



Notification of approval

Albion Park Quarry Extraction Area Stage 7 Extension, Croom, NSW (EPBC ref 2020/8871)

This decision is made under section 133(1) of the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act). Note that section 134(1A) of the EPBC Act applies to this approval. That provision provides, in general terms, that if the approval holder authorises another person to undertake any part of the Action, the approval holder must take all reasonable steps to ensure that the other person is informed of any conditions attached to this approval, and that the other person complies with any such conditions.

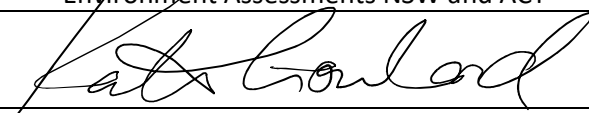
Approved Action

person to whom the approval is granted (approval holder)	Cleary Bros (Bombo) Pty Ltd
ABN of approval holder	28 000 157 808
Action	To excavate and operate a major extension of an existing hard rock extraction area within the Albion Park Quarry, near Shellharbour, NSW [See EPBC Act referral 2020/8871].

Approval decision

proposed decision	My decision on whether or not to approve the taking of the Action for the purposes of the controlling provision for the Action is as follows.	
	Controlling Provision	Decision
	Listed threatened species and communities (section 18 and section 18A)	Approved
period for which the approval has effect	This approval has effect until 31 December 2062.	
conditions of approval	The approval is subject to conditions under the EPBC Act as set out in Annexure A.	

Person authorised to make decision

name and position	Kate Gowland Branch Head Environment Assessments NSW and ACT
signature	
date of decision	28 November 2023

Annexure A

Note: Words appearing in **bold** have the meaning assigned to them at PART C – DEFINITIONS.

Part A – Conditions specific to the Action

DISTURBANCE LIMITS

- 1) To limit impacts to **protected matters** as a result of the Action, the approval holder must not **clear**:
 - a) outside the **Action area**
 - b) more than 3.18 hectares of **Illawarra-Shoalhaven Subtropical Rainforest of the Sydney Basin Bioregion**
 - c) more than 1.33 hectares of **habitat for Illawarra Zieria**.
- 2) The approval holder must notify the **department** in writing of the presence of any **protected matter** or the habitat of any **protected matter**, not previously reported to the **department**, within 10 **business days** of detecting the presence of any **protected matter** or the habitat of any **protected matter** not previously reported to the **department**. The approval holder must not **clear** any **protected matter** or the habitat of any **protected matter** other than those identified in condition 1.

BIODIVERSITY MANAGEMENT PLAN

- 3) To avoid and mitigate impacts on **protected matters** as a result of the Action, the approval holder must comply with conditions B64 to B67 (inclusive) of the **State Development Consent**, to the extent that they relate to **protected matters**.

Note: The definition of **State Development Consent** (SDC) refers to the SDC granted on 29 September 2023 (SSD 10369). If the approval holder wishes, or is required by the NSW Government, to implement a condition attached to a newer version of the SDC that is contrary to the SDC conditions specified in condition 3, the approval holder will first need to request that the conditions of this approval be varied.

- 4) The approval holder must implement the Biodiversity Management Plan required by condition B64 of the **State Development Consent**, as and from when approved by the **Planning Secretary**, until the expiry of the approval.

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- 5) The approval holder must submit the Biodiversity Management Plan required by condition B64 of the **State Development Consent**, as approved by the **Planning Secretary**, electronically to the **department** within 2 **business days** of its approval by the **Planning Secretary**.
- 6) If the approval holder proposes to implement a revised version of the Biodiversity Management Plan required by condition B64 of the **State Development Consent** and approved by the **Planning Secretary**, the approval holder must notify the **department** in writing of the proposed revision to the Biodiversity Management Plan within:
 - a) 2 **business days** of formally proposing a revision, or
 - b) 5 **business days** of becoming aware of any proposed revision,accompanied by details of the proposed changes from the approved version (for example, by attaching a copy with tracked changes).

If the **Planning Secretary** approves a revised version of the Biodiversity Management Plan, the approval holder must submit the approved revised version of the Biodiversity Management Plan electronically to the **department** within 2 **business days** of its approval by the **Planning Secretary**, accompanied by evidence of the **Planning Secretary's** approval.

BIODIVERSITY OFFSETS

- 7) To compensate for impacts to **protected matters** as a result of the Action, the approval holder must comply with conditions B58 and B59 of the **State Development Consent**, to the extent that it relates to **protected matters**.
- 8) Within 20 **business days** of **retiring** the **biodiversity credits** as required by condition 7, the approval holder must submit evidence to the **department** demonstrating that the **biodiversity credits** have been **retired** in accordance with the **State Development Consent**.

SUBMISSION AND PUBLICATION OF PLANS

- 9) The approval holder must submit all **plans** required by these conditions electronically to the **department**.
- 10) Unless otherwise agreed to in writing by the **Minister**, the approval holder must publish each **plan** on the **website** within 15 **business days** of the date:
 - a) the **plan** is approved by the **Planning Secretary** as provided for in the **State Development Consent**.
- 11) The approval holder must keep all published **plans** required by these conditions on the **website** until the expiry date of this approval.
- 12) The approval holder is required to exclude or redact **sensitive ecological data** from **plans** published on the **website** or otherwise provided to a member of the public.
- 13) If **sensitive ecological data** is excluded or redacted from a **plan** in accordance with condition 11, the approval holder must notify the **department** in writing what exclusions and redactions have been made in the version published on the **website**.

Part B – Administrative conditions

NOTIFICATION OF DATE OF COMMENCEMENT OF THE ACTION

- 14) The approval holder must notify the **department** electronically of the date of **commencement of the Action**, within 5 **business days of commencement of the Action**.
- 15) The approval holder must not **commence the Action** later than 5 years after the date of this approval.

COMPLIANCE RECORDS

- 16) The approval holder must maintain accurate and complete **compliance records**.
- 17) If the **department** makes a request in writing, the approval holder must provide electronic copies of **compliance records** to the **department** within the timeframe specified in the request.

Note: **Compliance records** may be subject to audit by the **department**, or by an independent auditor in accordance with section 458 of the **EPBC Act**, and/or be used to verify compliance with the conditions. Summaries of the results of an audit may be published on the **department's website** or through the general media.

ANNUAL COMPLIANCE REPORTING

- 18) The approval holder must prepare a **compliance report** following the date of this approval for each financial year (1 July to 30 June) until this approval expires, or as otherwise agreed to in writing by the **Minister**.
- 19) Each **compliance report** must be consistent with the *Annual Compliance Report Guidelines*, Commonwealth of Australia 2014.
- 20) Each **compliance report** must include:
- a) Accurate and complete details of compliance and any non-compliance with the conditions and the **plans**, and any **incidents**.
 - b) One or more **shapefile** showing all **clearing** of any **protected matters**, and/or their habitat, undertaken within the 12-month period at the end of which that **compliance report** is prepared.
 - c) A schedule of all **plans** in existence in relation to these conditions and accurate and complete details of how each **plan** is being implemented.
- 21) The approval holder must:
- a) Publish each **compliance report** on the **website** within 60 **business days** following the end of the 12-month period for which that **compliance report** is required.
 - b) Notify the **department** electronically, within 5 **business days** of the date of publication that a **compliance report** has been published on the **website**.
 - c) Provide the weblink for the **compliance report** in the notification to the **department**.
 - d) Keep all published **compliance reports** required by these conditions on the **website** until the expiry date of this approval.
 - e) Exclude or redact **sensitive ecological data** from **compliance reports** published on the **website** or otherwise provided to a member of the public.

- f) If **sensitive ecological data** is excluded or redacted from the published version, submit the full **compliance report** to the **department** within **5 business days** of its publication on the **website** and notify the **department** in writing what exclusions and redactions have been made in the version published on the **website**.

Note: Compliance reports may be published on the **department's website**.

REPORTING NON-COMPLIANCE

- 22) The approval holder must notify the **department** electronically, within **2 business days** of becoming aware of any **incident** and/or potential non-compliance and/or actual non-compliance with the conditions or commitments made in a **plan**.
- 23) The approval holder must specify in the notification:
 - a) Any condition or commitment made in a **plan** which has been or may have been breached.
 - b) A short description of the **incident** and/or potential non-compliance and/or actual non-compliance.
 - c) The location (including co-ordinates), date, and time of the **incident** and/or potential non-compliance and/or actual non-compliance.

Note: If the exact information cannot be provided, the approval holder must provide the best information available.

- 24) The approval holder must provide to the **department** in writing, within **12 business days** of becoming aware of any **incident** and/or potential non-compliance and/or actual non-compliance, the details of that **incident** and/or potential non-compliance and/or actual non-compliance with the conditions or commitments made in a **plan**. The approval holder must specify:
 - a) Any corrective action or investigation which the approval holder has already taken.
 - b) The potential impacts of the **incident** and/or non-compliance.
 - c) The method and timing of any corrective action that will be undertaken by the approval holder.

INDEPENDENT AUDIT

- 25) The approval holder must ensure that an **independent audit** of compliance with the conditions is conducted for every three-year period following the **commencement of the Action** until this approval expires, unless otherwise specified in writing by the **Minister**.
- 26) For each **independent audit**, the approval holder must:
 - a) Provide the name and qualifications of the nominated **independent** auditor, the draft audit criteria, and proposed timeframe for submitting the **audit report** to the **department** prior to commencing the **independent audit**.
 - b) Only commence the **independent audit** once the nominated **independent** auditor, audit criteria and timeframe for submitting the **audit report** have been approved in writing by the **department**.
 - c) Submit the **audit report** to the **department** for approval within the timeframe specified and approved in writing by the **department**.

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- d) Publish each **audit report** on the **website** within 15 **business days** of the date of the **department's** approval of the **audit report**.
 - e) Keep every **audit report** published on the **website** until this approval expires.
- 27) Each **audit report** must report for the five-year period preceding that **audit report**.
- 28) Each **audit report** must be completed to the satisfaction of the **Minister** and be consistent with the *Environment Protection and Biodiversity Conservation Act 1999 Independent Audit and Audit Report Guidelines*, Commonwealth of Australia 2019.

COMPLETION OF THE ACTION

- 29) The approval holder must notify the **department** electronically 60 **business days** prior to the expiry date of this approval, that the approval is due to expire.
- 30) Within 20 **business days** after the **completion of the Action**, and, in any event, before this approval expires, the approval holder must notify the **department** electronically of the date of **completion of the Action** and provide **completion data**. The approval holder must submit any spatial data that comprises **completion data** as a **shapefile**.

CHANGES TO STATE DEVELOPMENT CONSENT

- 31) The approval holder must notify the **department** in writing if there is a proposal to vary the **State Development Consent** that would change conditions that relate to **protected matters** within 2 **business days** of formally proposing such a change and within 5 **business days** of becoming aware of any such proposed change.
- 32) The approval holder must notify the **department** in writing within 10 **business days** if the **State Development Consent** is superseded by a newer version of a Development Consent for Albion Park Quarry – Stage 7 Extension granted by the New South Wales Minister for Planning and Public Spaces under the *Environmental Planning and Assessment Act 1979* (NSW).

Part C - Definitions

In these conditions any bolded use of a word or term refers to the below definition of that word or term:

Action area means the location of the Action, represented in the map at [Attachment A](#) by the area shaded in light pink designated 'Disturbance footprint'.

Audit report means a written report of compliance and fulfilment of the conditions attached to this approval, objectively evaluated against the audit criteria approved by the **department**.

Biodiversity credits means biodiversity credits in accordance with the Biodiversity Offsets Scheme under the *Biodiversity Conservation Act 2016* (NSW).

Business day means a day that is not a Saturday, a Sunday or a public holiday in the state of New South Wales.

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Clear, cleared or clearing means the cutting down, felling, thinning, logging, removing, killing, destroying, poisoning, ringbarking, uprooting, or burning of vegetation.

Commence the Action or Commencement of the Action means the date on which the first instance of any activity associated with the Action (including **clearing** and **construction**) is undertaken. **Commencement of the Action** does not include minor physical disturbance necessary to:

- a) Undertake pre-clearance surveys or monitoring programs.
- b) Install signage and /or temporary fencing to prevent unapproved use of the **Action area**.
- c) Protect environmental and property assets from fire, weeds, and feral animals, including use of existing surface access tracks.
- d) Install temporary site facilities for persons undertaking pre-commencement activities so long as these are located where they have no impact on any **protected matter**.

Completion data means an environmental report and spatial data clearly detailing how the conditions of this approval have been met.

Completion of the Action means the date on which all activities associated with this approval have permanently ceased and/or been completed.

Compliance records means all documentation or other material in whatever form required to demonstrate compliance with the conditions of approval in the approval holder's possession, or that are within the approval holder's power to obtain lawfully.

Compliance report means a written report of compliance with, and fulfilment of, the conditions attached to the approval.

Construction means the erection of a building or structure that is, or is to be, fixed to the ground and wholly or partially fabricated on-site; the alteration, maintenance, repair or demolition of any building or structure; any work which involves breaking of the ground (including pile driving) or bulk earthworks; the laying of pipes and other prefabricated materials in the ground, and any associated excavation work; but excluding the installation of temporary fences and signage.

Department means the Australian Government agency responsible for administering the **EPBC Act**.

EPBC Act means the *Environment Protection and Biodiversity Conservation Act 1999* (Cth).

Habitat for Illawarra Zieria means any area of habitat which supports **Illawarra Zieria**. At the time of this decision, the location of **habitat for Illawarra Zieria** identified within the **Action area** is represented in the map at Attachment A by the black polygons with black cross stippling designated 'Zieria granulata'.

Incident(s) means any event which has the potential to, or does, impact on any **protected matter**.

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Independent means a person or firm who does not have any individual, financial*, employment* or family affiliation or any conflicting interests with the project, the approval holder or the approval holder's staff, representatives, or associated persons.

*Other than for the purpose of undertaking the role for which an independent person is required.

Independent audit means an audit conducted by an **independent** and **suitably qualified person** as detailed in the *Environment Protection and Biodiversity Conservation Act 1999 Independent Audit and Audit Report Guidelines*, Commonwealth of Australia 2019.

Illawarra-Shoalhaven Subtropical Rainforest of the Sydney Basin Bioregion means the **EPBC Act** listed threatened ecological community Illawarra-Shoalhaven Subtropical Rainforest of the Sydney Basin Bioregion. At the time of this decision, the location of **Illawarra-Shoalhaven Subtropical Rainforest of the Sydney Basin Bioregion** identified within the **Action area** is represented in the map at Attachment A by the yellow polygons with yellow stippling designated 'Illawarra Subtropical Rainforest'.

Illawarra Zieria means the **EPBC Act** listed threatened species *Zieria granulata*.

Minister means the Australian Government Minister administering the **EPBC Act**, including any delegate thereof.

Plan means any action management plan or strategy that the approval holder is required by these conditions to implement.

Planning Secretary means the Planning Secretary as defined in the **State Development Consent**.

Protected matter means a matter protected under a controlling provision in Part 3 of the **EPBC Act** for which this approval has effect.

Note: Protected matters are not limited to the species and ecological communities named in these conditions and definitions.

Retire, retired or retiring means retirement of **biodiversity credits** in accordance with the Biodiversity Offset Scheme under the *Biodiversity Conservation Act 2016 (NSW)*, such that the **biodiversity credits** can no longer be bought or sold.

Sensitive ecological data means data as defined in the *Sensitive Ecological Data – Access and Management Policy V1.0*, Commonwealth of Australia 2016.

Shapefile means location and attribute information about the Action provided in an Esri shapefile format. Shapefiles must contain '.shp', '.shx', '.dbf' files and a '.prj' file that specifies the projection/geographic coordinate system used. Shapefiles must also include an '.xml' metadata file that describes the shapefile for discovery and identification purposes.

State Development Consent means the Development Consent for Albion Park Quarry – Stage 7 Extension (application number: SSD-10369) granted by the New South Wales Minister for Planning and Public Spaces under the *Environmental Planning and Assessment Act 1979* (NSW) on 29 September 2023 or, if this is subsequently updated, the current official version. On the date of this decision, the **State Development Consent** is published at the following webpage address: <https://www.planningportal.nsw.gov.au/major-projects/projects/albion-park-quarry-stage-7>.

Website means a set of related web pages located under a single domain name attributed to the approval holder and available to the public.

Attachments

Attachment A: Albion Park Quarry Stage 7 project area, including the disturbance footprint (**Action area**), avoidance area and mapped areas of the **Illawarra-Shoalhaven Subtropical Rainforest of the Sydney Basin Bioregion** ecological community and areas of **Illawarra Zieria** habitat.

