



**NSW
Resources
Regulator**

COMPLIANCE AUDIT PROGRAM

WERRIS CREEK COAL MINE

Werris Creek Pty Ltd



Document control

Published by NSW Resources Regulator

Title: Compliance audit program: Werris Creek Mine, Werris Creek Pty Ltd

First published: September 2021

Authorised by: Director Compliance

CM9 reference: DOC21/695708

AMENDMENT SCHEDULE

Date	Version	Amendment
September 2021	1.0	First published

© State of New South Wales through Regional NSW 2021. You may copy, distribute, display, download and otherwise freely deal with this publication for any purpose, provided that you attribute Regional NSW as the owner. However, you must obtain permission if you wish to charge others for access to the publication (other than at cost); include the publication in advertising or a product for sale; modify the publication; or republish the publication on a website. You may freely link to the publication on a departmental website.

Disclaimer: The information contained in this publication is based on knowledge and understanding at the time of writing (September 2021) and may not be accurate, current or complete. The State of New South Wales (including Regional NSW), the author and the publisher take no responsibility, and will accept no liability, for the accuracy, currency, reliability or correctness of any information included in the document (including material provided by third parties). Readers should make their own inquiries and rely on their own advice when making decisions related to material contained in this publication.

Contents

1. Introduction	5
1.1. Background	5
1.2. Audit objectives.....	5
1.3. Audit scope.....	5
1.4. Audit criteria	6
1.5. Publishing and disclosure of information	6
2. Audit methods	7
2.1. Opening meeting.....	7
2.2. Site interviews and inspections	7
2.2.1. Data collection and verification	7
2.2.2. Site inspections.....	7
2.3. Closing meeting.....	8
2.4. Compliance assessment definitions.....	8
2.5. Reporting.....	9
3. Audit findings.....	10
3.1. Mining operations plan	10
3.2. Rehabilitation.....	11
3.2.1. Risk assessment.....	11
3.2.2. Rehabilitation objectives and completion criteria.....	12
3.2.3. Rehabilitation progress	12
3.3. Exploration	14
3.4. Reporting.....	15
3.4.1. Annual rehabilitation reporting	15
3.4.2. Annual exploration reporting.....	16
3.4.3. Compliance and environmental incident reporting.....	16
3.5. Other mining lease compliance requirements	16
3.5.1. Notice to landholders.....	16

3.5.2. Security deposit.....17

3.5.3. Co-operation agreement.....17

3.5.4. Other conditions.....17

4. Compliance management.....19

4.1. Identifying compliance obligations.....19

4.2. Inspections, monitoring and evaluation19

4.3. Record keeping20

4.4. Title holder response to draft audit findings21

5. Audit conclusions.....22

1. Introduction

1.1. Background

Werris Creek Mine is an open cut coal mine located about four kilometres south of the town of Werris Creek in northern NSW. The mine comprises of three mining authorisations as summarised in Table 1.

Table 1. Summary of mining titles comprising Werris Creek Coal Mine

TITLE	GRANT	EXPIRY
Mining Lease 1563 (ML1563)	23 March 2005	22 March 2026
Mining Lease 1671 (ML1671)	9 March 2012	9 March 2033
Mining Lease 1672 (ML1672)	9 March 2012	9 March 2033

ML1671 and ML1672 are held by Werris Creek Pty Ltd. ML1563 is jointly held by Creek Resources Pty Ltd and Betalpha Pty Ltd. Whitehaven Coal Limited is the parent company for all title holders.

As part of the compliance audit program undertaken by the NSW Resources Regulator, an audit of the mining operations associated with the Werris Creek Mine was undertaken on 20 May 2021.

1.2. Audit objectives

The objectives of the audit were to:

- undertake a compliance audit of the Werris Creek Coal Mine, titles held by Werris Creek Pty Ltd with the mine operated by Whitehaven Coal Mining Limited, against the requirements of the *Mining Act 1992* and the conditions of the mining leases issued pursuant to that Act
- assess the operational performance of the Werris Creek mining operations and the ability of the title holder and/or operator to implement management systems and controls to provide for sustainable management of the operations.

1.3. Audit scope

The scope of the audit included:

- the mining and exploration activities associated with the Werris Creek Coal Mine including:

- mine development and exploration activities within ML1563, ML1671 and ML1672
- rehabilitation activities associated with mining and exploration activities.
- a review of documents and records pertaining to the mining and exploration activities
- the assessment of compliance for the period commencing 20 May 2019 to 20 May 2021.

1.4. Audit criteria

The audit criteria against which compliance was assessed included:

- *Mining Act 1992*, specifically Sections 5, 6, 163C to 163E, 163G, 378D
- Mining Regulation 2016, specifically clauses 59 to 68
- conditions attached to ML1563 (granted 23 March 2005)
- conditions attached to ML1671 (granted 9 March 2012)
- conditions attached to ML1672 (granted 9 March 2012)
- commitments made in Werris Creek Coal Mine Mining Operations Plan dated December 2015 (approved 14 January 2016)
- Exploration Reporting: A guide for reporting on exploration and prospecting in New South Wales (Version 2, March 2016)
- Rehabilitation Cost Estimation Tool Handbook (June 2017)
- ESG3: Mining Operations Plan (MOP) Guidelines, September 2013
- guidelines and format for preparation of an annual environmental management report (January 2006).

1.5. Publishing and disclosure of information

This audit report will be published on our website consistent with Section 365 of the *Mining Act 1992*.

This audit report may be publicly disclosed consistent with the *Government Information (Public Access) Act 2009*.

2. Audit methods

The audit process involved the interview of site personnel, a review of documentation and samples of records provided by the title holder and/or operator and a site inspection of the operations to determine the level of compliance of the operations and assess the status of the operational performance. The audit process and methodology are described in more detail in the sections below.

2.1. Opening meeting

The opening meeting was held onsite at Werris Creek Coal Mine on 20 May 2021. The audit team was introduced, and the scope of their responsibilities was conveyed to the auditees. The objectives and scope of the audit were outlined. The methods to be used by the team to conduct the audit were explained, including interview of personnel, review of documentation, examination of records and a site inspection to assess specific compliance requirements.

2.2. Site interviews and inspections

2.2.1. Data collection and verification

Where possible, documents and data collected during the audit process were reviewed on site. All information obtained during the audit process was verified by the audit team where possible. For example, statements made by site personnel were verified by viewing documentation and/or site inspections where possible. Where suitable verification could not be provided, this has been identified in the audit findings as not determined.

2.2.2. Site inspections

A site inspection was undertaken of the Werris Creek Mine including:

- clearing and topsoil stripping area for strips 21 and 22
- open cut pit lookout providing overview of current mining and in-pit dumping operations
- waste emplacement - RL445 plateau rehabilitation area ready for topsoiling
- waste emplacement – rehabilitation area topsoiled and planted in 2020
- south western side of emplacement area – erosion event in January 2020 now repaired

- topsoil stockpile 40 at the southern end of the waste emplacement
- northern visual bund.

2.3. Closing meeting

The closing meeting was held at the Werris Creek Mine office on 20 May 2021. The objectives of this meeting were to discuss any outstanding matters, present preliminary findings and outline the process for finalising the audit report.

2.4. Compliance assessment definitions

The reporting of results from the compliance audit was determined based on the definitions presented below in Table 2.

Table 2. Audit assessment categories

ASSESSMENT	CRITERIA
Compliance	Sufficient and appropriate evidence is available to demonstrate the particular requirement has been complied with.
Non-compliance	<p>Clear evidence has been collected to demonstrate the particular requirement has not been complied with. There are three subcategories of non-compliance reflecting the severity and level of risk associated with the non-compliance:</p> <p>NC1 – the absence of planning or implementation of a required operational element which has the potential to result in a significant risk.</p> <p>NC2 – an isolated lapse or absence of control in the implementation of an operational element which is unlikely to result in a significant risk.</p> <p>NC3 – an administrative or reporting non-compliance which does not have a direct environmental or safety significance.</p> <p>Note: The identification of a non-compliance in this audit may or may not constitute a breach of, or offence under, the <i>Mining Act 1992</i>. Non-compliances identified in this audit report may be further investigated by the Regulator and regulatory actions may be undertaken.</p>
Observation of concern	Where an auditee may be compliant at the time of the audit but there are issues that exist that could result in the potential for future non-compliance if not addressed.

ASSESSMENT	CRITERIA
	<p>Observation of concern was also used where an issue may not have particular compliance requirements, but which was not conducive to good management or best practice.</p>
Suggestion for improvement	<p>Where changes in processes or activities inspected or evaluated at the time of the audit could deliver improvement in relation to risk minimisation, sustainable outcomes and management practices.</p>
Not determined	<p>The necessary evidence has not been collected to enable an assessment of compliance to be made within the scope of the audit.</p> <p>Reasons why the audit team could not collect the required information include:</p> <ul style="list-style-type: none"> ■ insufficient information on the file relating to the period covered by the audit or insufficient evidence collected to reach a conclusion ■ the wording on the criteria (approval condition) meant that no evidence could be gathered, or it was too difficult to gather the evidence. <p>A ‘not determined’ assessment was also made where the condition was outside the scope of the audit.</p>
Not applicable	<p>The circumstances of the authorisation or titleholder have changed and are no longer relevant (e.g. no longer mining, mining equipment and plant has been removed).</p> <p>An invoking element in the criteria was not activated within the scope of the audit.</p>

2.5. Reporting

Following completion of the site audit, the audit checklists were completed, and audit notes were reviewed to compile a list of outstanding matters to be noted in the audit report. This report was prepared to provide an overview of the operational performance of the site in relation to the mining operations and identify any non-compliances or observations of concern noted by the auditors during the site inspections and interviews.

The draft audit findings were forwarded to Werris Creek for comment. Consideration was given to the representations made during the finalisation of the audit report as discussed in the audit findings.

3. Audit findings

3.1. Mining operations plan

Condition 2 of ML1563 and condition 3 of ML1671 and ML1672 require the lease holder to carry out mining operations in accordance with an approved mining operations plan (MOP).

Werris Creek prepared the MOP for the Werris Creek Coal Mine in December 2015, which was approved by the Regulator in January 2016. The mine has three to four years of operational life remaining, following which the mine will move into the closure phase. Werris Creek is currently documenting a modification to its planning approval to modify the final landform design for the mine. It is expected that this modification will be submitted within the next 12 months, after which a closure MOP will be submitted for approval.

Section 2 of the MOP describes the mining activities to be undertaken during the MOP period including:

- exploration
- land preparation and soil management
- mining operations
- overburden emplacement
- stockpile management
- progressive rehabilitation and completion.

Section 3 provides an assessment of the environmental issues associated with the mining operations, including an environmental risk assessment focussing on rehabilitation-specific risks.

The remaining sections of the MOP (sections 4 to 9) focus on rehabilitation, including:

- rehabilitation planning and management
- implementation of the rehabilitation program
- rehabilitation monitoring and research
- intervention and adaptive management, including a trigger action response plan (TARP).

Generally, evidence was available to confirm that the controls and mitigative strategies outlined in the MOP are implemented. However, some issues of concern were identified, as discussed in the following sections.

3.2. Rehabilitation

Condition 13 of ML1563 and condition 7 of ML1671 and ML1672 require that any disturbance resulting from the activities carried out under the mining leases must be rehabilitated to the satisfaction of the Minister. An assessment of compliance with the MOP commitments in relation to rehabilitation of the site was undertaken during the audit, as detailed in the following sections.

3.2.1. Risk assessment

To achieve successful rehabilitation outcomes, the lease holder must be able to identify and manage any risks that could compromise rehabilitation outcomes.

An environmental risk assessment was documented in section 3 of the approved MOP and summarised in Table 3.4. Where environmental risks were classified as high or very high under the risk assessment, management controls were documented in sections 3.2 and 3.3 of the approved MOP. The key risks for rehabilitation were listed as:

- Geology and geochemistry – analysis of the physical and chemical properties of the overburden completed by Werris Creek concluded that there was a low potential for acid formation and/or soluble salt generation. As such, no specific handling and emplacement techniques were required.
- Spontaneous combustion – hazard reduction strategies aiming to prevent heating within coal stockpiles were outlined in Section 3.2 of the MOP.
- Erosion and sedimentation – the MOP references the Site Water Management Plan which incorporates a section of erosion and sediment control. Erosion control strategies have been implemented on the outside batters of the waste emplacement and sediment fencing was observed on the downslope side of the area of clearing and topsoil stripping.
- Weed control and management – the MOP references the Biodiversity and Offset Management Plan which documents regular weed monitoring and targeted weed control programs. Evidence of weed control in the rehabilitation area, on top of the waste emplacement, was observed during the audit site inspection.

3.2.2. Rehabilitation objectives and completion criteria

The post-mining land use goals are documented in section 4.2 of the approved MOP. The approved final landform is described in section 4.4 of the MOP. In summary, Werris Creek has proposed that the rehabilitation of the mine will form part of a broader strategy that will integrate the rehabilitated mine landforms and vegetation types with the conservation of remnant native vegetation in the biodiversity offset area surrounding the mine.

Rehabilitation objectives and targets to achieve the nominated post-mining land use are documented in Table 4.2 of the approved MOP. It was noted that Werris Creek is not specifically tracking the progress of rehabilitation against the objectives and targets and this is not reported as committed to in the MOP. This is further discussed under annual reporting in section 3.4.1 of this audit report.

3.2.3. Rehabilitation progress

Werris Creek provided copies of annual soil analysis and copies of the biodiversity offset and rehabilitation area annual monitoring reports, which are used to monitor the progress of the rehabilitation areas.

It was observed during the audit that ex-pit dumping has been substantially completed and in-pit dumping is now in progress (Figure 1). The out of pit waste emplacement is mostly at final landform and rehabilitation of the outer batters and top of the emplacement is in progress (Figure 2 and Figure 3).

An area of approximately 23 hectares on the top of the waste emplacement was in the final stages of landform development and ready to transition to the growth medium development stage, using topsoil from the clearing and topsoil stripping in progress for strips 21 to 25 (Figure 4).

The southern end of the emplacement and the western and eastern outside batters have been shaped and rehabilitated, with good vegetative development. An area of the western outside batter was significantly affected by an erosion scour from storms in January 2020 (Figure 5). The area has been repaired and revegetated with no further evidence of erosion observed during the site inspection.

Some of the topsoil stockpiles have been in place for many years at the southern end of the site. These stockpiles were observed to be signposted and vegetated (Figure 6). It was noted that these stockpiles were higher than the maximum height specified in the MOP, however, it was noted that this is a legacy problem that has previously been identified. Werris Creek provided evidence that analysis of soil from the stockpiles is undertaken and ameliorants are added as required before use.

Figure 1. In-pit dumping



Figure 4. Area of RL445 plateau to be topsoiled



Figure 2. Rehabilitation of the waste emplacement



Figure 5. Repair of erosion scour from January 2020



Figure 3. Rehabilitation of RL445 plateau



Figure 6. Signposted topsoil stockpile



3.3. Exploration

Condition 15 of ML1563 includes requirements for exploratory drilling within the lease area, including:

- notification to the regional hydrologist of the intention to drill exploratory holes together with information on the location of the proposed holes
- requirements for the survey, sealing and rehabilitation of drill holes.

Section 2.4.1 of the MOP identifies that limited exploration activities will be undertaken within the mine throughout the term of the MOP. The exploration activities identified included:

- geochemical coal sampling
- geological mapping
- geophysics
- diamond, reverse circulation and percussion drilling.

Exploration activities conducted in the last two years have included:

- eight cored holes drilled in the 2020-2021 reporting period
- 56 open holes drilled in the 2020-2021 reporting period
- two cored holes and three open holes drilled in the 2019-2020 reporting period.

Werris Creek provided evidence to verify that notification of the drilling programs had been provided to the regional hydrologist as required by condition 15 of ML1563. The notification was done using the DPI Water notification template form and maps were attached to identify the locations for drilling.

Rehabilitation of the drill holes is minimal as all holes have been drilled in advance of mining and fall within the open cut pit shell to be mined over the next year. The area of exploration drilling was being partly cleared and stripped at the time of the site inspection (Figure 7).

Figure 7. Clearing and topsoil stripping of the area of exploration drilling



3.4. Reporting

3.4.1. Annual rehabilitation reporting

Condition 3 of ML1563 requires the lease holder to lodge an annual environmental management report (AEMR) that contains a review and forecast of performance of, amongst other things, the accepted mining operations plan, and where relevant, progress towards final rehabilitation objectives. Condition 4 of ML1671 and ML1672 requires the lease holder to lodge environmental management reports annually which report on compliance with the MOP and report on progress in respect of rehabilitation completion criteria.

An annual report was lodged with the Regulator for the 2019 reporting year. The report for the 2020 reporting year was due to be submitted in March 2021. A review of the Regulator's records showed that the 2020 report had not been submitted at the time of the audit. Werris Creek advised during the audit that the 2020 report had been prepared and was submitted to other agencies but was inadvertently not sent to the Regulator. It was submitted immediately after the audit. Late submission of the 2020 annual report is raised as non-compliance no. 1. It is recommended that Werris Creek develop and implement processes to ensure that annual reports are submitted as required.

It was noted that both the 2019 and 2020 reports include a discussion of rehabilitation and biodiversity monitoring that has been undertaken. However, it was noted that the annual reports do not specifically report progress of rehabilitation against the objectives and completion criteria that are documented in the MOP. This issue is raised as observation of concern no. 1. Werris Creek should include information in the annual reports to demonstrate that rehabilitation is progressing and is on trajectory to meet the documented rehabilitation objectives and completion criteria.

3.4.2. Annual exploration reporting

Section 163C of the *Mining Act 1992* and clause 59 of the Mining Regulation 2016 require the preparation and submission of an annual report which provides full particulars of all exploration and other operations or activities conducted during the 12-month period.

Two exploration reports have been submitted during the audit scope period:

- Annual Exploration Report (Group Report), Mining Leases 1563, 1671 and 1672, 23 March 2019 – 22 March 2020
- Annual Exploration Report (Group Report), Mining Leases 1563, 1671 and 1672, 23 March 2020 – 22 March 2021.

The reports for 2019-2020 and 2020-2021 reporting periods were reviewed by the auditor and were found to be generally in accordance with the relevant departmental guidelines and templates.

3.4.3. Compliance and environmental incident reporting

Condition 5 of ML1671 and ML1672 requires the lease holder to provide environmental incident notifications and reports to the Secretary no later than seven days after those environmental incident notifications and reports are provided to the relevant authorities under the *Protection of the Environment Operations Act 1997*. A similar environmental incident reporting condition was not imposed on ML1563.

In 2020, Werris Creek reported an exceedance in the pH of discharge water from site SB10 to the Environment Protection Authority (EPA) under its environmental protection licence for the site. The incident was not reported to the Regulator at the time. It was noted that site SB10 is situated within the ML1563 area, and as such, the discharge incident was not required to be reported to the Regulator under the conditions of the lease. However, as suggestion for improvement number 1, for consistency, it is recommended that Werris Creek advise the Regulator when any environmental incidents are reported to the EPA or the Department of Planning, Industry and Environment, as is required by condition 5 of ML1671 and ML1672.

3.5. Other mining lease compliance requirements

3.5.1. Notice to landholders

Condition 1 of mining leases ML1563, ML1671 and ML1672 requires the lease holder to provide a notice in writing to each landholder within the lease area advising that the lease has been granted or renewed.

Mining lease ML1563 was granted in 2005. Mining leases ML1671 and ML1672 were granted in 2012. These timeframes fall outside of the scope of the audit, therefore, the notification requirements were not verified during the audit.

3.5.2. Security deposit

Under Condition 25 of ML1563, and condition 20 of ML1671 and ML1672, the lease holder is required to provide and maintain a security deposit to secure funding for the fulfilment of obligations under the mining lease.

A review of the security deposit was undertaken in 2016 in conjunction with the submission of the MOP. A security deposit of \$14,294,000 was identified as being required and departmental records confirm that this amount is held. It was noted that the 2016 review was done using the previous cost calculation tool and the security deposit provided may be lower than that which would now be required using the current cost calculation form. A review of the security deposit will be required upon the submission of a closure MOP in 2022, at which time any variances can be addressed.

3.5.3. Co-operation agreement

Condition 24 of ML1671 and ML1672 requires the lease holder to make reasonable attempts to enter into a co-operation agreement with the holders of any overlapping titles.

A review of published departmental mapping systems Commonground and Minview confirmed that EL8393 overlaps part of both ML1671 and ML1672.

As the landowner, Werris Creek has a land access agreement with the title holder of EL8393, and an agreement regarding access to subsurface coal seams. Werris Creek advised that discussions with the title holder of EL8393 are ongoing and are likely to result in a formal co-operation agreement between the parties.

3.5.4. Other conditions

ML1563, ML1971 and ML1672 are older leases that have a range of conditions that are no longer included as lease conditions on newer leases. These conditions and an assessment of compliance are provided below.

- Blasting (condition 10 on ML1671 and ML1672 and condition 11 on ML1563) – given that compliance with blasting requirements is a condition of the environmental protection licence for the site and is regulated by the NSW EPA, compliance with condition 11 was not

determined. It was noted that no blasting exceedances have been reported by Werris Creek within the audit scope period.

- Prevention of soil erosion and pollution (condition 12 on ML1671 and ML1672 and condition 16 on ML1563) – no evidence of significant erosion was observed on site during the site inspection. Sediment fencing was observed to be in place around the vegetation clearing and topsoil stripping area inspected during the audit. Significant erosion did occur on the south western side of the emplacement area following a storm in January 2020. This area was inspected during the audit and it was observed that the erosion had been repaired and the area rehabilitated.
- Fences and gates (condition 18 on ML1563) – Whitehaven owns the land that comprises the Werris Creek Coal Mine. Fences and gates within the mine site are maintained by Werris Creek staff.
- Roads and tracks (condition 14 on ML1671 and ML1672 and conditions 19 and 20 on ML1563) – roads and tracks traversed during the site inspection were generally observed to be well maintained.
- Trees and timber (condition 15 on ML1671 and ML1672 and condition 21 on ML1563) – given that Whitehaven owns the land, no approvals to fell trees or cut timber on the lease were required.

4. Compliance management

4.1. Identifying compliance obligations

Identifying compliance obligations is a critical step in the development of an effective compliance management system. Compliance obligations for a mine can include:

- regulatory requirements (e.g. environmental legislation)
- conditions imposed on the grant, renewal, or transfer of mining leases
- specific commitments made by the organisation (e.g. MOP commitments).

Once identified, compliance obligations should be reviewed periodically to identify any changes in those obligations (e.g. changes in legislation).

Werris Creek has established and implemented systems to manage compliance obligations, including the use of systems such as CMO and INX. Staff interviewed during the audit demonstrated a good knowledge of most compliance obligations, particularly those associated with the mining lease conditions and the MOP commitments which had been included in the CMO database.

It was noted that the obligations documented in CMO did not include any obligations imposed by the *Mining Act 1992* (e.g. the requirement to obtain consent prior to suspending operations (Schedule 1B of the Act)). As suggestion for improvement number 2, Werris Creek should consider expanding the CMO obligations to include statutory conditions and other obligations under the *Mining Act 1992* and regulation.

It was also noted that, although copies of the mining leases were available on site, the depth restriction over part of the mining lease was not well understood. As suggestion for improvement number 3, Werris Creek should consider including the area of depth restriction onto a GIS mapping layer as a control for mining activities, if not already available.

4.2. Inspections, monitoring and evaluation

An effective inspection, monitoring and evaluation process is required to:

- monitor the implementation of the risk controls
- evaluate the effectiveness of those controls based on an assessment of inspection and monitoring data

- implement an adaptive management approach if monitoring shows that controls may be ineffective.

Werris Creek has established and implemented an inspection and monitoring program. Where monthly environmental inspections identify issues, these are entered into INX, assigned to a staff member for action, and can be tracked and closed out.

Where Werris Creek has external consultants undertaking monitoring programs (e.g. soil analysis and the rehabilitation monitoring), and recommendations from these reports are not routinely entered into INX (or CMO). While there was evidence available to demonstrate that some of the recommendations from external reports are actioned, there is potential for these actions to be missed. As suggestion for improvement number 4, Werris Creek should consider entering the recommendations from external consultant reports into CMO or INX to provide a more robust system for tracking any actions required.

Monthly and annual rehabilitation monitoring is limited to monitoring of established transects. As suggestion for improvement number 5, Werris Creek should consider adopting a more comprehensive and robust monitoring approach that could include varying seasonal monitoring, drone and/or photogrammetry supported systems.

4.3. Record keeping

Sections 163D and 163E of the *Mining Act 1992* relate to the creation and maintenance of records required under the Act, the regulations, or a condition of title. Records must be kept in a legible form for production to any inspector and must be maintained for a period of four years after the expiry or cancellation of the title.

Generally, records were available to demonstrate compliance with most requirements, including MOP requirements. Records requested during the audit were made available for the audit team to review. Examples of records sighted during the audit included:

- weed inspection records
- annual soil analysis records
- rehabilitation monitoring records
- monthly environmental inspection records
- CMO and INX records
- exploration reporting.

Where actions are tracked and closed out through INX, it was noted that supporting records are not routinely maintained as evidence of actions taken. As suggestion for improvement number 6, Werris Creek should consider maintaining records to demonstrate the completion of actions undertaken to address the issue as part of the close out process.

4.4. Title holder response to draft audit findings

Werris Creek was provided with a copy of the draft audit report and invited to submit a response to the draft audit findings.

The response from Werris Creek indicated it had reviewed the draft audit report and determined no response was required. The company is currently working on an action plan to address each of the points raised in the audit report.

5. Audit conclusions

From the evidence reviewed during the audit, and observations made on site during the audit site inspections, it was concluded that Werris Creek is generally compliant with the requirements of the mining lease and MOP in relation to the operations of Werris Creek Coal Mine.

Werris Creek has commenced implementation of systems for compliance management. Further development of the compliance obligations in the CMO database would be beneficial to promote a more robust approach to compliance management on site.

One non-compliance (ranked NC3), one observation of concern and six suggestions for improvement were noted by the auditor as summarised in Table 3, Table 4 and Table 5. Regulatory actions may be undertaken in relation to the non-compliances and observations of concern identified during the audit.

Table 3. Summary of non-compliances

NON-COMPLIANCE NO.	DESCRIPTION OF ISSUE	RECOMMENDATION
1 (NC3)	The report for the 2020 reporting year was due to be submitted in March 2021. A review of the Regulator's records showed that the 2020 report had not been submitted at the time of the audit. Werris Creek advised during the audit that the 2020 report had been prepared and was submitted to other agencies but was not sent to the Regulator. It was submitted immediately after the audit. Late submission of the 2020 annual report is raised as non-compliance no. 1.	It is recommended that Werris Creek develop and implement processes to ensure that annual reports are submitted as required.

Table 4 Summary of observations of concern

OBSERVATION OF CONCERN NO.	DESCRIPTION OF ISSUE	RECOMMENDATION
1	It was noted that both the 2019 and 2020 reports include a discussion of rehabilitation and biodiversity monitoring that has been	Werris Creek should include information in the annual reports to demonstrate that rehabilitation

OBSERVATION OF CONCERN NO.	DESCRIPTION OF ISSUE	RECOMMENDATION
	undertaken. However, it was noted that the annual reports do not specifically report progress of rehabilitation against the objectives and completion criteria that are documented in the MOP.	is progressing and is on trajectory to meet the documented rehabilitation objectives and completion criteria.

Table 5. Summary of suggestions for improvement

SUGGESTIONS FOR IMPROVEMENT	DESCRIPTION OF ISSUE
1	It is recommended that Werris Creek advise the Regulator when any environmental incidents are reported to the EPA or the Department of Planning, Industry and Environment.
2	It was noted that the obligations documented in CMO did not include any obligations imposed by the <i>Mining Act 1992</i> (e.g. the requirement to obtain consent prior to suspending operations (Schedule 1B of the Act)). Werris Creek should consider expanding the CMO obligations to include statutory conditions and other obligations under the <i>Mining Act 1992</i> and regulation.
3	It was also noted that, although copies of the mining leases were available on site, the depth restriction over part of the mining lease was not well understood. Werris Creek should consider including the area of depth restriction onto a GIS mapping layer if not already available.
4	Where Werris Creek has external consultants undertaking monitoring programs (such as the soil analysis and the rehabilitation monitoring), recommendations from these reports are not routinely entered into INX (or CMO). While there was evidence available to demonstrate that some of the recommendations from external reports are actioned, there is potential for these actions to be missed. Werris Creek should consider entering the recommendations from external consultant reports into CMO or INX to provide a more robust system for tracking any actions required.
5	Monthly and annual rehabilitation monitoring is limited to monitoring of established transects. Werris Creek should consider adopting a more comprehensive and robust monitoring approach that could include varying seasonal monitoring, drone and/or photogrammetry supported systems.

SUGGESTIONS FOR IMPROVEMENT	DESCRIPTION OF ISSUE
6	Where actions are tracked and closed out through INX, it was noted that supporting records are not routinely maintained as evidence of actions taken. Werris Creek should consider maintaining records to demonstrate the completion of actions undertaken to address the issue as part of the close out process.