



30 January 2024

Steve O'Donoghue
Director Resources Assessment
Department of Planning and Environment
GPO Box 39
Sydney

Via: DPE Major projects Portal
Cc'd Joe.fittell@planning.nsw.gov.au

Mt Owen Continued Operations (SSD-5850): Extension of the timeframe to retire Biodiversity credits and Secure Biodiversity Offset Areas

Dear Steve,

In August 2022, MGO requested an extension of time to secure outstanding Biodiversity Offsets and retire credits required under SSD-5850 Schedule 3 Conditions 29B, 29C and, 29D, and, DA 80/952 Schedule 3 Condition 36A.

Department of Planning and Environment (DPE) did not approve the extension of time and requested MGO to agree a new timeframe with the Credit Supply Taskforce (CST)

The Biodiversity Stewardship Agreement (BSA) applications for Mitchell Hills, Cross Creek and Stringybark have been approved by the Biodiversity Conservation Trust (BCT). MGO has recently completed the payment of the Total Fund Deposits (TFD) and credits relating to those BSAs have been retired on 25 January 2024 (see [Appendix A](#)).

The process to secure the Esparanga Offset was significantly delayed due to the requirement to transfer ownership of Crown Roads to Mt Owen. The BSA application has been stalled by Crown Lands since July 2021 due to a perceived issue with a Native Title claim over the area. MGO liaised with CST to determine a path forward and assess options. In November 2023, MGO agreed an approach with DPE and CST to remove the Crown Roads from the proposed Esparanga Offset area. Removing the Crown Roads will reduce the total area of the offset by 5.74 ha to 297 ha. The BSA documentation for Esparanga requires updating and a meeting between MGO and CST is already scheduled for mid January 2024 to further discuss the requirements before submission of the updated BSA application.

CST have suggested a timeframe for completion of the Esparanga BSA by 31st December 2024 (see [Appendix B](#)). The retirement of credits and payment into the TFD is estimated to take a further six months following the BSA approval, based on MGO's experience with the Mitchell Hills (BS0053), Cross Creek (BS0054) and Stringybark (BS0055) BSA applications.

Further, MGO have decided to make a payment of all outstanding Biodiversity credits (refer to [Appendix C](#)) directly to the Biodiversity Conservation Fund (BCF). This process is expected to take several months to complete.

For the abovementioned reasons, MGO is requesting an extension of time to finalise the long term security arrangements for Esparanga and complete the payment of outstanding Biodiversity credits to the BCF until 30th June 2025.

Milestones achieved by MGO to secure the four Biodiversity Offset areas since November 2016 are summarised in the table included in Appendix D.

Should you have any queries, please do not hesitate to contact the undersigned.

Kind regards,



Sébastien Moreno
Environment & Community Manager
Mt Owen/ Glendell Operations– GLENCORE
E: sebastien.moreno@glencore.com.au

Appendix A: email from DCCEEW advising retirement of BOS credits from three BSAs was approved

Appendix B: Most recent correspondence with BCT- Task force

Appendix C: Summary of outstanding Biodiversity credits required under SSD5850 and DA80/952

Appendix D: Summary table including MGO Milestones.

Appendix A

BOS Credit Retirements (RETIRE80, RETIRE81 and RETIRE82) - Approved



Brittany Lancaster <brittany.lancaster@environment.nsw.gov.au>

To: Satinathan, Sonia (Mount Owen Glendell Operations - AU); **OE**H ROD BOSCRECITS Mailbox

Cc: Moreno, Sebastien (Mount Owen Glendell Operations - AU)

Reply Reply All Forward

Thu 25/01/2024 4:17 PM

You forwarded this message on 25/01/2024 4:30 PM.

Action Items

External sender

Good afternoon Sonia,

The retirement of BOS credits from BS0053 (RETIRE81), BS0054 (RETIRE82) and BS0055 (RETIRE80) were approved today 25/01/2024.

Details of the credit retirements and the credit retirement reports have been sent to the authorised representatives for each retirement application.

For RETIRE80 and RETIRE81 these were sent to Patrick Wilkes and Ian Cribb.

For RETIRE82 this was sent to Michael Pajkovic and Ashley Mcleod.

Thank you for your assistance with these applications.

Kind Regards,
Biodiversity Offset Scheme Credits Team

Biodiversity Offsets Scheme Branch
Biodiversity and Conservation Division

Department of Climate Change, Energy, the Environment and Water

dcceew.nsw.gov.au

<https://www.environment.nsw.gov.au/topics/animals-and-plants/biodiversity-offsets-scheme>



Appendix B

From: Jennie Powell <Jennie.Powell@bct.nsw.gov.au>

Sent: Friday, December 8, 2023 4:02 PM

To: Moreno, Sebastien (Mount Owen Glendell Operations - AU) <Sebastien.Moreno@glencore.com.au>

Cc: Judy Fleming <Judy.Fleming@environment.nsw.gov.au>; Leonie Walsh <leonie.walsh@environment.nsw.gov.au>; Samara Wehmeyer <samara.wehmeyer@environment.nsw.gov.au>

Subject: CST response to Questions 1 and 2 Esparanga BSA

External sender

Hi Sebastian, I understand from your phone call with me this week that you need a quick response from the Credit Supply Taskforce to questions 1 and 2 in your attached letter dated 28th November 2023.

1. The expected timeframe to finalise a revised Esparanga BSA application from the date of submission:

For the purposes of an extension to your credit retirement approval we propose a conservative timeframe of December 31st 2024. This is contingent on a revised BSA application submitted to the Credit Supply Taskforce by the mid-February 2024.

2. After the submission of the revised application another site visit between Taskforce staff and your accredited assessor will be required.

The revisions to the application should focus on updates to the management plan, maps and TFD costs that relate to changes in weed species, distribution and density, eroded areas and other management issues that have occurred since the initial application review took place in 2020.

The Taskforce would like to meet with your accredited assessor to discuss the application revision soon after the public service shutdown period ends on January 8th 2024. Please send an email request for a pre-submission meeting to the EHG Biodiversity Stewardship Mailbox: stewardship@environment.nsw.gov.au

A new application form must be completed and all updated due diligence and eligibility supporting documentation submitted with the revised application. Could you ask your accredited assessor to confirm the age of the collected plot data.

We will send a response to your third question shortly.

Regards

Jennie Powell

Jennie Powell

Principal Project Officer

Biodiversity Credit Supply Taskforce

T 02 8275 1668 | **M** 0419 621 855 |

Four Parramatta Square (4PSQ) Level 7, 12 Darcy Street, Parramatta NSW 2150

Appendix C

Plant Community Type		Number of BAM Credits
MOD 4 (DA 80/952)		
1692	Bull Oak grassy woodland of the central Hunter Valley - Regeneration	21
1691	Narrow- leaved Ironbark –Grey Box grassy woodland of the central and upper Hunter - Derived Native Grassland	88
MOD 2 (SSD-5850)		
1692	Bull Oak grassy woodland of the central Hunter Valley	34
1601	Spotted Gum – Narrow-leaved Ironbark – Red Ironbark shrub – grass open forest of the central and lower Hunter	188
1601	Spotted Gum – Narrow-leaved Ironbark – Red Ironbark shrub – grass open forest of the central and lower Hunter	54
1601	Spotted Gum – Narrow-leaved Ironbark – Red Ironbark shrub – grass open forest of the central and lower Hunter	282
1731	Swamp Oak - Weeping Grass grassy riparian forest of the Hunter Valley	6
MOD 5 (SSD-5850)		
1601	Spotted Gum - Narrow-leaved Ironbark shrub – Red Ironbark shrub - grass open forest of the central and lower Hunter - Moderate	193
1601	Spotted Gum - Narrow-leaved Ironbark shrub – Red Ironbark shrub - grass open forest of the central and lower Hunter – Regenerating	2
1598	Forest Red Gum grassy open forest on floodplains of the lower Hunter - Moderate	2
MOD 6 (SSD-5850)		
1604	Narrow-leaved Ironbark – Grey Box – Spotted Gum shrub-grass woodland of the central and lower Hunter	23
1603	Narrow- leaved Ironbark – Bull Oak – Grey Box shrub-grass woodland of the central and lower Hunter - Derived Native Grassland	7
MOD 5 (SSD-5850) Species Credits		
	<i>Petaurus norfolcensis</i> – Squirrel Glider	197

Appendix D

Date	MGO Milestone
November 2016	SSD-5850 Mt Owen Continued Operations (MOCO) approved. "The Applicant must make suitable arrangements for the long term protection of the areas identified in Table 9, to the satisfaction of the Secretary. These arrangements must be implemented by: the end of June 2018, unless the Secretary agrees otherwise, for all on-site and off-site offsets excluding the Rehabilitation Woodland offset area..."
August 2019	First submission of Biodiversity Stewardship Agreements (BSA) submitted to the Biodiversity Conservation Trust (BCT).
October 2020	Closure/purchase application lodged with Crown Lands for the Crown Roads within the Esparanga BSA area. The application was lodged with a request for priority processing and this request was granted.
November 2020	Crown Lands began processing closure/purchase application for Crown Roads within Esparanga.
January 2020	Conservation Agreements executed, securing Northwest Offset, Northeast Offset, Southeast Offset, Forest East Offset, Southeast Corridor Offset, and Southern Remnant Offset.
November 2020	BSA feedback provided to Mt Owen from the BCT.
January 2021	BSA's re-submitted to the BCT following feedback.
February 2021	Additional BSA feedback provided by the BCT. Including reassessing fire management requirements and plans.
July 2021	A separate Enclosure Permit application was submitted to Crown Lands due to the delay in processing the closure/permit application over the Crown Roads within Esparanga. This application was denied by Crown Lands on the basis that the land would not be used for grazing.
July 2021	Updated BSA's resubmitted to BCT. This update addressed previous comments and included the new fire management plans completed by expert fire practitioners at the request of the BCT. The availability of expert fire practitioners during this time was extremely limited. The creation of the new Fire Management Plans included thorough investigation of the BSA areas and reassessment of proposed fire regimes. This was an extensive process.
August 2021	Crown Lands confirmed via email that "a departmental decision to put all cases in the area on hold for further investigation on Native Title. If you believe you have information to request an exemption it can be provided and it will be reviewed, but there's no guarantee an exemption can be given to this case at this stage".
August 2021	MGO provided evidence to Crown Lands to demonstrate that Native Title had been extinguished in the Crown Roads subject to the closure/purchase application.

August 2021	Webex completed with BCT outlining status of submitted BSA's as well as newly proposed BSA's to be submitted by MGO in the future.
October 2021	Additional BSA feedback provided by the BCT. This is addition to the previous rounds of feedback that had previously been addressed.
November 2021	Updated BSA's resubmitted to the BCT following additional feedback provided by the BCT.
January 2022	The BCT provided final edits to the BSA's and commented on changes they had made. The BCT advised Mt Owen to submit all the applications through BOAMs once we had reviewed any changes made by the BCT to the BSA's.
January 2022	Mt Owen reviewed edits to the BCT and resubmitted the BSA's through BOAMs.
February 2022	The BCT indicated that they will hold off on approving the Esparanga BSA until the ownership of the crown roads within the area is transferred to Glencore.
February 2022	The BCT advised Mt Owen that BOAMs has been updated since MGO initially submitted the BSAs via email and that accounts would need to be set up for each authorised officer of the relevant land holder corporation for each BSA.
March 2022	Crown Lands advised Mt Owen that the application to transfer ownership of the Crown Roads within Esparanga remained "paused". This appears to be in relation to a Gomeroi Native Title Claim over the area despite previous evidence of Native Title being extinguished, which was provided to Crown Lands in August 2021.
April 2022	The relevant authorised officer's agreed to have BOAMs accounts created in their names. . BOAMs accounts were subsequently created for the authorised officers
April 2022	The BCT advised that since an authorised officer of one of the landholder corporations had changed since Mt Owen first submitted the BSAs that a Bankruptcy Register Search, POEO Search and two written references would need to be supplied for the new authorised officer.
May 2022	BSA for Mitchells Hills Offset approved by the BCT. Three BSA sites still awaiting approval – Cross Creek and Stringybark. Esparanga site still awaiting Crown Lands decision on purchase of Crown roads within BSA site.
May 2022	BSA for Cross Creek approved by the BCT. Two - BSA sites still awaiting approval –Stringybark. Esparanga site still awaiting Crown Lands decision on purchase of Crown roads within BSA site.
June 2022	No update was provided from Crown Lands on the purchase of Crown Roads within the Esparanga BSA area following additional contact by lawyers acting on behalf of Mt Owen.
July 2022	BSA for Cross Creek and Mitchell Hills signed by all relevant directors and returned to the BCT for signing by CEO.

July 2022	Credit Supply Taskforce (CST) took over responsibility for BSA applications and meeting held with Glencore and CST regarding implication for approval of existing and future BSA applications, including timeframes.
August 2022	Total Fund Deposit (TFD) discount rate updated and requested to be applied to existing MGO BSAs. Consultation between CST and Glencore on how this could be applied to existing BSA applications including those already approved.
August 2022	No update was provided from Crown Lands on the purchase of Crown Roads within the Esparanga BSA area following additional contact by lawyers acting on behalf of Mt Owen.
October 2022	BSA for Stringybark (BS0055) was approved by the BCT.
November 2022	BSA for Stringybark was signed by Glencore Directors and returned to the BCT. Lawyers engaged by MGO followed up on the Esparanga Offset but did not receive any update from Crown Lands following additional contact in September, October and November. MGO contacted CST and explained the situation was not progressing with Crown Lands.
December 2022	CST approached Crown Lands directly regarding this matter. No timeframe for completion was provided due to the complexity of court proceedings. CST suggested MGO to approach Gomeroi Clan to negotiate exclusion of Crown roads from the proceeding.
January 2023	MGO had a meeting with CST to discuss several options for Esparanga.
February 2023	MGO started to investigate several options to continue the BSA process for Esparanga Property including to approach the Gomeroi clan and negotiate the exclusion of the Crown Roads, to reallocate spare BAM credits from existing offset (eg: Highfields); to propose an increase of the number of credits even though not increasing the area; to extend the proposed BSA to an adjacent property (and restart the assessment)/ Extend the boundary onto Highfields offset (requires survey, marking, etc); to propose Management of the BSA in accordance with Management Plan until the claim is Extinguished;)
March 2023	Following further internal discussion, MGO disregarded the options relating to negotiation with the Gomeroi clan to exclude the Crown Roads and the extension of the proposed BSA to adjacent properties.
April 2023	Glencore and MGO had a meeting with CST to discuss the Esparanga Offset site and other BSA matters.
May 2023	MGO notified DCCEEW of non-compliance and requested an extension of time to secure the Esparanga offset. MGO advised DCCEEW that MGO requested an extension of time to secure Esparanga Offset to DPE in August 2022, but DPE did not approve the extension and requested MGO to agree a new timeframe with CST. No new timeframe was agreed with CST.

August 2023	MGO started to progress the retirement of credits for Mitchell Hills, Stringybark and Cross Creek offsets.
September 2023	Glencore Directors signed credits retirement forms to allow payment of the TFD for Mitchell Hills, Stringybark and Cross Creek offsets.
October 2023	MGO decided on a preferred option to continue the BSA process for Esparanga which would be to remove the Crown Roads from the BSA area. MGO met with DPE to agree this way forward. A modification to Schedule 3, condition 27 of SSD-5850 to seek replacement of the "303ha" for the Esparanga Offset by "297ha" (excluding the 5.7ha of Crown Roads) will be submitted.
November 2023	MGO met with CST to discuss the preferred way forward for Esparanga and discuss the timeframe, among other items.
December 2023	CST proposed a timeframe of 31 st December 2024 to finalise a revised Esparanga BSA application. MGO provided this revised timeframe to DPE, plus 6 months post finalisation to allow for retirement of credits and TFD payment.
January 2024	Payment of the TFD for Stringybark, Cross Creek and Mitchell Hill BSAs is complete. DCCEEW advised retirement of BOS credits was approved on 25 January 2024