



APPROVAL

Cabbage Tree Road Sand Quarry, Williamtown, NSW (EPBC 2016/7852)

This decision is made under sections 130(1) and 133(1) of the *Environment Protection and Biodiversity Conservation Act 1999 (Cth)*. Note that section 134(1A) of the **EPBC Act** applies to this approval, which 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 condition.

Details

Person to whom the approval is granted (approval holder)	Williamtown Sand Syndicate Pty Limited
ACN or ABN of approval holder	ACN: 606 820 875
Action	To develop and operate a sand quarry at Cabbage Tree Road, Williamtown, NSW [See EPBC Act referral 2016/7852].

Approval 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 Provisions

Listed Threatened Species and Communities	
Section 18	Approve
Section 18A	Approve

Period for which the approval has effect

This approval has effect until 31 December 2033

Decision-maker

Name and position	Kim Farrant Assistant Secretary Assessments and Waste Branch Department of the Environment and Energy
Signature	
Date of decision	12.12.18



Conditions of approval

This approval is subject to the conditions under the EPBC Act as set out in ANNEXURE A.

ANNEXURE A – CONDITIONS OF APPROVAL

Part A – Conditions specific to the action

1. The person taking the action must:
 - a. Implement the following conditions identified in Schedule 3 of the **State approval**: condition 34 Biodiversity Offset Strategy, condition 35 Rehabilitation Objectives, condition 37 Biodiversity and Rehabilitation Management Plan and Appendix 6 Biodiversity Offset Strategy.
 - b. Submit a copy of the Independent Environmental Audit report, identified in Schedule 5 condition 12 of the **State approval**, to the **Department**. Included with the report should be a response to any recommendations contained in the audit report and a timetable for the implementation of the recommendations as required.
 - c. Notify the **Department** in writing of any proposed change to the conditions of the NSW Government approval for which conditions 1a – 1b apply, no later than 2 weeks after formally proposing a change or becoming aware of the NSW Government proposing a change.
 - d. Notify the **Department** in writing of any change to the NSW Government approval for which conditions 1a – 1b apply, within 2 weeks of a change being finalised.
2. The person taking the action must not exceed the area of maximum disturbance, provided in Table 1, within the proposal location as per Maps 1-3, to protect the EPBC listed threatened species habitat and ecological communities.

Table 1. Area of Maximum Disturbance

Environment Protection and Biodiversity Conservation Act 1999 (Cth) (EPBC Act) listed threatened species and ecological communities	Area of Maximum Disturbance
Potential habitat for Koala (<i>Phascolarctos cinereus</i>) (combined populations of Queensland, New South Wales and the Australian Capital Territory) – Vulnerable	40.38 ha
Potential foraging habitat for the Grey-headed Flying-fox (<i>Pteropus poliocephalus</i>) – Vulnerable	40.38 ha



Camfield's Stringybark (<i>Eucalyptus camfieldii</i>) – Vulnerable	227 individuals
Earps' Gum (<i>Eucalyptus parramattensis</i> subsp. <i>decadens</i>) – Vulnerable	230 individuals

Part B – Standard administrative conditions

Notification of date of commencement of the action

3. The approval holder must notify the **Department** in writing of the date of **commencement of the action** within 10 **business days** after the date of **commencement of the action**.
4. If the **commencement of the action** does not occur within 5 years from the date of this approval, then the approval holder must not **commence the action** without the prior written agreement of the **Minister**.

Compliance records

5. The approval holder must maintain accurate and complete **compliance records**.
6. 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 an independent auditor in accordance with section 458 of the **EPBC Act**, and or used to verify compliance with the conditions. Summaries of the result of an audit may be published on the **Department's** website or through the general media.

Preparation and publication of plans

7. The approval holder must:
 - a. submit **plans** electronically to the **Department** within two months of their approval by the Secretary, or nominee, of the Department of Planning and Environment;
 - b. publish each **plan** on the **website** within two months of the date the **plan** is approved by the Secretary, or nominee, of the Department of Planning and Environment or the date a revised action management plan is submitted to the Secretary, or nominee, of the Department of Planning and Environment; and
 - c. keep **plans** published on the **website** until the end date of this approval.

Annual compliance reporting

8. The approval holder must prepare a **compliance report** for each 12 month period following the date of **commencement of the action**, or as otherwise agreed to in writing by the **Minister**. The approval holder must:
 - a. publish each **compliance report** on the **website** within 60 **business days** following the relevant 12 month period;
 - b. notify the **Department** by email that a **compliance report** has been published on the **website** within five **business days** of the date of publication;
 - c. keep all **compliance reports** publicly available on the **website** until this approval expires;



- d. exclude or redact **sensitive ecological data** from **compliance reports** published on the **website**; and
- e. where any **sensitive ecological data** has been excluded from the version published, submit the full **compliance report** to the **Department** within 5 **business days** of publication.

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

Reporting non-compliance

9. The approval holder must notify the **Department** in writing of any: **incident**; non-compliance with the conditions; or non-compliance with the commitments made in **plans**. The notification must be given as soon as practicable, and no later than two **business days** after becoming aware of the **incident** or non-compliance. The notification must specify:
 - a. the condition which is or may be in breach; and
 - b. a short description of the **incident** and/or non-compliance.
10. The approval holder must provide to the **Department** the details of any **incident** or non-compliance with the conditions or commitments made in **plans** as soon as practicable and no later than 10 **business days** after becoming aware of the **incident** or non-compliance, specifying:
 - a. any corrective action or investigation which the approval holder has already taken or intends to take in the immediate future;
 - b. the potential impacts of the **incident** or non-compliance; and
 - c. the method and timing of any remedial action that will be undertaken by the approval holder.

Independent audit

11. The approval holder must ensure that **independent audits** of compliance with the conditions are conducted for the 12 month period following the date of **commencement of the action** and for every subsequent 12 month period, or as otherwise requested in writing by the **Minister**.
12. For each **independent audit**, the approval holder must:
 - a. provide the name and qualifications of the independent auditor and the draft audit criteria to the **Department**;
 - b. only commence the **independent audit** once the audit criteria have been approved in writing by the **Department**; and
 - c. submit an audit report to the **Department** within the timeframe specified in the approved audit criteria.
13. The approval holder must publish the audit report on the **website** within 10 **business days** of receiving the **Department's** approval of the audit report and keep the audit report published on the **website** until the end date of this approval.

Completion of the action

14. Within 30 days after the **completion of the action**, the approval holder must notify the **Department** in writing and provide **completion data**.

Part C - Definitions

15. In these conditions, except where contrary intention is expressed, the following definitions are used:



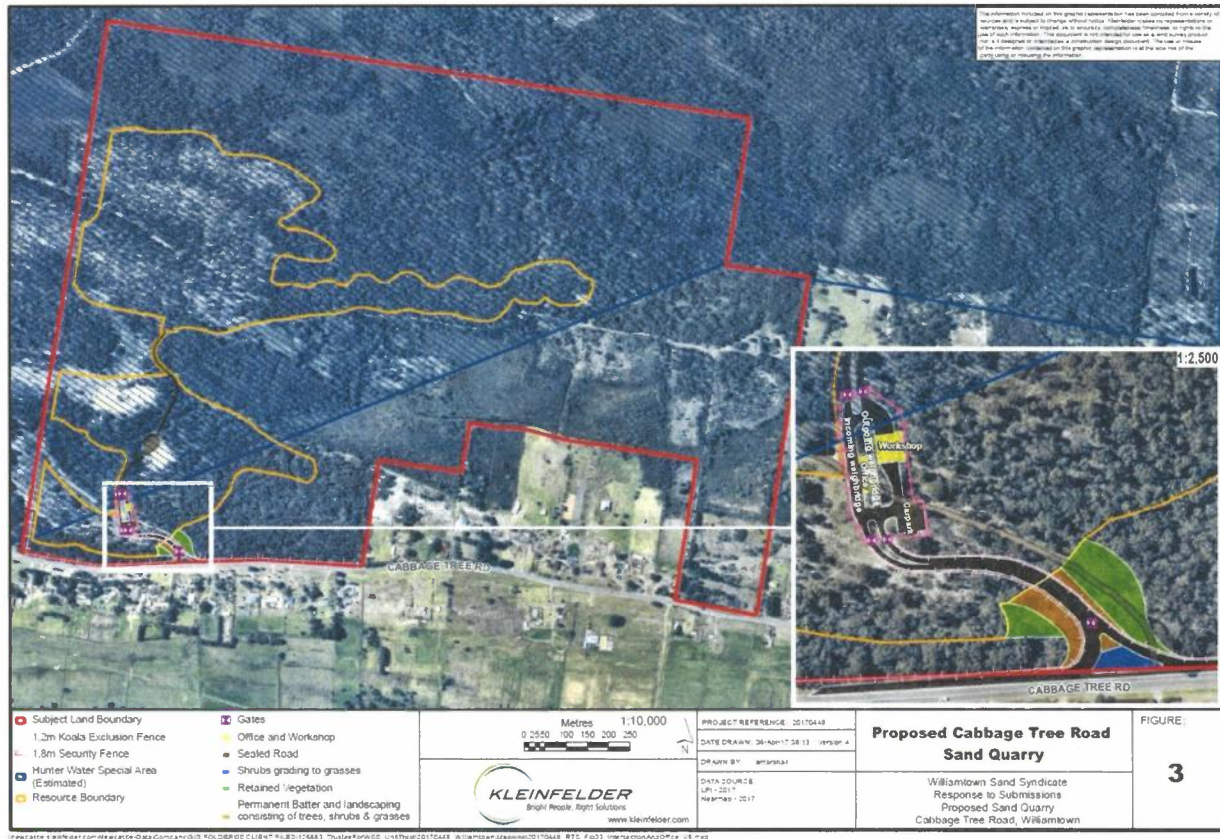
- a. **Business days** means a day that is not a Saturday, a Sunday or a public holiday in the state or territory of the action.
- b. **Commencement of the action** means the first instance of any specified activity associated with the action including clearance of vegetation and **construction** of any infrastructure. Commencement does not include minor physical disturbance necessary to:
 - i. undertake pre-clearance surveys or monitoring programs;
 - ii. install signage and /or temporary fencing to prevent unapproved use of the project area;
 - iii. protect environmental and property assets from fire, weeds and pests, including erection or **construction** of fencing and signage, and maintenance or use of existing surface access tracks, if agreed in writing by the **Department**; and
 - iv. Geotechnical Investigations if they cause only minor physical disturbances.
- c. **Completion data** means an environmental report and spatial data information clearly detailing how the conditions of this approval have been met. The **Department's** preferred spatial data format is shapefile.
- d. **Completion of the action** means all specified activities associated with the action have permanently ceased.
- e. **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;
- f. **Compliance reports** means written reports:
 - i. providing accurate and complete details of compliance, **incidents**, and non-compliance with the conditions and the **plans**;
 - ii. consistent with the **Department's Annual Compliance Report Guidelines** (2014);
 - iii. include a shapefile of any clearance of any **protected matters**, or their habitat, undertaken within the relevant 12 month period; and
 - iv. annexing a schedule of all **plans** prepared and in existence in relation to the conditions during the relevant 12 month period.
- g. **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; preliminary site preparation work which involves breaking of the ground (including pile driving); the laying of pipes and other prefabricated materials in the ground, and any associated excavation work; but excluding the installation of fences and signage. Construction does not include pre clearance surveys, installation of signage or temporary fencing and minor geotechnical investigations.
- h. **Department** means the Australian Government agency responsible for administering the **EPBC Act**.
 - i. **EPBC Act** means the *Environment Protection and Biodiversity Conservation Act 1999* (Cth).
 - j. **EPBC Regulations** means the *Environment Protection and Biodiversity Conservation Regulations 2000* (Cth).



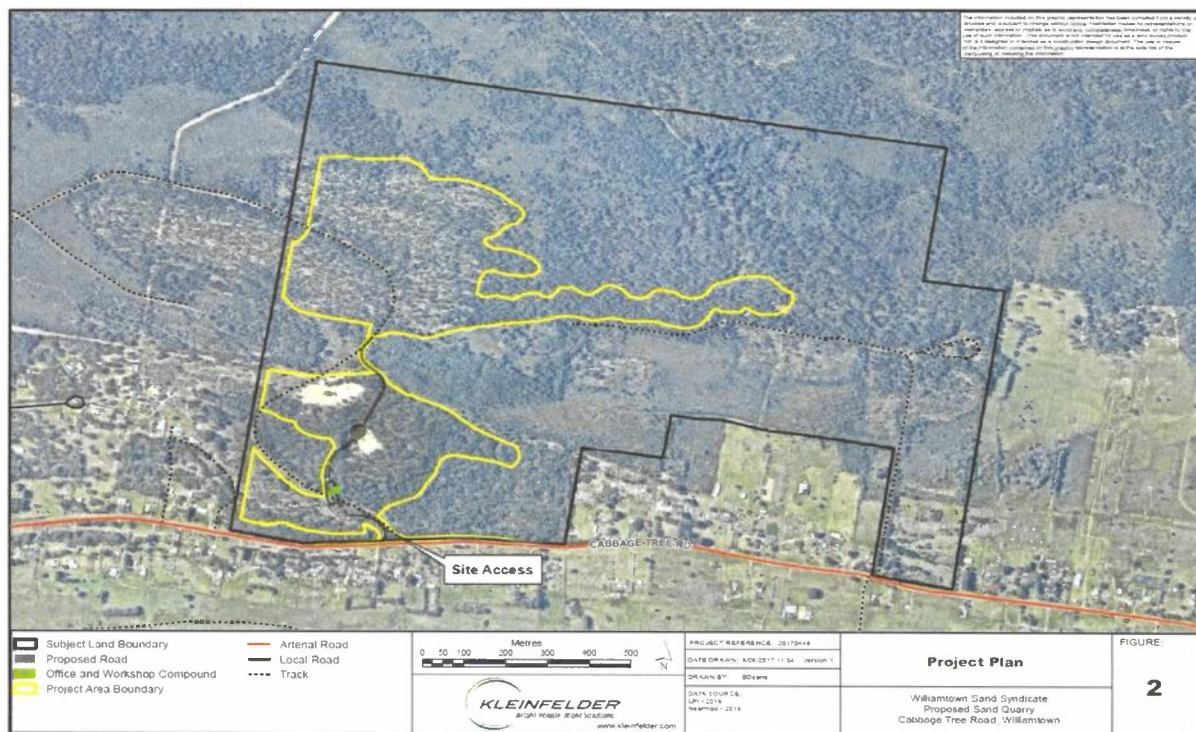
- k. **Incident** means any event which has the potential to, or does, impact on **protected matter(s)**.
- l. **Independent audit**: means an audit conducted by an independent and **suitably qualified person** as detailed in the *Environment Protection and Biodiversity Conservation Act 1999 Independent Audit and Audit Report Guidelines* (2015).
- m. **Minister** means the Australian Government Minister administering the **EPBC Act** including any delegate thereof.
- n. **Plan(s)** means any of the documents required to be prepared, approved by the Secretary, or nominee, of the Department of Planning and Environment, and/or implemented by the approval holder and published on the **website** in accordance with these conditions (includes action management plans and/or strategies).
- o. **Protected matter** means a matter protected under a controlling provision in Part 3 of the **EPBC Act** for which this approval has effect.
- p. **Sensitive ecological data** means data as defined in the Australian Government Department of the Environment (2016) *Sensitive Ecological Data – Access and Management Policy V1.0*.
- q. **State approval** means the NSW Government State Significant Development: Cabbage Tree Road Sand Quarry Conditions of Approval, 9 May 2018, made under Section 4.5(a) of the Environmental Planning & Assessment Act 1979, for application number SSD-6125, dated 30 April 2015.
- r. **Suitably qualified person** means a person who has professional qualifications, training, skills and/or experience related to the nominated subject matter and can give authoritative independent assessment, advice and analysis on performance relative to the subject matter using the relevant protocols, standards, methods and/or literature.
- s. **Website** means a set of related web pages located under a single domain name attributed to the approval holder and available to the public.



Map 1



Map 2





Map 3

