

Notification of approval decision

Central-West Orana Renewable Energy Zone Transmission Project, NSW (EPBC 2022/09353)

This decision is made under section 130(1) and 133(1) of the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act). Note that section 134(1A) of the EPBC Act also applies to this approval. That provision provides, in general terms, that if the approval holder authorises another person to undertake any part of the Action, the approval holder must take all reasonable steps to ensure that the other person is informed of any conditions attached to this approval, and that the other person complies with any such conditions.

Approved Action

person to whom the	Energy Corporation of New South Wales	
approval is granted	ABN: 13 495 767 706	
(approval holder)		
Action	To construct and operate new high voltage electricity transmission infrastructure, energy hubs, switching stations, supporting communication infrastructure and ancillary infrastructure to connect to energy generation and storage projects within the Central-West Orana Renewable Energy Zone (REZ), and transfer this energy onto the national electricity network. (See EPBC Act referral 2022/09353 subject to the variation of the proposed action accepted by the Minister under section 156B on 26 June 2024.)	
Approval decision		
decision	My decision on whether or not to approve the taking of the A purposes of each controlling provision for the Action are as fo	
decision		
decision	purposes of each controlling provision for the Action are as fo	llows.
decision	purposes of each controlling provision for the Action are as for Controlling Provision Listed threatened species and communities (section 18 and	Decision
decision period for which the approval has effect	purposes of each controlling provision for the Action are as for Controlling Provision Listed threatened species and communities (section 18 and section 18A)	Decision Approved

Person authorised to make decision

name and position Sarah Reachill

A/g Branch Head

Environment Assessments NSW and ACT

signature

date of decision

8 August 2024

Annexure A

Note: Words and terms appearing in **bold** (excluding headings) have the meaning assigned to them at **Part C – Definitions**.

Part A – Avoidance, mitigation, and compensation conditions

CLEARING LIMITS

- The approval holder must undertake clearing and construction activities in accordance with condition A2(c) and A2(d) of the NSW approval to the extent that it relates to protected matters.
- 2) To avoid and mitigate harm to protected matters, the approval holder must comply with condition B21 of the NSW approval to the extent that it relates to protected matters.

FIELD VERIFICATION EFFORTS

- 3) The approval holder must comply with condition B24 of the **NSW approval** in relation to targeted surveys where it relates to **Koala**.
- 4) The approval holder must prepare a Biodiversity Assessment Verification Report in accordance with condition B25 of the **NSW Approval** to the extent that it relates to **protected matters** and, within 5 **business days** of the **NSW Planning Secretary** approving the Biodiversity Assessment Verification Report, submit to the **department** a copy of the Biodiversity Assessment Verification Report.
- 5) If the approval holder detects the presence, where likely to be directly impacted by the action, of any **protected matter** or the **habitat of any protected matter** not previously reported to the **department** as part of the referral of this action or in accordance with this condition, the approval holder must:
 - a) notify the department in writing of the presence and likely extent of any protected matter or the habitat of any protected matter not previously reported to the department within 10 business days of detecting the presence of any protected matter or the habitat of any protected matter not previously reported to the department, and

b) not clear any area where the protected matter or the habitat of the protected matter is located unless the impact is permissible under the NSW Approval.

BIODIVERSITY MANAGEMENT PLAN

6) The approval holder must comply with condition B26 of the NSW Approval in relation to the preparation of a Biodiversity Management Plan to the extent that it relates to protected matters.

OFFSETS

- 7) To compensate for residual impacts to **protected matters** as a result of the action, the approval holder must consult with the **department** on the preparation of a Biodiversity Offset Package prior to obtaining approval of the Biodiversity Offset Package from the **NSW Planning Secretary**. The Biodiversity Offset Package must:
 - a) Be prepared in accordance with condition B22 of the NSW approval
 - b) Include details of how offset obligations will be delivered for residual significant impacts to:
 - i) Koala
 - ii) Regent Honeyeater
 - iii) Swift Parrot
 - iv) Large-eared Pied Bat
- 8) The approval holder must provide to the **department** confirmation that the biodiversity offset measures in the Biodiversity Offset Package have been implemented and delivered no later than 26 June 2026, unless otherwise agreed by the **NSW Planning Secretary**.

MINING OFFSETS

- 9) To compensate for residual impacts to **protected matters** in **existing offset areas**, the approval holder must submit a Mining Offset Package to the **department** for the **Minister's** approval prior to carrying out any **clearing** or **construction** that would impact **protected matters** within the **existing offset areas**. The approval holder must not carry out any **clearing** or **construction** that would impact **protected matters** within the **existing offset areas** unless the Mining Offset Package has been approved by the **Minister** in writing. The Mining Offset Package must include details of how the obligations of existing offsets for the **Moolarben mine** and **Wilpinjong mine** will be replaced.
- 10) The approval holder must implement the approved Mining Offset Package no later than 26 June 2026 unless otherwise agreed by the **Minister**.

Part B – Administrative conditions

SUBMISSION AND PUBLICATION OF PLANS

- 11) Wherever these conditions require the approval holder to submit any **plan** to the **department**, all such **plans** must be submitted to the **department** electronically.
- 12) Unless otherwise agreed to in writing by the **Minister**, the approval holder must publish each **plan** on the **website** within 15 **business days** of the date:
 - a) the **plan** is approved by the **Minister** in writing, if the **plan** requires the approval of the **Minister**,
 - b) the **plan** is approved by the **NSW Planning Secretary** as required under the **NSW approval** which must be complied with in accordance with these **EPBC Act** conditions.
- 13) The approval holder must keep all **plans** published on the **website**, in a format that is easily accessible and downloadable, from the first date which that **plan** must be published and for the full period for which this approval has effect. This requirement applies to all current and superseded versions of **plans**.
- 14) The approval holder is required to exclude or redact sensitive biodiversity data from any version of a plan before that plan is published on the website or otherwise provided to a member of the public. If sensitive biodiversity data is excluded or redacted from a plan, the approval holder must notify the department in writing what exclusions and redactions have been made in the version published on the website or otherwise provided to a member of the public.

MODIFICATIONS TO STATE OR TERRITORY APPROVAL

- 15) The approval holder must notify the **department** in writing of any proposed change to the **NSW** approval that may relate to **protected matters** within 2 **business days** of formally proposing such a change.
- 16) The approval holder must notify the **department** in writing of any change to the **NSW approval** conditions that may relate to **protected matters**, within 5 **business days** of such a change to conditions coming into effect. Such notification must include a copy of the changed **NSW approval** conditions showing what changes have been made.

COMMENCEMENT OF THE ACTION

- 17) The approval holder must notify the **department** electronically of the date of **commencement of the Action**, within 5 **business days** following **commencement of the Action**.
- 18) The approval holder must not **commence the Action** later than 5 years after the date of this approval decision.

19) The approval holder must notify the **department** electronically of the date of when **clearing** or **construction** begins within the **existing offset areas** within 5 **business days** following when **clearing** or **construction** begins within the **existing offset areas**.

COMPLIANCE RECORDS

- 20) The approval holder must maintain accurate and complete **compliance records** and document the procedure for recording and storing **compliance records**.
- 21) If the **department** makes a request in writing, the approval holder must provide electronic copies of **compliance records** to the **department** within the timeframe specified in the request.
 - **Note: Compliance records** may be subject to audit by the **department**, or by an **independent auditor** in accordance with section 458 of the **EPBC Act**, and/or be used to verify compliance with the conditions. Summaries of the results of an audit may be published on the **department's** website or through the general media.
- 22) The approval holder must ensure that, to the extent that it relates to **protected matters**, any **monitoring data**, surveys, maps, and other spatial and metadata required under the conditions of this approval are prepared in accordance with the *Guidelines for biological survey and mapped data*, Commonwealth of Australia 2018, or as otherwise specified by the **Minister** in writing.
- 23) The approval holder must ensure that, to the extent that it relates to **protected matters**, any **monitoring data**, surveys, maps, and other spatial and metadata required under the conditions of this approval are prepared in accordance with the *Guide to providing maps and boundary data for EPBC Act projects*, Commonwealth of Australia 2021, or as otherwise specified by the **Minister** in writing.
- 24) The approval holder must submit all **monitoring data**, surveys, maps, other spatial and metadata and all species occurrence record data (sightings and evidence of presence), to the extent that it relates to **protected matters**, electronically to the **department** within 20 **business days** of the next anniversary of the date of this approval decision except where otherwise specified in a **plan**.

ANNUAL COMPLIANCE REPORTING

- 25) The approval holder must prepare a **compliance report** for each **Annual Compliance Report period** (ACR period).
- 26) The approval holder must ensure each **compliance report** includes:
 - a) accurate and complete details of compliance and any non-compliance with:
 - each condition imposed under the NSW approval, if a condition attached to this approval decision requires compliance with that NSW approval condition, the extent that it relates to projected matters,
 - ii) each condition attached to this approval decision, and
 - iii) all commitments made in each **plan**, to the extent that they relate to **protected matters**,

- b) a schedule of all plans in effect in relation to these conditions during the ACR period,
- accurate and complete details of how each plan was implemented during the ACR period,
 and
- d) if any **incident** occurred, accurate and complete details of each **incident**.
- 27) The approval holder must ensure each **compliance report** is consistent with the *Annual Compliance Report Guidelines*, Commonwealth of Australia 2023.
- 28) The approval holder must, within 20 **business days** following the end of each **ACR period**, in a format that is easily accessible and downloadable, publish on the **website**:
 - a) each **compliance report**, and
 - b) a **shapefile** showing all **clearing** of **protected matters**, and their habitat, undertaken within the **ACR period**.
- 29) The approval holder must:
 - a) Exclude or redact sensitive biodiversity data from each compliance report and shapefile published on the website or otherwise provided to a member of the public.
 - b) If sensitive biodiversity data is excluded or redacted from a version of a compliance report published or otherwise provided to a member of the public, submit the full compliance report to the department within 5 business days of its publication on the website and notify the department in writing what exclusions and redactions have been made in the version published on the website or otherwise provided to a member of the public.
 - c) If sensitive biodiversity data is excluded or redacted from a version of a shapefile published or otherwise provided to a member of the public, submit the full shapefile to the department within 5 business days of its publication on the website and notify the department in writing what exclusions and redactions have been made in the version published on the website or otherwise provided to a member of the public.
- 30) The approval holder must notify the **department** electronically, within 5 **business days** of each date of publication that the **compliance report** has been published on the **website**. In this notification, the approval holder must provide the **department** with the web address for where the **compliance report** and related **shapefile** are published on the **website**.
- 31) The approval holder must keep each compliance report and related shapefile published on the website from the first date which that compliance report must be published and for the full period for which this approval has effect.

Note: Compliance reports may be published on the department's website.

REPORTING NON-COMPLIANCE

32) The approval holder must notify the **department** electronically, within 2 **business days** of becoming aware of any **incident**. The approval holder must specify in each notification:

- a) any condition or commitment made in a **plan** which has not been, or may have not been, complied with,
- b) a short description of the incident, and
- c) the location (if applicable, including co-ordinates), date and time of the **incident**.
- 33) The approval holder must provide to the **department** in writing, within 12 **business days** of becoming aware of an **incident**, the details of that **incident**. The approval holder must specify:
 - all corrective measures and investigations which the approval holder has already taken in respect of the incident,
 - b) the potential impacts of the **incident**,
 - the method and timing of any corrective measures that the approval holder proposes to undertake to address the **incident**, and
 - d) any variation of these conditions or revision of a **plan** that will be required to prevent recurrence of the **incident** and/or to address its consequences.

INDEPENDENT AUDIT

- 34) The approval holder must ensure that an **independent audit** of compliance with the conditions is conducted for every **audit period**.
- 35) The approval holder must submit details of the proposed **independent auditor** and their qualifications to the **department** within 10 **business days** following the end of each **audit period**.
- 36) The approval holder must ensure the scope of each **independent audit** is sufficient to determine the compliance status for each condition of approval, and each commitment made in each **plan**.
- 37) The approval holder must ensure the criteria for each independent audit and the undertaking of each independent audit are consistent with the Independent Audit and Audit Report Guidelines
- 38) The approval holder must submit an **audit report** to the **department** for written agreement from the **department** within 3 months following the end of each **audit period**, or as otherwise directed by the **Minister** in writing.
- 39) The approval holder must ensure each **audit report** is completed to the satisfaction of the **Minister** and is consistent with the **Independent Audit and Audit Report Guidelines**.
- 40) The approval holder must publish each **audit report** on the **website**, in a format that is easily accessible and downloadable, within 10 **business days** of the date the **department** agrees to that **audit report** in writing.
- 41) The approval holder must notify the **department** within 5 **business days** of the date the **audit report** is published on the **website**. In this notification, the approval holder must provide the **department** with the web address for where the **audit report** is published on the **website**.

42) The approval holder must keep each **audit report** published on the **website** from the first date which that **audit report** must be published and until the final date for which this approval has effect.

COMPLETION OF THE ACTION

- 43) Within 20 business days after the completion of the Action, and, in any event, at least 20 business days before the final date for which this approval has effect, the approval holder must notify the department electronically of the date of completion of the Action and provide completion data. The approval holder must submit any spatial data that comprises completion data as a shapefile.
- 44) The approval holder must notify the **department** electronically 60 **business days** prior to the final date for which this approval has effect, that the approval is due to expire.

Note: Section 145C of the **EPBC Act** entitles the approval holder to request an extension to the period of effect of this approval.

Part C - Definitions

Words and terms appearing in **bold** (excluding headings) have the meaning assigned to them in the list below:

Annual Compliance Report period or **ACR period** means each subsequent 12-month period following the date of this approval decision until the final date for which this approval has effect, unless otherwise specified in writing by the **Minister**.

Audit period means each subsequent five-year period following the **commencement of the Action** until the final date for which this approval has effect unless otherwise specified in writing by the **Minister**.

Audit report means a written report of an independent audit.

Biodiversity data means 'biodiversity data' as described in the *Policy on Accessing and Sharing Biodiversity Data*, Commonwealth of Australia 2024.

Business day means a day that is not a Saturday, a Sunday, or a public holiday in New South Wales.

Clear, **cleared** or **clearing** means the cutting down, felling, thinning, logging, removing, killing, destroying, poisoning, ringbarking, uprooting, or burning of vegetation.

Commence the Action or commences the Action means the first instance of any on-site clearing, construction or other physical activity associated with the Action, but does not include minor physical disturbance necessary to:

Undertake pre-clearance surveys or monitoring programs.

- Install signage and/or temporary fencing to prevent unapproved use of the development area, so long as the signage and/or temporary fencing is located where it does not harm any protected matter.
- Protect environmental and property assets from fire, weeds, and feral animals, including use of existing surface access tracks.
- Install temporary site facilities for persons undertaking pre-commencement activities so long as these facilities are located where they do not harm any protected matter.

Commencement of the Action means the date on which the approval holder **commences the Action**.

Completion data means an environmental report and spatial data clearly detailing how the conditions of this approval have been met.

Completion of the Action means the date on which all activities associated with the approved Action have permanently ceased and/or been completed.

Compliance records means all documentation or other material in whatever form required to demonstrate compliance with these conditions of approval (including compliance with commitments made in **plans**) in the approval holder's possession, or that are within the approval holder's power to obtain lawfully.

Compliance report means a written report of compliance with, and fulfilment of, these conditions (including compliance with commitments made in **plans**).

Construction means:

- the erection of a building or structure that is, or is to be, fixed to the ground and wholly or partially fabricated on-site,
- the alteration, maintenance, repair or demolition of any building or structure,
- any work which involves breaking of the ground (including pile driving) or bulk earthworks,
- the laying of pipes and other prefabricated materials in the ground, and
- any associated excavation work.
- Construction does not include the installation of temporary fences or signage, preconstruction minor works, road upgrades and operation of the accommodation camps, as specified in the NSW approval definitions of construction and pre-construction minor works.

Department means the Australian Government agency responsible for administering the **EPBC Act**.

Development area means the location of the action, represented in Appendix 1 of the NSW Approval and at <u>Attachment A</u> shown by the area designated 'Construction area (EIS)'.

Environmental Management Plan Guidelines means the *Environmental Management Plan Guidelines*, Commonwealth of Australia 2024.

Environmental Offsets Policy means the *Environment Protection and Biodiversity Conservation Act 1999 Environmental Offsets Policy*, Commonwealth of Australia 2012.

EPBC Act means the *Environment Protection and Biodiversity Conservation Act 1999* (Cth).

Existing offset areas means the Red Hills offset area associated with the **Moolarben mine**, represented in <u>Attachment B</u> by the yellow hatch area designated 'Moolarben offset area' and labelled 'Red Hills Cluster – Area 1' and the enhancement and conservation areas associated with the **Wilpinjong Mine**, represented in <u>Attachment B</u> by the blue hatch area designated 'Wilpinjong enhancement and conservation areas'.

Habitat of any protected matter or habitat of the protected matter means:

- for threatened flora and fauna species, the species polygon for the protected matter developed as per the *Biodiversity Assessment Methodology*, NSW and Department of Planning, Industry and Environment 2020; and
- for threatened ecological communities, the extent of vegetation confirmed to conform to the EPBC Act listing definition.

Harm means to cause any measurable direct or indirect disturbance or deleterious change as a result of any activity associated with the Action.

Incident means any:

- event which has the potential to, or does, harm any protected matter,
- potential non-compliance with these conditions, excluding the administrative requirements,
- actual non-compliance with these conditions, including the administrative requirements,
- potential non-compliance with one or more commitment made in a plan, and/or
- actual non-compliance with one or more commitment made in a plan.

Independent audit means an audit, conducted by an **independent auditor**, of compliance with and fulfilment of these conditions and the commitments made in **plans**, objectively evaluated against the audit criteria developed by the **independent auditor**, in accordance with the **Independent Audit and Audit Report Guidelines**.

Independent Audit and Audit Report Guidelines means the *Environment Protection and Biodiversity Conservation Act 1999 Independent Audit and Audit Report Guidelines*,
Commonwealth of Australia 2019

Independent auditor means a person, or firm, who:

- does not have any individual, financial*, employment* or family affiliation or any conflicting interests with the Action, the approval holder or the approval holder's staff, representatives, or associated persons,
- has demonstrated experience in undertaking government-regulated environmental compliance audits, and
- holds relevant professional qualifications and accreditations.

Koala means the species Koala (*Phascolarctos cinereus*) (combined populations of Queensland, New South Wales and the Australian Capital Territory) listed as endangered under the **EPBC Act**.

Large-eared Pied Bat means the species Large-eared Pied Bat (*Chalinolobus dwyeri*) listed as vulnerable under the **EPBC Act**.

Minister means the Australian Government Minister administering the **EPBC Act**, including any delegate thereof.

Monitoring data means the data required to be recorded under the conditions of this approval, including **sensitive biodiversity data**.

Moolarben mine means the Moolarben Coal Mine Project (EPBC 2007/3297) approved under sections 130(1) and 133 of the **EPBC Act** on 24 October 2007.

NSW approval means the NSW Government Infrastructure Approval for the Central-West Orana REZ Transmission Project made under Section 5.19 of the *Environmental Planning & Assessment Act 1979*, for application number SSI-48323210 approved on 26 June 2024, and any subsequent modifications to the project approved by the relevant NSW Minister or delegate administering the *Environmental Planning & Assessment Act 1979*. At the date of this decision, the NSW approval can be accessed at the following webpage address: NSW Project approval (nsw.gov.au)

NSW Planning Secretary means the Planning Secretary as defined in the NSW approval.

Plan means any action management plan or strategy that the approval holder is required by these conditions to implement, and includes offset packages.

Protected matter means a matter protected under a controlling provision in Part 3 of the **EPBC Act** for which this approval has effect.

Regent Honeyeater means the species Regent Honeyeater (*Anthochaera phrygia*) listed as critically endangered under the **EPBC Act**.

Sensitive biodiversity data means **biodiversity data** which, if released, published or otherwise exposed, may result in **harm** to the relevant **protected matter** as a result of the intentional or unintentional misuse of that **biodiversity data**.

^{*}Other than for the purpose of undertaking the role for which an independent person, or firm, is required.

Shapefile means location and attribute information about the Action provided in an Esri shapefile format containing:

- '.shp', '.shx', '.dbf' files,
- a '.prj' file which specifies the projection or geographic coordinate system used, and
- an '.xml' metadata file that describes the shapefile for discovery and identification purposes.

Swift Parrot means the species Swift Parrot (*Lathamus discolor*) listed as critically endangered under the **EPBC Act**.

Website means a set of related web pages located under a single domain name attributed to the approval holder and available to the public.

Wilpinjong mine means the Wilpinjong open cut coal mine extension project (EPBC 2015/7431) approved under sections 130(1) and 133 of the **EPBC Act** on 8 August 2017.

Attachments

- A: Development area maps
- B: Existing offset areas for Moolarben mine and Wilpinjong mine























