

Austen Quarry (EPBC Approval 2013/6967) – Review of Compliance 2018 / 2019

Condition No.	Compliance Achieved	Supporting Evidence	Observations / Commentary	Recommended Action
1. The approval holder must not remove more than 721 individuals of Silver-leaved Mountain Gum within the Austen Quarry Boundary depicted at Schedule 1.	Yes	Approval for removal of Silver-leaved Mountain Gum individuals within the Austen Quarry covers all clearing for the Project which will occur progressively over the life of the operation. Therefore, at the time of this review, vegetation clearing operations for the Austen Quarry have not been completed and 721 had not been removed. In addition, an assessment of potential impact to the of Silver-leaved Mountain Gum prepared to support an application to the NSW Department of Planning and Environment to modify development consent SSD 6084, confirms that under updated plans for extraction and vegetation clearing, only 701 plants would be removed.	Subject to the Department's review of the modification application documents and an updated Biodiversity Offset Strategy and Landscape and Rehabilitation Management Plan (forthcoming), it is proposed that this condition be updated to reflect the anticipated impact to the Silver-leaved Mountain Gum.	DoEE review the necessary documents in association with a forthcoming application to vary EPBC Approval 2013/6967.
2. To mitigate the impacts of the action on the Silver-leaved Mountain Gum, the approval holder must prepare and submit at least three (3) months prior to the commencement of the action, a mine site Silver-leaved Mountain Gum Management Plan (SLMGMP) for the Minister's approval. The SLMGMP must contain:	Yes	The Silver-leaved Mountain Gum Management Plan (SLMGMP) was submitted to DoEE on 15 July 2015 and was approved on 10 November 2016. Since that time, the Silver-leaved Mountain Gum within the disturbance areas have been managed in accordance with the SLMGMP, the Biodiversity Offset Management Plan (BOMP) and the Landscape and Rehabilitation Management Plan (RLMP) (required under SSD 6084).	The offset area proposed in the BOMP and the RLMP has not been finalised and was the subject of a recent modification to SSD 6084. Therefore, formal management of the Silver-leaved Mountain Gum within the offset area recognised in the BOMP has yet to commence. Notwithstanding this, the area has been the subject of broader scale land management within the landowner's holdings. Many of the requirements of the SLMGMP are repeated in the BOMP or in the RLMP.	Subject to the review and approval a forthcoming application to vary EPBC Approval 2013/6967, the removal of this condition should be considered with the requirements for management of the Silver-leaved Mountain Gum to be incorporated into the BOMP. Once the Biodiversity Offset Strategy for the Silver-leaved Mountain Gum has been approved, an update to Silver-leaved Mountain Gum management would be incorporated into the relevant plan and submitted to DoEE for review and approval.
a) Baseline data on the local Silver-leaved Mountain Gum population within the Austen Quarry Boundary, Disturbance area and Offset Area;	Yes	See Section 3 of the SLMGMP	None	No action required
b) Measures to mitigate and manage impacts on the Silver-leaved Mountain Gum in the Disturbance area and Offset area that: a. are for the life of the approval; b. are complementary with the offsetting objectives and targets within the Biodiversity Offset Management Plan and other rehabilitation and offsetting activities within and adjacent to the Austen Quarry Boundary; c. is in accordance with the approved Conservation Advice. The SLMGMP should discuss, as a minimum, measures to avoid or manage impacts to Silver-leaved Mountain Gum relating to habitat loss, edge effects, disease prevention, feral pests, weed incursion, fire ecology and grazing; and actions promoting regeneration.	Yes	See Section 4 of the SLMGMP	The Silver-leaved Mountain Gum in the disturbance area and has been managed in accordance with the SLMGMP (refer to Section 5.9 and Section 5.10 of the Annual Review for the Austen Quarry (1 st July 2017 to 30 th June 2018)).	

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c) A program to monitor Silver-leaved Mountain Gum distribution and population size in the Offset Area;	Yes	See Section 5 of the SLMGMP	Monitoring has occurred in accordance with the SLMGMP (refer to Section 5.9 and Section 5.10 of the Annual Review for the Austen Quarry (1 st July 2017 to 30 th June 2018)).	
d) Details of remedial actions where objectives and targets are not being achieved; and	Yes	See Section 5.3 of the SLMGMP	Not required	No action required
e) Details of who will be responsible for monitoring, reviewing and implementing the SLMGMP.	Yes	See Section 5.4 of the SLMGMP	None	No action required
The approval holder must not commence the action until the SLMGMP is approved by the Minister in writing. The approved SLMGMP must be implemented.	Yes	The SLMGMP was submitted to DoEE on 15 July 2015 and operations under the Stage 2 Extension Project commenced on 6 April 2017.	None	No action required
3. To compensate for the loss of 721 individuals of Silver-leaved Mountain Gum, the approval holder must prepare and submit at least three (3) months prior to the commencement of the action, a Biodiversity Offset Management Plan (BOMP) for the proposed Offset Area, for the Ministers approval. The BOMP must be prepared by a suitably qualified person and:	Yes	The BOMP was submitted to DoEE on 15 July 2015 and was approved on 10 November 2016. As an offset area is yet to be finalised, management of any offset area has yet to commence.	As noted above, offsetting arrangement for the Stage 2 Project are yet to be finalised and have been the subject of a recent application to modify the offsetting conditions of SSD 6084. The area formerly approved as an offset area has been the subject of broader scale land management within the landowner's holdings.	Once the Biodiversity Offset Strategy for the Silver-leaved Mountain Gum has been approved, an update to the proposed offsetting approach (and management of any on-site offset area to be secured for that purpose) would be formalised in an updated BOMP that would be submitted to DoEE for review and approval.
a) Identify the land described as the Offset Area at Schedule 2 of this notice that is necessary to achieve the outcomes required by the Environmental Offsets Policy 2012. This must include offset attributes, shapefiles, textual descriptions and maps to clearly define the location and boundaries of the Offset Area.	Yes	See Section 2 of the BOMP	None	No action required
b) Provide a survey and description of the current condition (prior to any management activities) of the Offset Area identified in Condition 3a.	Yes	See Section 2.5 of the BOMP	None	No action required
c) Detail management actions and regeneration and revegetation strategies to be undertaken on the Offset Area to increase the population of Silver-leaved Mountain Gum in this area, including:				
i) a description and timeframe of measures that would be implemented to improve the condition of the ecological communities on the site;	Yes	See Section 3 of the BOMP	None	No action required
ii) performance and completion criteria for evaluating the management of the Offset Area, and criteria for triggering remedial action;	Yes	See Section 4 of the BOMP	None	No action required
iii) a program to monitor and report on the effectiveness of these measures, and progress against the performance and completion criteria;	Yes	See Section 4 of the BOMP	Monitoring has occurred in accordance with the BOMP (refer to Section 5.9 and Section 5.10 of the Annual Review for the Austen Quarry (1 st July 2017 to 30 th June 2018)).	No action required

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iv) description of potential risks to the successful implementation of the plan , a description of the measures that will be implemented to mitigate against these risks and a description of the contingency measures that will be implemented if defined triggers arise; and	Yes	See Section 4 of the BOMP	None	No action required
v) details of who would be responsible for monitoring, reviewing, and implementing the plan.	Yes	See Section 4 of the BOMP	None	No action required
The approval holder must not commence the action until the BOMP is approved by the Minister in writing. The approved BOMP must be implemented.	Yes	The SLMGMP was submitted to DoEE on 15 July 2015 and operations under the Stage 2 Extension Project commenced on 6 April 2017.	None	No action required
4. To compensate for the loss of 721 individuals of Silver-leaved Mountain Gum, and ensure the ongoing conservation of a viable population of Silver-leaved Mountain Gum in the Offset Area, within 18 months of the date of this approval, the approval holder must secure the land(s) identified as the Offset Area as a biodiversity offset by a legal instrument under relevant nature conservation legislation on the title of the land. This instrument must: a) provide enduring protection for the land that will survive transfer of ownership; b) prevent any future development activities, including mining and mineral extraction; c) ensure the active management of the land to achieve the outcomes identified; and d) be provided to the Department within three (3) months of it being issued, as evidence of compliance with this condition.	Not Yet Required	The biodiversity offsetting arrangement for the Austen Quarry Stage 2 development have been the subject of a recent modification to the SSD 6084. The offsetting arrangement are yet to be finalised and therefore this condition is not yet able to be satisfied.	Once the updated Biodiversity Offset Strategy has been finalised, it will be submitted to DoEE for approval. It is currently anticipated that the offsetting arrangement would include a land-based offset (on adjoining land, or where this is not possible, through an arrangement with a landowner for the conservation of land with suitable conservation values).	Within 3 months of it being finalised, the legal instrument will be provided to DoEE.
5. Within 30 days after the commencement of the action. the approval holder must advise the Department in writing of the actual date of commencement of the action.	No	The action commenced on 6 April 2017. No correspondence notifying the Department of the Environment and Energy of the commencement date can be located.	None	It would be appreciated if the Department of the Environment and Energy could review its records to identify any misplaced correspondence.
6. The approval holder must maintain accurate records substantiating all activities associated with or relevant to these conditions of approval, including measures taken to implement the BOMP and SLMGMP, and make them available upon request to the Department. Such records may be subject to audit by the Department or an independent auditor in accordance with section 458 of the EPBe Act, or used to verify compliance with the conditions of approval. Summaries of audits will be posted on the Department's website. The results of audits may also be publicised through the general media.	Yes	A rehabilitation and revegetation monitoring check list for monitoring of all planting activities is implemented and retained.	None	No action required

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7. Within 3 months of every 12 month anniversary of the commencement of the action, the approval holder must publish a report on its website addressing compliance with each of the conditions of this approval, including implementation of the BOMP and SLMGMP as specified in the conditions. Documentary evidence providing proof of the date of publication must be provided to the Department at the same time as the compliance report is published.	No	This is the first audit undertaken for EPBC 2013/6967. The preparation of audit reviews was delayed in order that offsetting arrangements be finalised with expected changes to the conditions of EPBC 2013/6967 relating to the modification to SSD 6084. This approach was discussed with DoEE personnel in late-2017.	Given the delay in finalising the offsetting arrangements for the Stage 2 development, it is proposed that the next audit be prepared and submitted to DoEE by 6 July 2020 (in line with a commencement date of 6 April 2017). This audit would confirm the status of offsetting arrangements and progress implementing the offsetting requirements in accordance with EPBC 2013/6967 It is anticipated that offsetting arrangements for the Stage 2 development would be finalised by 15 August 2019.	Hy-Tec to prepare the next audit by 6 July 2020 and for 6 July to remain the submission date for future audits of the conditional requirements of EPBC 2013/6967.
8. Non-compliance with any of the conditions of this approval must be reported to the Department within two (2) business days of becoming aware of the non-compliance.	Noted	None	Two non-compliance issues have been identified as a result of this review.	No action required
9. Upon the direction of the Minister, the approval holder must ensure that an independent audit of compliance with the conditions of approval is conducted and a report submitted to the Minister. The audit must not commence until the independent auditor and audit criteria have been approved by the Minister. The audit report must address the approved criteria to the satisfaction of the Minister.	Noted	To be actioned, if requested.	None	No action required
10. If the approval holder wishes to <i>carry out</i> any activity otherwise than in accordance with the Plans as specified in the conditions, the approval holder must submit to the Department for the Minister's written approval a revised version of that Plan. The approval holder must not commence the varied activity until the Minister has approved the varied Plan in writing. The Minister will not approve a varied plan unless the revised Plan would result in an equivalent or improved environmental outcome over time. If the Minister approves the revised Plan, that Plan must be implemented in place of the Plan previously approved.	Noted	None	None	No action required
11. If the Minister believes that it is necessary or convenient for the better protection of listed threatened species and ecological communities to do so, the Minister may request that the approval holder make specified revisions to the Plan specified in the conditions and submit the revised Plan for the Minister's written approval. The approval holder must comply with any such request. The revised approved Plan must be implemented. Unless the Minister has approved the revised Plan then the approval holder must	Noted	None	None	No action required

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continue to implement the Plan previously approved.				
12. If, at any time after five (5) years from the date of this approval, the approval holder has not substantially commenced the action, then the approval holder must not substantially commence the action without the written agreement of the Minister.	Noted	The action was substantially commenced on 6 April 2017.	None	No action required
13. Unless otherwise agreed to in writing by the Minister, the approval holder must publish, and maintain for the life of the approval, all management plans referred to in these conditions of approval on its website. Each management plan must be published on the website within one (1) month of being approved.	Yes	The SLMGMP and the BOMP are available from the Hy-Tec website under the Quarry Documentation section. https://www.hy-tec.com.au/quarry-documentation	None	No action required