

Tinda Creek Quarry (EPBC Approval 2013/7028) – Review of Compliance 2018

Condition No.	Compliance Status	Supporting Evidence	Recommended Action
1. The approval holder must undertake the action within a maximum area of 46.8 hectares (ha) and only within the footprint of the action.	Compliant	The proposed action is approved to occur within domains labelled Domain 6, Domain 1, Domain 2, Domain 3 and Domain 7 in <b>Figure 1</b> . The limits to the proposed action do not include historic activities approved under the 1996 Hawkesbury City Council development consent (DA 0134/95) and designated as the Historic Extraction Area.  <b>Figure 1</b> also displays the location of existing extraction activities. As extraction activities have been limited to Domain 6 over the past 12 months and have not occurred outside approved extraction boundaries, activities remain consistent with the EPBC approval. The total disturbance for the proposed action is 12.4ha and therefore much less than the 46.8ha approved by the EPBC approval. The aerial photography used in Figure 1 is dated 16 February 2018, however it is noted that no further land disturbance has occurred since that time.	No action required
2. To minimise impacts to the Koala, the approval holder must clear no more than 25.4 ha of potential Koala habitat on the project site.	Compliant	No potential Koala habitat has been cleared outside of the approved limits of disturbance for the operation. Therefore, the Koala habitat that has been removed for the operation has not exceeded 25.4ha.	No action required
3. To minimise impacts to the Small-flower Grevillea, the approval holder must remove no more than 3 individuals of Small-flower Grevillea, located within the Revised Domain 3 extraction area and identified at Annexure 2.	Compliant	Extraction activities have not commenced within the Revised Domain 3 extraction area and the 3 individuals of Small-flower Grevillea have not yet been impacted.	No action required
4. To reduce indirect impacts on Small-flower Grevillea, the approval holder must maintain a buffer distance of at least 40 metres (m) between the footprint and known locations of the species as identified at Annexure 2, except for the 3 individuals of Small-flower Grevillea, located within the Domain 3 extraction area.	Compliant	The location of known Small-flower Grevillea are presented on <b>Figure 1</b> . The 40m buffer applies predominantly to activities in Domain 7. Extraction activities have remained within Domain 6 over the past 12 months and therefore occurred at a distance greater than the required 40m buffer over the period and to date.	No action required
5. To prevent impacts to Small-flower Grevillea, the 40 m buffer zones for Small-flower Grevillea must be clearly marked out by a suitably qualified person prior to any clearing occurring. Buffer zones must be maintained for the life of the approval.	Compliant	The boundary of each extraction domain has been marked by a surveyor and in doing so have defined the disturbance footprint and 40 metre buffer zones. Degotardi Smith and Partners has prepared survey plans for Domains 1, 2, 3, 6 and 7.	No action required
6. To-reduce indirect impacts on World and National Heritage values of the Greater Blue Mountains Area, the approval holder must maintain buffer zones between the impact area and the Greater Blue Mountains Area as identified at Annexure 1, and in accordance with the minimum buffer distances identified at Annexure 1, for the life of the approval.	Compliant	Extraction activities have remained within Domain 6 over the past 12 months and therefore occurred at a distance greater than the required buffer to the Greater Blue Mountains World Heritage Area over the period and to date.  During the past 12 months Hy-Tec has completed works to the southeast of the historic quarry activity area to remove and dispose of redundant plant, equipment and other items in consultation with NSW government agencies. This work was subject to a Voluntary Undertaking agreement between Hy-Tec and the Department of Planning and Environment. This work has been consistent with the conservation management commitments made by Hy-Tec and described in the Landscape Management Plan.  In May 2018, Hy-Tec also completed works to remove building infrastructure, rubbish and other waste that had been left by a previous owner of land designated as a biodiversity offset area for the Quarry. This work was consistent with the conservation management commitments made by Hy-Tec and described in the Landscape Management Plan.	No action required
7. To minimise impacts to the Small-flower Grevillea and the World and National Heritage values of the Greater Blue Mountains Area, the approval holder must not undertake activities other than conservation management activities within the buffer zones.	Compliant	Extraction activities have remained within Domain 6 over the past 12 months and to date and therefore no extraction activities have occurred within the buffer zones to the Greater Blue Mountains World Heritage Area.	No action required
8. To minimise indirect impacts on World and National Heritage values of the Greater Blue Mountains Area, Small-flower Grevillea and the Koala, the approval holder must implement the Tinda Creek Quarry Final Landscape Management Plan dated August 2016 or as revised under condition 19.	Compliant	Hy-Tec has implemented the commitments of the Landscape Management Plan over the previous 12 months. Landscape and rehabilitation management outcomes are reported in the Annual Review for the Quarry.	No further action required
9. In order to maintain the quantity and quality of water entering the Greater Blue Mountains Area, the approval holder must implement the Tinda Creek Quarry Final Water Management Plan dated August 2016 or as revised under condition 19.	Compliant	Hy-Tec has implemented the commitments of the Water Management Plan over the previous 12 months. Water management outcomes are reported in the Annual Review for the Quarry.  An update to the Water Management Plan is currently being prepared to account for operations in Domain 6 and ongoing groundwater and surface water monitoring and management.	No further action required

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10. To minimise impacts to water quantity and quality within the Greater Blue Mountains Area, the approval holder must comply with Operating Conditions provided by NSW approval condition 12.	Compliant	<p>Hy-Tec has operated in accordance with Condition 12 of Schedule 3 of SSD 4978 as follows.</p> <ul style="list-style-type: none"> <li>• Compliance with Section 120 of the POEO Act has been achieved through maintenance of existing clean water diversions and erosion and sediment controls.</li> <li>• The catchment of the closed water management system has not exceeded 40ha.</li> <li>• The dredge and silt ponds have been maintained with a capacity to capture a 1 in 100 ARI storm event such that no discharge has occurred from the closed water management system.</li> <li>• Surface water and groundwater management and impacts to the local setting have remained consistent with predictions made in the EIS.</li> </ul>	No further action required
11. In addition to complying with the rehabilitation objectives for the final void in NSW approval condition 17, the approval holder must ensure that water discharging from the project site into the Greater Blue Mountains Area is of equal or better quality to the quality of water upstream of the project site.	Compliant	The Quarry is located at the head of the Tinda Creek catchment (i.e. within approximately 500 metres). During the 12 month review period, insufficient run off was experienced when the Quarry personnel were present to allow sampling to take place.	No action required
<p>12. In order to compensate for impacts on the Koala and Small- flower Grevillea, the approval holder must:</p> <p>a) Prior to commencement of the action within the Revised Domains 3 and 7 and Domains 1 and 2, provide written confirmation from the NSW Office of Environment and Heritage or the NSW National Parks and Wildlife Service (OEH/NPWS) to the Department that confirms their agreement to include the offset area, as identified at Annexure 3, within Yengo National Park. If this cannot be provided, then, prior to commencement of the action within the Revised Domains 3 and 7 and Domains 1 and 2, the approval holder must provide an alternative protection mechanism that provides an equal level of protection, including written confirmation from NSW OEH/NPWS that this protection mechanism will be accepted. The approval holder must not commence the action until the Minister has approved the use of the proposed mechanism in writing;</p> <p>b) Provide protection of the offset area, through registration on the title of the offset area of a mechanism in accordance with condition 12a, before commencement of the action within the Revised Domains 3 and 7 and Domains 1 and 2.</p>	Not Triggered	<p>No activities have been undertaken within Domains 3, 7, 1 or 2.</p> <p>Hy-Tec has commenced negotiation with the Department of Planning and Environment and the NSW National Parks and Wildlife Service regarding transfer of the approximately 106ha biodiversity offset area to Yengo National Park. The timing and mechanism for transfer is yet to be determined.</p>	No action required
13. The approval holder must provide the Department with details of the offset area as identified at Annexure 3, including offset attributes, shapefiles, textual descriptions and maps to clearly define the location and boundaries of the offset area, prior to the commencement of the action within the Revised Domains 3 and 7 and Domains 1 and 2.	Not Triggered	No activities have been undertaken within Domains 3, 7, 1 or 2 to date. Once an agreement for the transfer of this land to Yengo National Park has been reached, the details and necessary files will be provided to DoEE.	No action required
14. Within 14 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.	Compliant	Correspondence dated 6 October 2016 issued to DoEE notifying of the commencement of the action (i.e. "will commence effective immediately...").	No action required
15. The approval holder must maintain accurate records substantiating all activities and outcomes associated with or relevant to the conditions of approval, including measures taken to implement the management plans required by this approval, 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 EPBC 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 published through the general media.	Compliant	Hy-Tec prepares an Annual Review that records actions relevant to the conditions within the NSW approval PA 4978) and includes commitments made in the approved management plans. The Annual Review is available from the Hy-Tec website ( <a href="http://www.hy-tec.com.au/quarry-documentation">www.hy-tec.com.au/quarry-documentation</a> ).	No action required
16. Within three months of every 12 month anniversary of the commencement of the action, the approval holder must publish a report on their website addressing compliance with each of the conditions of this approval, including implementation of any management plans as specified in the conditions. Documentary evidence providing proof of the date of publication and non-compliance with any of the conditions of this approval must be provided to the Department at the same time as the compliance report is published. The approval holder must continue to publish this report until such time as agreed to in writing by the Minister.	Compliant	This compliance report has been published on the company's website ( <a href="http://www.hy-tec.com.au/quarry-documentation">www.hy-tec.com.au/quarry-documentation</a> ), with supporting documentary evidence provided to DoEE prior to the 6 January 2019 deadline.	No action required

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17. The approval holder must notify any non-compliance with this approval to the Department in writing within five business days of becoming aware of the non-compliance.	Compliant	There have been no instances of non-compliance in the past 12 months.	No action required
18. 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 independent auditor must be approved by the Minister prior to the commencement of the audit. Audit criteria must be agreed to by the Minister and the audit report must address the criteria to the satisfaction of the Minister.	Not Triggered	The Commonwealth Minister for the EPBC Act has not directed that an independent audit of compliance be undertaken.	No action required
19. The approval holder may choose to revise a management plan approved by the Minister under conditions 8 and 9 without submitting it for approval under section 143A of the EPBC Act, if the taking of the action in accordance with the revised management plan would not be likely to have a new or increased impact. If the approval holder makes this choice they must:  i) notify the Department in writing that the approved management plan has been revised and provide the Department with an electronic copy of the revised management plan; ii) implement the revised management plan from the date that the management plan is submitted to the Department; and iii) for the life of this approval, maintain a record of the reasons the approval holder considers that taking the action in accordance with the revised management plan would not be likely to have a new or increased impact.	Not Triggered	Hy-Tec has not updated or sought to revise the management plans which have been submitted and approved by the Secretary of the Department of Planning and Environment.  Hy-Tec intends to update the Water Management Plan for the operation, however this update is not considered likely to cause new or increased impact.	No action required
19a. The approval holder may revoke their choice under condition 19 at any time by notice to the Department. If the approval holder revokes the choice to implement a revised management plan without approval under section 143A of the Act, the management plan approved by the Minister must be Implemented.	Not Triggered	Hy-Tec has not updated or sought to revise the management plans which have been submitted and approved by the Secretary of the Department of Planning and Environment.	No action required
19b. Condition 19 does not apply if the revisions to the approved management plan include changes to environmental offsets provided under the management plan in relation to a matter protected by a controlling provision for the action, unless otherwise agreed in writing by the Minister. This does not otherwise limit the circumstances in which the taking of the action in accordance with a revised management plan would, or would not, be likely to have new or increased impacts.	Not Triggered	Hy-Tec has not updated or sought to revise the management plans which have been submitted and approved by the Secretary of the Department of Planning and Environment.	No action required
19c. If the Minister gives a notice to the approval holder that the Minister is satisfied that the taking of the action in accordance with the revised management plan would be likely to have a new or increased impact, then:  i) Condition 19 does not apply, or ceases to apply, in relation to the revised management plan; and ii) The person taking the action must implement the management plan approved by the Minister. To avoid any doubt, this condition does not affect any operation of conditions 19, 19A and 19B in the period before the day the notice is given. At the time of giving the notice the Minister may also notify that for a specified period of time that condition 19 does not apply for one or more specified management plans required under the approval.	Not Triggered	Hy-Tec has not updated or sought to revise the management plans which have been submitted and approved by the Secretary of the Department of Planning and Environment.	No action required
19d. Conditions 19, 19A, 19B and 19C are not intended to limit the operation of section 143A of the EPBC Act which allows the approval holder to submit a revised management plan to the Minister for approval.	Not Triggered	Hy-Tec has not updated or sought to revise the management plans which have been submitted and approved by the Secretary of the Department of Planning and Environment.	No action required
20. If the Minister believes that it is necessary or convenient for the better protection of the World Heritage property, National Heritage place or listed threatened species and communities to do so, the Minister may request that the approval holder make specified revisions to the management plan specified in the conditions and submit the revised management plan for the Minister's written approval. The approval holder must comply with any such request. The revised approved management plan must be implemented. Unless the Minister has approved the revised management plan, then the approval holder must continue to implement the management plan originally approved, as specified in the conditions.	Not Triggered	The Minister has not requested Hy-Tec to modify any management plans.	No action required

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21. If, at any time after 5 years from the date of this approval, the approval holder has not commenced the action, then the approval holder must not commence the action without the written agreement of the Minister.	Not Triggered	Correspondence dated 6 October 2016 issued to DoEE notifying of the commencement of the action.	No action required
22. Unless otherwise agreed to in writing by the Minister, the approval holder must publish all management plans 'referred to in these conditions of approval on their website. Evidence of publication must be provided to the Department within 10 days of the publication to the approval holder's website. Each management plan must be published on the approval holder's website within 1 month of being approved and remain on the website for the life of the approval.	Compliant	Management Plans are located on the Hy-Tec website. <a href="http://www.hy-tec.com.au/quarry-documentation">http://www.hy-tec.com.au/quarry-documentation</a>	No action required