



Export Management Plan

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1. Background

- 1.1 The United Wambo Joint Venture (UWJV) is a joint venture that has been established between United Collieries Pty Limited (United), a subsidiary of Glencore, and Wambo Coal Pty Limited (Wambo), a subsidiary of Peabody. The purpose of the joint venture is to develop and operate the United Wambo Open Cut Coal Mine (Project). Coal produced by the Project will be marketed and sold by United and Wambo separately, in proportion to their respective interests in the UWJV.
- 1.2 On 29 August 2019, the New South Wales Independent Planning Commission (IPC) granted United, on behalf of the UWJV, development consent SSD 7142 (Consent) for the Project.
- 1.3 The Consent was granted subject to conditions, including conditions B32 to B36, that concern Scope 3 greenhouse gas emissions¹ associated with consumption or use of the Project's coal (Scope 3 Conditions).
- 1.4 As recognised by the accounting standard adopted by the United Nations Framework Convention on Climate Change, the Scope 3 emissions of one party will be the Scope 1 emissions of another party. Unlike Scope 1 and 2 emissions, the party responsible for reporting Scope 3 emissions (which, in the case of the Project, is the operator of the mine) is not in a position to control those Scope 3 emissions. That situation was recognised by the IPC and is reflected in the way the Scope 3 Conditions have been formulated.
- 1.5 The Scope 3 Conditions are reproduced below in **Table 1-1**.

Table 1-1: Management of Scope 3 Greenhouse Gas Emissions

Condition No.	Description
B32	<p>The Applicant must prepare an Export Management Plan for the development to the satisfaction of the Planning Secretary. This plan must set out protocols that require the Applicant to use all reasonable and feasible measures to ensure that any coal extracted from the development that is to be exported from Australia, is only exported to countries that are:</p> <ol style="list-style-type: none"> a) parties to the Paris Agreement within the United Nations Framework Convention on Climate Change; or b) countries that the Planning Secretary considers have policies for reducing greenhouse gas emissions that would otherwise be similar to policies that would be required of that country if it were a party to the Agreement at a) above <p>as at the date of sale. The purpose of the Export Management Plan is to ensure that all reasonable and feasible measures are adopted by the Applicant to minimise greenhouse gas emissions identified as Scope 3 emissions in the EIS to the greatest extent practicable.</p>

¹ For emissions accounting purposes, the *GHG Protocol Corporate Accounting and Reporting Standard* classifies corporate GHG emissions into three 'scopes'. Scope 1 emissions are direct GHG emissions from operations that are owned or controlled by the reporting company. Scope 2 emissions are indirect emissions from the generation of purchased energy consumed by a company. Scope 3 emissions are all other indirect emissions (not included in Scope 2) that occur in the value chain of the reporting company (e.g. emissions from customers' use of the coal produced by the Project).

Condition No.	Description
B33	The Applicant must not commence Phase 1B until the Export Management Plan is approved by the Planning Secretary.
B34	The Applicant must implement the Export Management Plan as approved by the Planning Secretary for the life of the development.
B35	The Planning Secretary may determine that the Export Management Plan should be amended if it is satisfied that a change to obligations arising under the United Nations Framework Convention on Climate Change or Paris Agreement, or the policies of a country that is within B32 b) above, necessitates an amendment to the Export Management Plan.
B36	The Planning Secretary may determine that the Applicant is no longer required to implement the Export Management Plan if, due to the existence of other State or Federal legal mechanisms introduced by the NSW or Commonwealth Governments regulating the subject matter of the Export Management Plan, there is no longer any need for the Export Management Plan to be implemented by the Applicant.

1.6 This is the Export Management Plan (EMP) prepared for the purposes of the Scope 3 Conditions.

2. Restricted Country List and Export Country List

- 2.1 197 parties – being every country in the world and the European Union – have signed the Paris Agreement.²
- 2.2 Of those 197 parties, 188 countries and the European Union had ratified the Paris Agreement as at the date of approval of this EMP.³ The countries that had not ratified the Paris Agreement are set out in the list in **Appendix A - Restricted Country List** of this EMP.
- 2.3 If there is a change to the countries that have ratified the Paris Agreement, the Restricted Country List will be updated accordingly.
- 2.4 The Planning Secretary has confirmed that, as at the date of approval of this EMP, the following countries fall within paragraph B32 b) of the Scope 3 Conditions:
- Taiwan (which, for the purpose of this EMP, will be treated as though it is an independent state); and
 - Turkey.
- 2.5 As at the date of approval of this EMP, the countries that fall within paragraphs B32 a) and b) of the Scope 3 Conditions are set out in the list in **Appendix B - Export Country List** of this EMP.
- 2.6 If there is a change to the countries that fall within paragraph B32 a) of the Scope 3 Conditions, the Export Country List will be updated accordingly.
- 2.7 The United Wambo Joint Venture may, from time to time, nominate additional countries for consideration by the Planning Secretary under paragraph B32 b) of the Scope 3 Conditions for

² <https://unfccc.int/process/the-paris-agreement/status-of-ratification>

³ https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsq_no=XXVII-7-d&chapter=27&clang=en

inclusion in the Export Country List. At the time of making such a nomination, the UWJV must provide information to the Planning Secretary in support of this nomination.

3. Application of the EMP

- 3.1 As noted above, each of United and Wambo (each a Seller) is responsible for independently marketing and selling its own share of production from the Project. As such, subject to a determination by the Planning Secretary under paragraph B36 of the Scope 3 Conditions, this EMP will apply separately to, and be implemented by, each Seller in respect of its respective share of coal extracted from the Project that is to be exported from Australia (Export Coal).
- 3.2 For the avoidance of doubt, this EMP will not apply to any sales of coal where, at the time of entering into the relevant contract for sale, it is intended that the consumption or use of the coal will occur within Australia.
- 3.3 It is generally the case that coal that is shipped from the Port of Newcastle is exported to countries that are on the Export Country List. By way of example, in 2018 and 2019, 100% of the coal exported from the Port of Newcastle was shipped to countries on the Export Country List.
- 3.4 Having regard to the limited number of countries on the Restricted Country List and the markets identified by the Sellers as being suitable for the sale of Export Coal produced from the Project, it is considered unlikely that a customer would request a sale to a country on the Restricted Country List.

4. Protocols

- 4.1 **Table 4-1** below sets out the measures that will be implemented by the Sellers to ensure that Export Coal is only exported to countries on the Export Country List.

Table 4-1: Protocols for Export Coal

Protocol No.	Description
1	Monitor the countries that have ratified the Paris Agreement and, if necessary, update the Restricted Country List and the Export Country List accordingly.
2	Distribute the current versions of the Restricted Country List and the Export Country List to the marketing and logistics teams of each of the Sellers. This will be done immediately if the lists change, and on an annual basis irrespective of any changes.
3	Make enquiries of the buyers of Export Coal to ascertain the final destination country for any sales of Export Coal, to the extent this is not already apparent from the terms of the coal sales contract. This will be done for all types of sales transactions where it is possible to do so (including sales to end customers, sales to traders and sales to other coal producers), and it will be done prior to entering into the transaction.

Protocol No.	Description
4	Include within the Sellers' internal marketing and logistics systems a requirement to identify the final destination country for any sales of Export Coal, to the extent this is known as at the date of the sale.
5	Implement a process within the Sellers' internal marketing and logistics systems to flag any potential transaction involving Export Coal where it is known, as at the date of the sale, that Export Coal would be shipped to a final destination country that is on the Restricted Country List.
6	Implement a process within the Sellers' internal marketing and logistics systems to prevent any potential transaction involving Export Coal from being entered into the system where it is known, as at the date of the sale, that the Export Coal would be shipped to a final destination country that is on the Restricted Country List.

- 4.2 It is acknowledged that the majority of sales from the Port of Newcastle occur using 'free on board' (FOB) sales contracts. An FOB sales contract passes the ownership of coal to the buyer as the coal passes over the ship's rail. Once owned, a buyer has the right to use or sell the coal as it wishes; it is not possible to impose restrictions in a sales contract on the destination(s) to which the buyer may transport the coal, as this is considered anti-competitive. The protocols outlined above are designed to identify the final destination country for the coal but cannot definitively prevent a buyer from changing the end use destination once the coal is owned by them.
- 4.3 It is also acknowledged that sometimes it will not be possible for a Seller to know, at the time of entering into a coal sales transaction, the final destination of coal exported from Australia, even after the Seller has made genuine enquiries of the buyer. This is because sales of export coal are not just made directly to the ultimate consumer of the coal, but also to traders,⁴ other coal producers⁵ and on online trading platforms.⁶ In those circumstances, it will not always be feasible⁷ to apply the Protocols set out above.

5. Document Information

- 5.1 Relevant legislation, standards and other reference information must be regularly reviewed and monitored for updates and should be included in the site management system. Reference information in this section provides the linkage and source to develop and maintain this management plan.
- 5.2 Reference information, listed in **Table 5-1** below, is *information* that is directly referred to for the development of this document.

⁴ If the buyer is a coal trader, at the time of entering the transaction to purchase the coal the buyer may not know the identity of the end user to which the trader will sell the coal (or their location).

⁵ It may be necessary to sell coal to another coal producer to facilitate blending of coal from different mine sites in order to assemble individual cargoes that meet customer requirements in relation to coal quality.

⁶ It is a feature of the globalCOAL trading platform that the identities of the parties to potential coal sales transactions are not disclosed to each other at the time the transaction occurs.

⁷ In the Consent, 'feasible' is defined to be what is possible and practical in the circumstances.

Table 5-1: Reference Information

Reference	Title
1.2	Development Consent SSD 7142 dated 29 August 2019
2.1	Paris Agreement within the United Nations Framework Convention on Climate Change
2.2	Paris Agreement – Status of Ratification

5.3 A summary of the document history is provided in **Table 5-2** below.

Table 5-2: Change Information

Version	Date	Change Details
1.0	21 April 2020	Prepared for submission to Planning Secretary for approval

Appendix A - Restricted Country List

1. Angola
2. Eritrea
3. Iran
4. Iraq
5. Libya
6. South Sudan
7. Turkey
8. Yemen

Appendix B - Export Country List

Countries falling within paragraph B32 a) of the Scope 3 Conditions (parties to the Paris Agreement⁸).

1. Afghanistan	32. Central African Republic	62. France
2. Albania		63. Gabon
3. Algeria	33. Chad	64. Gambia
4. Andorra	34. Chile	65. Georgia
5. Antigua and Barbuda	35. China	66. Germany
6. Argentina	36. Colombia	67. Ghana
7. Armenia	37. Comoros	68. Greece
8. Australia	38. Congo	69. Grenada
9. Austria	39. Cook Islands	70. Guatemala
10. Azerbaijan	40. Costa Rica	71. Guinea
11. Bahamas	41. Côte d'Ivoire	72. Guinea-Bissau
12. Bahrain	42. Croatia	73. Guyana
13. Bangladesh	43. Cuba	74. Haiti
14. Barbados	44. Cyprus	75. Honduras
15. Belarus	45. Czech Republic	76. Hungary
16. Belgium	46. Democratic People's Republic of Korea	77. Iceland
17. Belize	47. Democratic Republic of the Congo	78. India
18. Benin		79. Indonesia
19. Bhutan	48. Denmark	80. Ireland
20. Bolivia (Plurinational State of)	49. Djibouti	81. Israel
21. Bosnia and Herzegovina	50. Dominica	82. Italy
22. Botswana	51. Dominican Republic	83. Jamaica
23. Brazil	52. Ecuador	84. Japan
24. Brunei Darussalam	53. Egypt	85. Jordan
25. Bulgaria	54. El Salvador	86. Kazakhstan
26. Burkina Faso	55. Equatorial Guinea	87. Kenya
27. Burundi	56. Estonia	88. Kiribati
28. Cabo Verde	57. Eswatini	89. Kuwait
29. Cambodia	58. Ethiopia	90. Kyrgyzstan
30. Cameroon	59. European Union	91. Lao People's Democratic Republic
31. Canada	60. Fiji	92. Latvia
	61. Finland	93. Lebanon

⁸ https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsq_no=XXVII-7-d&chapter=27&clang=en

94.	Lesotho	128.	Pakistan	162.	State of Palestine
95.	Liberia	129.	Palau	163.	Sudan
96.	Liechtenstein	130.	Panama	164.	Suriname
97.	Lithuania	131.	Papua New Guinea	165.	Sweden
98.	Luxembourg	132.	Paraguay	166.	Switzerland
99.	Madagascar	133.	Peru	167.	Syrian Arab Republic
100.	Malawi	134.	Philippines	168.	Tajikistan
101.	Malaysia	135.	Poland	169.	Thailand
102.	Maldives	136.	Portugal	170.	Timor-Leste
103.	Mali	137.	Qatar	171.	Togo
104.	Malta	138.	Republic of Korea	172.	Tonga
105.	Marshall Islands	139.	Republic of Moldova	173.	Trinidad and Tobago
106.	Mauritania	140.	Romania	174.	Tunisia
107.	Mauritius	141.	Russian Federation	175.	Turkmenistan
108.	Mexico	142.	Rwanda	176.	Tuvalu
109.	Micronesia (Federated States of)	143.	Samoa	177.	Uganda
110.	Monaco	144.	San Marino	178.	Ukraine
111.	Mongolia	145.	Sao Tome and Principe	179.	United Arab Emirates
112.	Montenegro	146.	Saudi Arabia	180.	United Kingdom of Great Britain and Northern Ireland
113.	Morocco	147.	Senegal	181.	United Republic of Tanzania
114.	Mozambique	148.	Serbia	182.	United States of America
115.	Myanmar	149.	Seychelles	183.	Uruguay
116.	Namibia	150.	Sierra Leone	184.	Uzbekistan
117.	Nauru	151.	Singapore	185.	Vanuatu
118.	Nepal	152.	Slovakia	186.	Venezuela (Bolivarian Republic of)
119.	Netherlands	153.	Slovenia	187.	Vietnam
120.	New Zealand	154.	Solomon Islands	188.	Zambia
121.	Nicaragua	155.	Somalia	189.	Zimbabwe
122.	Niger	156.	South Africa		
123.	Nigeria	157.	Spain		
124.	Niue	158.	Sri Lanka		
125.	North Macedonia	159.	St. Kitts and Nevis		
126.	Norway	160.	St. Lucia		
127.	Oman	161.	St. Vincent and the Grenadines		

Countries falling within paragraph B32 b) of the Scope 3 Conditions

1. Taiwan
2. Turkey