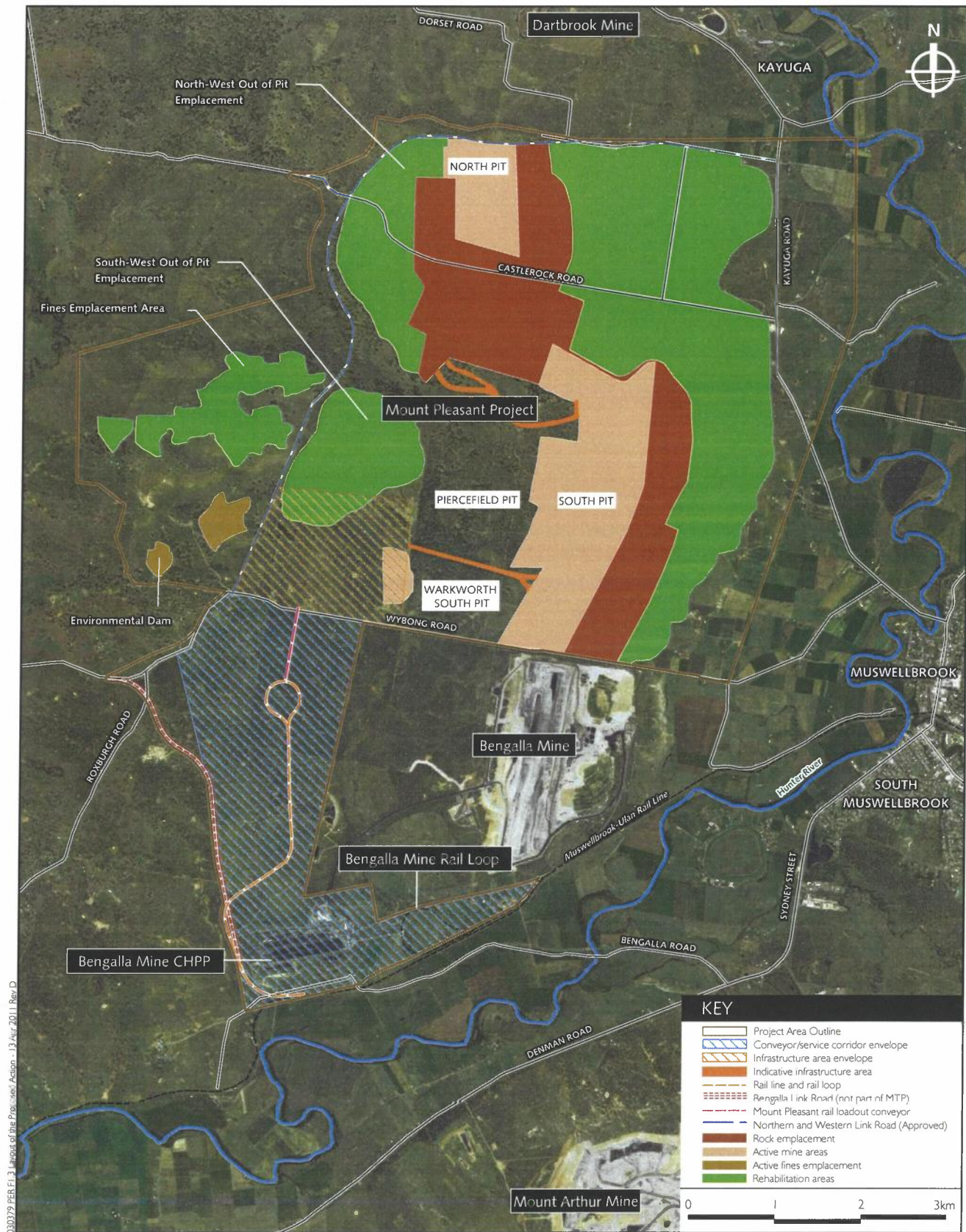
**Offset attributes**- mean an .xls file capturing relevant attributes of the Biodiversity Management Areas, including the EPBC reference ID number, the physical address of the offset site, coordinates of the boundary points in decimal degrees, the EPBC protected matters that the offset compensates for, any additional EPBC protected matters that are benefiting from the offset, and the size of the offset in hectares.

**Plan** - includes a report, study, protocol, program, or strategy (however described).

**Shapefile**- means an ESRI Shapefile containing .shp, .shx and .dbf files and other files capturing attributes of the Whitehaven Regional Biodiversity Offset Site, including the shape, EPBC reference ID number and EPBC protected matters present at the relevant site. Attributes should also be captured in .xls format

**State and transition model**- depicts the different condition states (as reflected by disturbance, inputs and altered land use) in which a given vegetation can exist

**Substantial commencement**- means the extraction of coal from the Mount Pleasant Project for the purpose of commercial production. Substantial commencement does not include test extraction or extraction of coal samples for quality assurance prior to commercial production.



Mount Pleasant Project Area

