

EPBC 2009/5256 Compliance Report

May 3

2016

Reporting and Auditing Condition 28; Within three months of every 12 month anniversary of the commencement of new mining activities, 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 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. Note: Department of Environment (DoE) granted approval (30th May 2014) to submit the report on the 3rd May each year.

EPBC Compliance Report, 2nd Year.

CONDITION	COMPLIANCE
Disturbance Areas	
<p>1. The person taking the action must not clear more than 82 ha of the EPBC listed White Box—Yellow Box—Blakely's Red Gum Grassy Woodland and Derived Native Grassland critically endangered ecological community within the Boggabri extension project area identified in Attachment A of these conditions.</p>	<p>Complies. The extent of the listed CEEC cleared up until 16th March 2016 does not exceed the approved 82ha.</p>
<p>2. The person taking the action must not clear more than 650 ha of known native vegetation communities and/or potential habitat for the regent honeyeater (<i>Anthochaera Phrygia</i> - formally <i>Xanthomyza phrygia</i>), swift parrot (<i>Lathamus discolor</i>) and greater long-eared bat (<i>Nyctophilus corbeni</i>), within the Boggabri extension project area identified in Attachment A of these conditions, to the extent that it is not inconsistent with the requirement to retain the biodiversity corridor required under condition 3. The 650 ha of native vegetation communities specified includes the 82 ha of the critically endangered ecological community at condition 1.</p>	<p>Complies. The extent of the habitat cleared for these threatened species does not exceed the 650ha as of 16th March 2016. No further clearing has been undertaken since 16th March 2016.</p>
<p>3. The person taking the action must submit a Biodiversity Corridor Plan for the approval of the Minister within three months of the date of this approval. The plan must address the following matters:</p> <ul style="list-style-type: none"> a. protection of native vegetation of a total width of 500 metres (m) where the Boggabri coal mine lease boundary is adjacent to the Maules Creek coal mine lease boundary; b. maintenance in perpetuity of this area as a biodiversity corridor; and c. evidence that the biodiversity corridor will be protected in perpetuity through a legal mechanism that would provide the equivalent protection of a conservation covenant. <p>The approved Biodiversity Corridor Plan must be implemented.</p>	<p>Complies. Plan submitted to the Minister for approval on 10th May 2013. DoE provided comments on the plan on 8th February 2016 but the plan has not yet been approved.</p>
<p>4. The person taking the action is required to submit a Conservation and Biodiversity Bond under condition 52 of the NSW state government project approval dated 18 July 2012 (application number 09_0182). It is noted that this bond may be combined with the rehabilitation security deposit as required by the NSW Trade and Investment - Division of Resources and Energy under the NSW <i>Mining Act 1992</i>. The person taking the action must submit details of this bond and the rehabilitation security deposit, to the Minister. If the Minister is not satisfied that the bond and the rehabilitation security deposit lodged by the person taking the action is adequate to provide for the implementation</p>	<p>Condition 52 of the NSW Project Approval requires the Conservation and Biodiversity Bond to be submitted for State Approval in July 2015. The NSW Department of Planning and Environment (DP&E) granted an extension for the submission of the revised Biodiversity Management Plan to 2nd October 2015. DP&E also confirmed in a letter dated 22nd June 2015 that the conservation bond is to be provided within 3 months of the DP&E</p>

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<p>of the requirements referred to under conditions 3, 12, 21-23 the Minister may require the person taking the action to establish an additional bond or equivalent financial instrument in trust, under conditions approved in writing by the Minister.</p>	<p>approving the Biodiversity Management Plan (BMP). BCOPL is awaiting approval of the revised BMP and details will be provided to the Department of Environment (DoE) once approval is received. Consequently, until the BMP is approved, compliance with this condition is out of BCOPL's control.</p>
<p>5. The person taking the action must submit to the Minister for approval, within three months of the commencement of the action, an approach that:</p> <ol style="list-style-type: none"> a. limits the maximum project area disturbance (in hectares) specified for each of the years 5, 10, 15 and 21 from the date of this approval of the White Box—Yellow Box—Blakely's Red Gum Grassy Woodland and Derived Native Grassland ecological community and habitat or potential habitat for the regent honeyeater, swift parrot and greater long-eared bat; b. incorporates an analysis, undertaken by independent ecological experts approved by the department, that demonstrates the maximum disturbance limits which will minimise any impacts on relevant matters of national environmental significance; c. demonstrates collaboration with the person taking the action to develop and operate the Maules Creek Coal Project (EPBC 2010/5566), in order to minimise progressive project area disturbance limits across both sites. The progressive disturbance limits are to be reflected in the development of the Leard Forest Mining Precinct Biodiversity Strategy. 	<p>Complies. The initial approach was submitted on 21st February 2014 and approved by the DoE on 3rd May 2014.</p> <p>A subsequent letter was submitted to the Minister on 5th February 2016 outlining the revised staged clearing proposal (Land Disturbance Approach), in addition to that approach described in the letter submitted to the Minister dated 3rd December 2014 (condition 5a.).</p> <p>An ecological analysis (condition 5 b.) was prepared by independent ecological experts (Parsons Brinckerhoff) in a memo provided to the Minister dated 4th March 2016.</p> <p>Compliance with condition 5 c. is demonstrated through steering group meeting minutes for development of the Leard Forest Mining Precinct Regional Biodiversity Strategy. Stage 1 (Scoping) has also been issued to the DoE for comment.</p> <p>Information on the progressive rehabilitation of the disturbance areas where mining activities no longer occur is provided in section 8 of the 2015 Annual Environmental Management Report (https://www.idemitsu.com.au/operations/boggabri-coal/approvals-plans-reports/).</p>
<p>6. The person taking the action must not clear more than the maximum Boggabri extension project area disturbance limits specified for each of the years 5, 10, 15 and 21, as described in condition 5a,</p>	<p>Revised disturbance limits were sent to the DoE on 5th February 2016. The DoE approved this revision on 15 April 2016.</p>

CONDITION	COMPLIANCE
unless otherwise approved in writing by the Minister .	
<p>Offset areas</p> <p>Mechanism to secure offsets</p>	
<p>7. The person taking the action must register a legally binding conservation covenant over the offset areas of 5866.1 ha of 'equivalent or better' quality of threatened species habitat defined as native vegetation communities. This must include no less than 1537.4 ha 'equivalent or better' quality of White Box—Yellow Box—Blakely's Red Gum Grassy Woodland and Derived Native Grassland ecological community.</p> <p>The offset areas are those defined at Attachment B of these conditions, or alternative areas agreed in writing by the Minister.</p>	<p>The offset areas subject to Approval Decision EPBC 2009/5256 are required to be protected by legally binding covenant in perpetuity by 11th February 2018.</p>
<p>8. The conservation covenant/s, listed in condition 7, must provide protection in perpetuity for the offset area and be registered within 5 years of the date of this approval.</p>	<p>The offset areas subject to Approval Decision EPBC 2009/5256 are required to be protected by legally binding covenant in perpetuity by 11th February 2018.</p>
<p>9. The person taking the action must verify through an independent review by 30 December 2013, the quantity and quality of habitat or potential habitat for the regent honeyeater, swift parrot and greater long-eared bat of all proposed offset areas. The review will:</p> <ol style="list-style-type: none"> a. validate the quantity, quality and ecological characteristics of the offset areas in line with the requirements of the department's <i>Environment Protection and Biodiversity Conservation Act 1999</i> Environmental Offsets Policy October 2012 b. be undertaken by ecological experts who have been agreed in writing by the department 	<p>Complies. The independent review was completed in December 2013 and submitted to the DoE in January 2014.</p>
<p>10. If the independent review finds that the minimum quantities of threatened species habitat and ecological community required under condition 7 do not meet the 'equivalent or better' quality, or the criteria required under condition 9a, then additional areas must be protected until all the relevant criteria under condition 9 are met.</p> <p>Note: the 1537.4 ha of White Box Yellow Box Blakely's Red Gum Grassy Woodland and Derived Native Grassland ecological community may be inclusive of the 5866.1 ha of habitat for the woodland species, as long as it meets the listing criteria for the EPBC-listed critically endangered ecological community as defined in the EPBC listing advice for that community and the quantity and quality is validated through the independent review.</p>	<p>Not applicable. The Independent review confirmed that no additional areas were required and was accepted by the DoE in January 2014.</p>
<p>11. If the person undertaking the action proposes to undertake any action within the offset areas secured</p>	<p>Security not required until February 2018. Notwithstanding this,</p>

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<p>under condition 7, other than those management activities related to managing the offset areas or as set out in the conditions approval, then approval to undertake that action 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 matters of national environmental significance. If the Minister agrees to the action within the offset areas, the area identified for the action must be excised from the proposed offset area and alternative offsets secured by the person taking the action (subject to this approval) at a ratio of at least 20:1 in relation to the impact on matters of national environmental significance</p>	<p>no actions have been undertaken in the offset areas proposed to be secured under condition 7.</p>
<p>Offset management plan</p>	
<p>12. To offset the impacts to the White Box—Yellow Box—Blakely's Red Gum Grassy Woodland and Derived Native Grassland and the habitat of the regent honeyeater, swift parrot and greater long-eared bat, the person taking the action must submit to the Minister for approval an Offset management plan for all of the offset areas, specified in condition 7, within 6 months of the date of this approval. The approved Offset management plan must be implemented prior to the commencement of new mining operations</p> <p>Note: for consistency, the person taking the action may develop a Biodiversity Management plan that includes the requirements set for managing offsets as set out in these conditions, to align with the requirements of the NSW state government Project Approval dated 18 July 2012 (application number 09_0182) and this approval.</p>	<p>Complies. Offset Management Plan submitted to the DoE for approval on 19th August 2013. Revised Offset Management Plan submitted 22nd October 2014 and again on 29th January 2015. No response received from the DoE. The current offset management plan is being implemented.</p>
<p>13. The Offset management plan must include, but not be limited to, the following information:</p> <ul style="list-style-type: none"> a objectives to clearly identify baseline conditions of the offset sites, establish performance indicators and discuss methods for adaptive management. b a text description and map to clearly define the location and boundaries of the offset areas. This must be accompanied by the offset attributes and shapefiles. c. a detailed survey and description (prior to any management activities, hence a baseline) of the current condition of the extant vegetation of each offset area. This must be consistent with the State and Transition Model, including but not limited to: <ul style="list-style-type: none"> i. location of survey points (GPS reference) 	<p>Refer to condition 12.</p>

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<ul style="list-style-type: none"> 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, 1 m tall), measured using basal area viii. description of fauna habitat including condition, type and connectivity ix. surveys of the regent honeyeater, swift parrot and greater long-eared bat <p>d. Plans to improve upon the baseline condition (identified in the surveys required by condition 13c) consistent with the State and Transition Model, EPBC listing advice, and threatened species habitat defined as native vegetation communities, including but not limited to:</p> <ul style="list-style-type: none"> i. a map showing areas to be managed ii. management actions for each area and details of management methods to be used iii. timing of management activity for each area iv. performance criteria for each area v. a set of measurable ecological indicators for detecting changes to the White Box—Yellow Box—Blakely's Red Gum Grassy Woodland and Derived Native Grassland Ecological Community, including those that may be ascribed to ongoing water stress vi. 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—Blakely's Red Gum Grassy Woodland and Derived Native Grassland Ecological Community. This should include, but not be limited to, control sites and periodic ecological surveys to be undertaken by a qualified ecologist 	

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<p>vii. a description of the potential risks to successful management against the performance criteria, and a description of the contingency measures that would be implemented to mitigate these risks</p> <p>viii. a process to report, to the department, the progress of management activities undertaken in the offset areas and the outcome of those activities, including identifying any need for improved management and activities to undertake such improvement</p> <p>ix. details of the various parties responsible for management, monitoring and implementing the management activities, including their position or status as a separate contractor</p>	
<p>14. Unless otherwise agreed to in writing by the department, the baseline surveys (identified in the surveys required by condition 13c) must be conducted in accordance with the department's Survey guidelines for Australia's threatened birds and the survey guidelines for Australia's threatened bats. Subsequent monitoring must be carried out annually at the same time of year as the baseline surveys each year unless otherwise agreed to in writing by the department.</p>	<p>Complies. Surveys have been undertaken in accordance with the specified guidelines.</p>
<p>Surface and groundwater management plans</p>	
<p>15. The person taking the action must provide to the Minister for approval, the <i>surface and groundwater management plans</i> as identified in condition 38 of the NSW state government Project Approval dated 18 July 2012 (application number 09_0182). The <i>surface and groundwater management plans</i> approved by the Minister must be implemented prior to the commencement of new mining operations.</p>	<p>Complies. Surface and Groundwater management plans were submitted to the Minister in early 2013, approved on 10 June 2014 and implemented prior to the commencement of new mining operations.</p>
<p>16. The <i>surface and groundwater management plans</i> must be consistent with the National Water Quality Management Strategy.</p>	<p>Complies. The Surface and Groundwater management plan is consistent with the National Water Quality Management Strategy. Refer to Condition 15.</p>
<p>17. The person taking the action must within 6 months of this approval, in collaboration with the person taking the action to develop and operate the Maules Creek Coal Project (EPBC 2010/5566) and any other approved mines within 20 km of the mine site provide written advice to the Minister demonstrating how the approved surface and groundwater management plans (specified in condition 15), addresses the cumulative impact of groundwater drawdown as a result of mining and how this may impact on the consequent health of the remnant native vegetation in the Leard State Forest, the</p>	<p>Complies. Refer to Condition 15. In accordance with condition 38 of the NSW Project Approval, a Leard Forest Mining Precinct Water Management Strategy was submitted as part of the Surface and Groundwater management plans.</p>

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<p>Leard State Conservation Area and surrounding areas. In particular the advice must address the following matters:</p> <ul style="list-style-type: none"> a. maximum amount of allowable drawdown in the alluvial aquifer b. drawdown in hard rock aquifer c. trigger levels pertaining to drawdown in the alluvial aquifer when corrective actions will be required to be undertaken d. identify the depth of root zone of the native vegetation e. monitoring to assess the ongoing quality and quantity of both surface and groundwater to identify impacts on the native vegetation. 	
<p>18. The person taking the action must within 6 months of the date of this approval, or such other timeframe specified by the Minister, provide to the Minister a report on:</p> <ul style="list-style-type: none"> a. any updated modelling of surface and groundwater impacts that has been undertaken in preparing the <i>surface and groundwater management plans</i> b. how the <i>surface and groundwater management plans</i> addressed groundwater and surface water impacts on native vegetation 	<p>Complies. Refer to Condition 15.</p>
<p>19. A risk-based assessment of the disposal of mine water by irrigation on soils must be undertaken. The assessment must include the risk of metal and salinity accumulation in soils.</p>	<p>Not applicable. BCOPL has advised the DoE that no irrigation of mine water will be taking place.</p>
<p>Leard Forest Mining Precinct Regional Biodiversity Strategy</p>	
<p>20. The person taking the action must implement the regional biodiversity strategy as required under conditions 40-46 of the NSW state government Project Approval dated 18 July 2012 (application number 09_0182). The required scoping report for the development of the strategy must be submitted to the Minister for approval on or before 31 July 2013. The approved strategy must be implemented.</p>	<p>Complies with the revised timeframes agreed with the DP&E. The Stage 1 scoping report was submitted in February 2016. Approval of the scoping report is pending. The timeframe for completion of the regional biodiversity strategy is out of BCOPL's control.</p>
<p>Mine site rehabilitation</p>	
<p>21. To mitigate the impacts to the White Box-Yellow Box -Blakely's Red Gum Grassy Woodland and Derived Native Grassland and the habitat of the regent honeyeater, swift parrot and greater long-eared bat, the person taking the action must, within 12 months of commencement of new mining activities, submit to the Minister for approval a <i>Mine site rehabilitation plan</i> for the progressive</p>	<p>Complies. The RMP was re-submitted on the 29th January 2015 due to changes in staff at the DoE. The DP&E requested that BCOPL revise the RMP and a copy of the revised RMP was provided to DoE on 31st October 2015.</p>

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<p>rehabilitation and revegetation of no less than 650 ha (less the portion included in the biodiversity corridor identified in condition 2) in the Boggabri extension mine site using species consistent with a White Box—Yellow Box—Blakely's Red Gum Grassy Woodland and Derived Native Grassland Ecological Community. This approved <i>Mine site rehabilitation plan</i> must be implemented.</p>	
<p>22. The person taking the action must:</p> <ul style="list-style-type: none"> a. rehabilitate the site to be consistent with the proposed rehabilitation strategy as provided in the <i>Environment Assessment</i> and, as required under the NSW state government Project Approval dated 18 July 2012 (application number 09_0182); and b. not replace top soil and sub soil layers at a depth less than the minimum depths determined through pre-stripping soil surveys as described in condition 23c. <p>Note: the NSW state government Project Approval dated 18 July 2012 (application number 09_0182) conditions require pre-stripping soil surveys and inventories to inform the availability, rehandling, stockpiling and management of soils, and maximising the salvaging of soil to be used, in the rehabilitation of the site.</p>	<p>Complies. Refer to Condition 21.</p>
<p>23. The <i>Mine site rehabilitation plan</i> must include, at a minimum, the following information:</p> <ul style="list-style-type: none"> a targets and performance indicators to achieve effective restoration of the native forest and woodlands b details of the vegetation communities to be rehabilitated and the timing of progressive rehabilitation (commencing as soon as practicable following disturbance) c detailed soil depth surveys and analysis to inform the effective placement and restoration of soils underlying the proposed rehabilitation sites; including mapping of soils across the disturbance sites and soil sampling at no less than one sample point per 20 ha of each soil type identified. Sampling must identify; type, depth, water holding capacity, structure and physio-chemical properties of each of the soil and subsoil layers. d processes and methodologies for the removal, storage and re-layering of the top soil and sub soil layers underlying the disturbed sites being prepared for rehabilitation. These processes and methodologies must ensure the replacement of top soil and sub soil layers: <ul style="list-style-type: none"> a meet the minimum depth requirements determined from sampling outcomes as identified in condition 23c; and, 	<p>Complies. Refer to Condition 21.</p>

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<p>b replicates the other existing soil parameters including, but not limited to, soil type, water holding capacity, structure and physio-chemical properties.</p> <p>e criteria to determine success of rehabilitation of native vegetation</p> <p>f 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</p> <p>g 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</p> <p>h details of long-term management and protection of the mine site.</p> <p>Note: for consistency, the person taking the action may develop a single mine rehabilitation plan to align with the requirements including timing of reports of the NSW state government Project Approval dated 18 July 2012 (application number 09_0182) requirements and this approval. The Offset management plan and the Mine site rehabilitation plan need to be substantially integrated for achieving biodiversity objectives for the rehabilitated mine-site.</p>	
Final Landform	
<p>24. The person taking the action must rehabilitate the site consistent with the proposed Rehabilitation Strategy as required under conditions 69, 70, 71 and 72 of the NSW state government Project Approval dated 18 July 2012 (application number 09_0182) such that the final landform provides the optimum opportunity for the successful restoration of native forest and woodland including the critically endangered White Box—Yellow Box— Blakely's Red Gum Grassy Woodland and Derived Native Grassland Ecological Community.</p>	<p>Complies. Refer to Condition 21. The final Void and Mine Closure Plan under State Condition 72 is not required to be submitted until December 2025.</p>
<p>25. The person taking the action must undertake rehabilitation to ensure the final landform minimises the extent of any resulting pit lake, avoids salt scalding and ensures that drained waters do not adversely affect the downstream environment and avoids any impacts on matters of national environmental significance.</p> <p>Note: the NSW state government Project Approval dated 18 July 2012 (application number 09_0182) approval conditions require the preparation and implementation of an updated Final Void and Mine Closure Plan that considers interactions with the adjoining mines, including interaction between final voids, opportunities for integrated mine planning with adjoining mines to minimise environmental impacts, all reasonable and feasible landform options for the final void (including filling) and predicted</p>	<p>Complies. Refer to Condition 21 and Condition 24.</p>

CONDITION	COMPLIANCE
hydrochemistry and hydrogeology (including long-term groundwater recovery and void groundwater quality).	
Survey data	
<p>26. All survey data collected for the project must be recorded so as to conform to data standards notified from time to time by the department. When requested by the department, the person taking the action must provide to the department all species and ecological survey data and related survey information from ecological surveys undertaken for matters of national environmental significance. 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.</p>	Complies. DoE has not requested species and ecological survey data to date.
Reporting and auditing	
<p>27. Within 14 days after the commencement of new mining activities, the person taking the action must advise the department in writing of the actual date of commencement of new mining activities.</p>	Complies.
<p>28. Within three months of every 12 month anniversary of the commencement of new mining activities, 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 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.</p>	Complies.
<p>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.</p>	Not applicable. No audit has been requested by the Minister.
<p>30. 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</p>	Not applicable.

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<p>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.</p>	
<p>31. 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.</p>	<p>Not applicable. No request has been made by the Minister.</p>
<p>32. If, at any time after 5 years from the date of this approval, the person taking the action has not commenced new mining actions, then the person taking the action must not commence the action without the written agreement of the Minister.</p>	<p>Complies. Project extension started on 3rd February 2014.</p>
Publication of plans	
<p>33. 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 department's website. The results of audits may also be publicised through the general media.</p>	<p>Complies. DoE has not requested any records or undertaken an audit in accordance with section 458. All approved management plans are made publicly available on the company website.</p>
<p>34. 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.</p>	<p>Complies. Approved management plans are published on https://idemitsu.com.au/</p>