

# **Appendix 2**

## **Amended Statutory Compliance Table**

(Total No. of pages including blank pages = 13)

### **Pre-conditions to Exercising the Power to Grant Approval**

**Table A2.1** provides an overview of the relevant pre-conditions to the consent authority exercising its power to grant approval.

### **Mandatory Matters for Consideration**

**Table A2.2** provides an overview of the matters that the consent authority is required to consider in determining the application for development consent.

Table A2.1  
Pre-conditions to Granting Approval

Statutory Reference	Pre-condition	Relevance	EIS Section	Amendment Report Section
<b>Biodiversity Conservation Act 2016 (BC Act)</b>				
Section 7.14	<p>If the Minister for Planning is of the opinion that proposed SSD is likely to have serious or irreversible impacts on biodiversity values, the Minister:</p> <p>(a) is required to take those impacts into consideration, and</p> <p>(b) is required to determine whether there are any additional and appropriate measures that will minimise those impacts if consent or approval is granted.</p>	<p>The Project as originally proposed would have resulted in the direct removal of 7.61ha of native vegetation containing two threatened PCTs identified as at risk of Serious and Irreversible Impact (SAIL).</p> <p>The Amended Project would result in the direct removal of 4.37ha of native vegetation containing two threatened PCTs identified as at risk of SAIL.</p>	6.5.4, 6.5.5	Section 6.4 and Appendix 7
<b>Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act)</b>				
Part 9, Division 1, Subdivision B, Section 136(1)	<p>In deciding whether or not to approve the taking of an action, and what conditions to attach to an approval, the Minister must consider the following, so far as they are not inconsistent with any other requirement of this Subdivision:</p> <p>(a) Matters relevant to any matter protected by a provision of Part 3 that the Minister has decided is a controlling provision for the action;</p> <p>(b) Economic and social matters.</p>	<p>Assessments of significance concluded that the Amended Project would likely result in significant impacts to a threatened flora species (<i>Zieria granulata</i>) and a threatened ecological community (Illawarra-Shoalhaven Subtropical Rainforest of the Sydney Basin Bioregion).</p>	6.5.5, 6.11, 6.13, 7	Section 6.4 and Appendix 7
Part 9, Division 1, Subdivision B, Section 136(2)	<p>In considering those matters, the Minister must take into account:</p> <p>(a) the principles of ecologically sustainable development; and</p> <p>(b) the assessment report (if any) relating to the action</p> <p>Sections (ca) to (f) and (g) specify that the Minister must take into account the following, where applicable.</p> <ul style="list-style-type: none"> <li>• The finalised EIS.</li> <li>• The recommendation report relating to the action.</li> <li>• If an inquiry was conducted, the report of the commissioners.</li> <li>• Any other information the Minister has on the relevant impacts of the action.</li> <li>• Any relevant comments given to the Minister.</li> <li>• Any information contained in notices given to the Minister in accordance with the EPBC Act.</li> </ul>		7.3, SCSC Part 4	Section 6.4 and Appendix 7

Table A2.1 (Cont'd)  
 Pre-conditions to Granting Approval

Statutory Reference	Pre-condition	Relevance	EIS Section	Amendment Report Section
<b>Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act) (Cont'd)</b>				
Part 9, Division 1, Subdivision B, Section 139(1)	In deciding whether or not to approve for the purposes of a subsection of Section 18 or Section 18A the taking of an action, and what conditions to attach to such an approval, the Minister must not act inconsistently with:  (a) Australia's obligations under: i. The Biodiversity Convention; or ii. The Apia Convention; or iii. CITES; or  (b) a recovery plan or threat abatement plan.		Noted	Noted
Part 9, Division 1, Subdivision B, Section 139(2)	If:  (a) the Minister is considering whether to approve, for the purposes of a subsection of Section 18 or Section 18A, the taking of an action; and  (b) the action has or will have, or is likely to have, a significant impact on a particular listed threatened species or a particular listed threatened ecological community;  the Minister must, in deciding whether to so approve the taking of the action, have regard to any approved conservation advice for the species or community.		Noted	Noted
<b>Shellharbour Local Environmental Plan 2013 (Shellharbour LEP)</b>				
Clause 2.3(2)	The consent authority must have regard to the objectives for development in a zone when determining a development application in respect of land within the zone.	Extractive industries are permissible with consent on land zoned as RU1.  Extractive industries are prohibited within the C2 zone. However, under Clause 2.9(3) of the Resources and Energy SEPP, extractive industries are permissible on land on which development for the purposes of agriculture may be carried out. Oyster aquaculture is permissible within Zone C2 and oyster aquaculture is a form of agriculture. As a result, Extractive Industries are permissible with consent within this Zone.	4.2.2	4.3

Table A2.1 (Cont'd)  
Pre-conditions to Granting Approval

Statutory Reference	Pre-condition	Relevance	EIS Section	Amendment Report Section
<b>Shellharbour Local Environmental Plan 2013 (Shellharbour LEP) (Cont'd)</b>				
Clause 5.10(4)	The consent authority must, before granting consent under this clause in respect of a heritage item or heritage conservation area, consider the effect of the proposed development on the heritage significance of the item or area concerned.	The Amended Project would result in the removal of "Belmont" House and adjacent structures, representing a significant impact to locally listed heritage item 1207 "Belmont", stone walls, figs and coral tree avenue.'	6.7	6.3 and Appendix 6
Clause 5.10(7)	The consent authority must, before granting consent under this clause to the carrying out of development on an archaeological site (other than land listed on the State Heritage Register or to which an interim heritage order under the <i>Heritage Act 1977</i> applies): (a) notify the Heritage Council of its intention to grant consent, and (b) take into consideration any response received from the Heritage Council within 28 days after the notice is sent.			
Clause 6.2(3)	Before granting development consent for earthworks (or for development involving ancillary earthworks), the consent authority must consider the following matters: (a) the likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development, (b) the effect of the proposed development on the likely future use or redevelopment of the land, (c) the quality of the fill or the soil to be excavated, or both, (d) the effect of the proposed development on the existing and likely amenity of adjoining properties, (e) the source of any fill material and the destination of any excavated material, (f) the likelihood of disturbing relics, (g) the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area, (h) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.	The Project as originally proposed would have resulted in disturbance to an additional 20ha (i.e. Stage 7 Extension Disturbance Area), resulting in a Total Disturbance Area (i.e. Stages 1 to 7) of 36ha.  The Amended Project would result in disturbance to an additional 15.6ha (i.e. the Amended Stage 7 Extension Disturbance Area), resulting in a Total Disturbance Area (i.e. Stages 1 to 7) of 31.6ha.	3.4, 3.11,	Sections 3.4 and 3.11 of Appendix 1

**Table A2.1 (Cont'd)**  
**Pre-conditions to Granting Approval**

Statutory Reference	Pre-condition	Relevance	EIS Section	Amendment Report Section
<b>Shellharbour Local Environmental Plan 2013 (Shellharbour LEP) (Cont'd)</b>				
Clause 6.5(3)	<p>Before determining a development application for development on land to which this clause applies, the consent authority must consider:</p> <p>(a) whether the development is likely to have:</p> <p>(i) any adverse impact on the condition, ecological value and significance of the fauna and flora on the land, and</p> <p>(ii) any adverse impact on the importance of the vegetation on the land to the habitat and survival of native fauna, and</p> <p>(iii) any potential to fragment, disturb or diminish the biodiversity structure, function and composition of the land, and</p> <p>(iv) any adverse impact on the habitat elements providing connectivity on the land, and</p> <p>(b) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.</p>	<p>The Project as originally proposed would have resulted in the direct removal of 7.61ha of native vegetation, including the removal of associated fauna and flora habitat, in addition to indirect impacts to adjacent native vegetation.</p> <p>The Amended Project result in the direct removal of 4.37ha of native vegetation, including the removal of associated fauna and flora habitat, in addition to indirect impacts to adjacent native vegetation.</p>	6.5	6.4 and Appendix 7
Clause 6.5(4)	<p>Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied:</p> <p>(a) the development is designed, sited and will be managed to avoid any significant adverse environmental impact, or</p> <p>(b) if that impact cannot be reasonably avoided by adopting feasible alternatives – the development is designed, sited and will be managed to minimise that impact, ©(c) if that impact cannot be minimised – the development will be managed to mitigate that impact.</p>	<p>The Project as original proposed would have resulted in the direct removal of 7.61ha of native vegetation, including the removal of associated fauna and flora habitat, in addition to indirect impacts to adjacent native vegetation.</p> <p>The Amended Project has been amended to reduce biodiversity and visual impacts and additional management measures to address heritage-related impacts have been proposed</p>	6.5	Sections 6.2, 6.3 and 6.4 and Appendices 4, 5, 6 and 7

Table A2.1 (Cont'd)  
Pre-conditions to Granting Approval

Statutory Reference	Pre-condition	Relevance	EIS Section	Amendment Report Section
<b>State Environmental Planning Policy (Resources and Energy) 2021 (Resources SEPP)</b>				
Clause 2.17	<p>Before determining an application for consent for development for the purposes of extractive industry the consent authority must:</p> <p>(a) consider:</p> <p>(i) the existing uses and approved uses of land in the vicinity of the development, and</p> <p>(ii) whether or not the development is likely to have a significant impact on the uses that, in the opinion of the consent authority having regard to land use trends, are likely to be the preferred uses if land in the vicinity of the development, and</p> <p>(iii) any ways in which the development may be incompatible with any of those existing, approved or likely preferred uses, and</p> <p>(b) evaluate and compare the respective public benefits of the development and the land uses referred to above, and</p> <p>(c) evaluate any measure proposed by the applicant to avoid or minimise any incompatibility.</p>	The Amended Project Area is identified under the Shellharbour LEP as being located within an area identified under the Shellharbour LEP as 'Significant Extractive Resources – State and Regional Mineral' and as a 'Mineral Resource Area.' A small parcel of land within western portion the Stage 7 area is identified as 'Transition Area'.	2.2, 2.3.3, 4.2.2, 7.5	No change
Clause 2.18(2)	<p>Before determining an application for consent for SSD for the purposes of extractive industry, the consent authority must consider any applicable provisions of the voluntary land acquisition and mitigation policy, and, in particular:</p> <p>(a) any applicable provisions of the policy for the mitigation or avoidance of noise or particulate matter impacts outside the land on which the development is to be carried out, and</p> <p>(b) any applicable provisions of the policy relating to the developer making an offer to acquire land affected by those impacts.</p>	The air quality impact assessment and noise impact assessment for the Project identified that none of the relevant criteria outlined under the NSW Voluntary land Acquisition and Mitigation Policy for State Significant Mining Petroleum and Extractive Industry Developments would be exceeded for non-Project-related properties.	6.2, 6.3	No change

Table A2.1 (Cont'd)  
Pre-conditions to Granting Approval

Statutory Reference	Pre-condition	Relevance	EIS Section	Amendment Report Section
<b>State Environmental Planning Policy (Resources and Energy) 2021 (Resources SEPP) (Cont'd)</b>				
Clause 2.19(2)	<p>Before determining an application to which this clause applies, the consent authority must:</p> <p>(a) consider:</p> <p>(i) the existing uses and approved uses of land in the vicinity of the development, and</p> <p>(ii) whether or not the development is likely to have a significant impact on current or future extraction or recovery of minerals, petroleum or extractive materials (including by limiting access to, or impeding assessment of, those resources), and</p> <p>(iii) any ways in which the development may be incompatible with any of those existing or approved uses or that current or future extraction or recovery, and</p> <p>(b) evaluate and compare the respective public benefits of the development and the uses, extraction and recovery referred to above, and</p> <p>(c) evaluate any measures proposed by the applicant to avoid or minimise any incompatibility.</p>	<p>The Amended Project Area is identified under the Shellharbour LEP as being located within an area identified under the Shellharbour LEP as 'Significant Extractive Resources – State and Regional Mineral' and as a 'Mineral Resource Area.' A small parcel of land within western portion the Stage 7 area is identified as 'Transition Area'.</p>	1.4, 2.2, 2.3.3, 4.2.2, 7.5	No change
Clause 2.20(1)	<p>Before granting consent for development for the purposes of mining, petroleum production or extractive industry, the consent authority must consider whether or not the consent should be issued subject to conditions aimed at ensuring that the development is undertaken in an environmentally responsible manner, including conditions to ensure the following:</p> <p>(a) that impacts on significant water resources, including surface and groundwater resources, are avoided, or are minimised to the greatest extent practicable,</p> <p>(b) that impacts on threatened species and biodiversity, are avoided, or are minimised to the greatest extent practicable,</p> <p>(c) that greenhouse gas emissions are minimised to the greatest extent practicable.</p>	<p>Surface water impacts associated with the Amended Project are predicted to be minimal. Potential Project-related groundwater impacts have been assessed as being less than the <i>NSW Aquifer Interference Policy's</i> Minimal Impact Considerations and the Project would represent a low risk to local groundwater systems.</p> <p>The Amended Project would result in the direct removal of 4.37ha of native vegetation containing two threatened PCTs and individuals of one threatened flora species.</p> <p>The Amended Project would contribute less than 0.0059 % of total NSW greenhouse gas emissions and less than 0.00014% of total Australian greenhouse gas emissions per year based on 2018 emissions data.</p>	1.4, 6.2.9, 6.5, 6.9, 6.10	Section 6.5



**Table A2.1 (Cont'd)**  
**Pre-conditions to Granting Approval**

Statutory Reference	Pre-condition	Relevance	EIS Section	Amendment Report Section
<b>State Environmental Planning Policy (Resources and Energy) 2021 (Resources SEPP) (Cont'd)</b>				
Clause 2.20(2)	In determining a development application for development for the purposes of extractive industry, the consent authority must consider an assessment of the greenhouse gas emissions (including downstream emissions) of the development, and must do so having regard to any applicable State or national policies, programs or guidelines concerning greenhouse gas emissions.	The Amended Project would contribute less than 0.0059% of total NSW greenhouse gas emissions and less than 0.00014% of total Australian greenhouse gas emissions per year based on 2018 emissions data.	6.2.9	No change
Clause 2.21(1)	Before granting consent for development for the purposes of extractive industry, the consent authority must consider the efficiency or otherwise of the development in terms of resource recovery.	Hard rock resources to be extracted in Stage 7 and remaining in Stage 4, 5 and 6 include approximately 21.5Mt of latite and agglomerate.	3.3, 3.4.3	Section 3.3.3 of Appendix 1
Clause 2.21(2)	Before granting consent for the development, the consent authority must consider whether or not the consent should be issued subject to conditions aimed at optimising the efficiency of resource recovery and the reuse or recycling of material.	Hard rock resources to be extracted in Stage 7 and remaining in Stage 4, 5 and 6 include approximately 21.5Mt of latite and agglomerate. Topsoil, subsoil, overburden and low quality rock resources removed from the Stage 7 extraction area would be used during rehabilitation operations within the Amended Project Area.	3.3, 3.4.3, 3.6.2, 3.12.3	No change
Clause 2.22(1)	Before granting consent for development for the purposes of mining or extractive industry that involves the transport of materials, the consent authority must consider whether or not the consent should be issued subject to conditions that do any one or more of the following: <ul style="list-style-type: none"> <li>(a) require that some or all of the transport of materials in connection with the development is not to be by public road,</li> <li>(b) limit or preclude truck movements, in connection with the development, that occur on roads in residential areas or on roads near to schools,</li> <li>(c) require the preparation and implementation, in relation to the development, of a code of conduct relating to the transport of materials on public roads.</li> </ul>	The Amended Project would not alter existing traffic volumes and transportation rates associated with the Quarry. Product transportation from the Quarry is already a permissible activity irrespective of the source of rock on the Company's property.	2.4	No change

Table A2.1 (Cont'd)  
 Pre-conditions to Granting Approval

Statutory Reference	Pre-condition	Relevance	EIS Section	Amendment Report Section
<b>State Environmental Planning Policy (Resources and Energy) 2021 (Resources SEPP) (Cont'd)</b>				
Clause 2.23(1)	Before granting consent for development for the purposes of extractive industry, the consent authority must consider whether or not the consent should be issued subject to conditions aimed at ensuring the rehabilitation of land that will be affected by the development.	Final land uses within the Amended Project Area would comprise agricultural activities and nature conservation.	3.12	Section 3.12 of Appendix 1
Clause 2.23(2)	In particular, the consent authority must consider whether conditions of the consent should: <ul style="list-style-type: none"> <li>(a) require the preparation of a plan that identifies the proposed end use and landform of the land once rehabilitated, or</li> <li>(b) require waste generated by the development or the rehabilitation to be dealt with appropriately, or</li> <li>(c) require any soil contaminated as a result of the development to be remediated in accordance with relevant guidelines (including guidelines under clause 3 of Schedule 6 to the Act and the <i>Contaminated Land Management Act 1997</i>), or</li> <li>(d) require steps to be taken to ensure that the state of the land, while being rehabilitated and at the completion of the rehabilitation, does not jeopardize public safety.</li> </ul>	Final land uses within the Amended Project Area would comprise agricultural activities and nature conservation.  Topsoil, subsoil, overburden and low quality rock resources removed from Stage 7 would be used during rehabilitation operations.	3.12	Section 3.12 of Appendix 1

**Table A2.1 (Cont'd)**  
**Pre-conditions to Granting Approval**

Statutory Reference	Pre-condition	Relevance	EIS Section	Amendment Report Section
<b>State Environmental Planning Policy (Resilience and Hazards) 2021 (Hazards SEPP)</b>				
Clause 3.12	<p>In determining an application to carry out development to which this Part applies, the consent authority must consider (in addition to any other matters specified in the Act or in an environmental planning instrument applying to the development):</p> <ul style="list-style-type: none"> <li>(a) current circulars or guidelines published by the Department of Planning relating to hazardous or offensive development, and</li> <li>(b) whether any public authority should be consulted concerning any environmental and land use safety requirements with which the development should comply, and</li> <li>(c) in the case of development for the purpose of a potentially hazardous industry—a preliminary hazard analysis prepared by or on behalf of the applicant, and</li> <li>(d) any feasible alternatives to the carrying out of the development and the reasons for choosing the development the subject of the application (including any feasible alternatives for the location of the development and the reasons for choosing the location the subject of the application), and</li> <li>(e) any likely future use of the land surrounding the development.</li> </ul>	<p>Key risks associated with the Amended Project pertain to noise and vibration, terrestrial ecology, historic heritage and visibility. Key hazards include climate change and bushfire.</p> <p>The Amended Project would not be impacted by flooding, contaminated land, steep slopes and landslips, mine subsidence and coastal hazards.</p> <p>No hazardous substances are stored within the Amended Project Area and therefore Project activities would not be classified as a potentially hazardous industry. SEPP 33 does not apply to explosives to be used in the Amended Project as it is not intended to store explosives in the Amended Project Area. All explosives required for blasting would be transported to the Amended Project Area on the day of each blast.</p>	1.4, 2.3.6, 3.12, Appendix E	No change
Clause 4.6(1)	<p>A consent authority must not consent to the carrying out of any development on land unless:</p> <ul style="list-style-type: none"> <li>(a) it has considered whether the land is contaminated, and</li> <li>(b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and</li> <li>(c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.</li> </ul>	<p>The Amended Project would not be impacted by contaminated land and contamination levels within the Amended Project Area will be compatible with the final land uses of agriculture and nature conservation.</p>	2.3.6, 3.12	No change

**Table A2.2  
 Mandatory Considerations**

Statutory Reference	Mandatory Consideration	EIS Section	Amendment Report Section
<b>Considerations under the EP&amp;A Act</b>			
Section 1.3	Relevant objects of the Act: <ul style="list-style-type: none"> <li>to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,</li> <li>to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,</li> <li>to promote the orderly and economic use and development of land,</li> <li>to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,</li> <li>to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),</li> <li>to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,</li> <li>to provide increased opportunity for community participation in environmental planning and assessment.</li> </ul>	7	No change
Section 4.15	Relevant environmental planning instruments.	(see below)	
	The EP&A Regulation – to the extent that it prescribes matters for the purposes of Section 4.15(1)(a)(iv) of the EP&A Act.	Table A2.1	Table A2.1
	The likely impacts of the development, including environmental impacts on both the natural and built environment, and social and economic impacts in the locality.	6	6
	The suitability of the site for the development.	2, 3.2	No change
	Any submissions made in accordance with the EP&A Act or the regulations.	5	Submissions Report RFI Responses
	The public interest.	5, 6.11, 6.13, 7	7
<b>Considerations under the EP&amp;A Reg.</b>			
Clause 96A	A development consent may only be granted subject to a condition referred to in Section 4.17(4A) or (4B) of the Act if the development is SSD.	4.2.1, 4.2.2	No change
<b>Considerations under Environmental Planning Instruments</b>			
<b>Shellharbour LEP</b>			
Shellharbour LEP – Part 2	Objectives and land uses for zones RU1 and C2.	4.2.2	No change
Shellharbour LEP – 6.10	Significant mineral resources – location of significant extractive resources.	2.2.2, 2.2.3	No change
Shellharbour LEP - Other	Other relevant LEP sections.	Table A2.1	Table A2.1

**Table A2.2 (Cont'd)**  
**Mandatory Considerations**

Statutory Reference	Mandatory Consideration	EIS Section	Amendment Report Section
<b>Considerations under Environmental Planning Instruments (Cont'd)</b>			
<b>State Environmental Planning Policies (SEPPs)</b>			
Resources SEPP	Clause 2.17, 2.18, 2.19, 2.20, 2.21, 2.22, 2.23	Table A2.1	Table A2.1
Hazards SEPP 55	Clause 3.12, and 4.6	Table A2.1	Table A2.1
<b>Considerations under Other Legislation</b>			
<i>Biodiversity Conservation Act 2016 (BC Act)</i>		Table A2.1	Table A2.1
<i>Environmental Planning and Biodiversity Conservation Act 1999 (EPBC Act)</i>		Table A2.1	Table A2.1