



# ANNUAL EPBC APPROVAL COMPLIANCE REPORT 2017

January – December 2017

**FINAL**

May 2018



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Prepared by  
**Umwelt (Australia) Pty Limited**  
on behalf of  
**Macka's Sand Pty Ltd**

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# 1.0 EPBC Approval Compliance Report

On 29 November 2013, the Assistant Secretary Queensland and Sea Dumping Assessment Branch for the Department of the Environment approved the *Construction of an Alternative Route to Lot 2018 Salt Ash NSW (EPBC 2011/6214)* (the EPBC Approval) under the *Environmental Protection and Biodiversity Conservation Act 1999* (EPBC Act). The alternative route was approved with 13 conditions having effect until 31 December 2029.

Condition 6 of the EPBC Approval states:

*‘By 1 September of each year after the commencement of the action, the approval holder must publish a report on their website addressing compliance with the conditions of this approval over the previous 12 months including implementation of any management plans as specified in the conditions. Non-compliance with any of the conditions of this approval must be reported to the Department at the same time as the compliance report is published’.*

In accordance with Condition 6 of the EPBC Approval, Mackas Sand Pty Limited (Mackas Sand) undertook a compliance review of the Mackas Sand operation against the EPBC Approval during early 2018. This annual EPBC Compliance Report (the Report) has been prepared to provide a summary of the performance of the Mackas Sand operation over the period 1 January to 31 December 2018 (i.e. the compliance review period). The compliance status of the Mackas Sand operation against the EPBC Approval and associated management plan was managed during the reporting period by Mackas Sand.

This Report is based on compliance information provided by Mackas Sand. In preparing this Report, Umwelt (Australia) Pty Limited (Umwelt) has relied on this information in combination with other information sources such as environmental monitoring documentation, discussions with Mackas Sand representatives, and our general understanding of the operation. In preparing this report, Umwelt has not sought to undertake a full compliance audit, including secondary verification of the collated documentary evidence with relevant government agency staff, construction personnel or operational staff, site records, etc.

Overall, the review found the Mackas Sand operation to be generally compliant with the EPBC Approval. In completing this review, the compliance status of the condition and the associated sub-elements was assessed (i.e. 16 elements in total). The review found the Mackas Sand operation to be compliant with 12 elements and had not triggered 4 elements.

The overall compliance level against the EPBC Approval, during the 12 month review period, being 1 January to 31 December 2017, is therefore 100%. The compliance status for each of the EPBC Approval conditions is detailed in **Table 1.1**.

**Table 1.1 Macka's Sand EPBC Approval 2011/6214 Construction of an Alternate Route to Lot 218 Salt Ash NSW, 2017 EPBC Compliance Table**

| Ref | Sub | Condition No.   | Compliance Status | Supporting Evidence   | Observations/ Commentary and Recommended Actions |
|-----|-----|---|-------------------|---|--|
| 1   |     | <p>The approval holder must not clear outside the approved alternate haul route area (as depicted in <b>Figure 1</b> and coordinates)</p> <p>The approval holder must not clear more than 0.37 ha of habitat for Newcastle Doubletail (<i>Diuris praecox</i>), Leafless Tongue-orchid (<i>Cryptostylis hunteriana</i>), New Holland Mouse (<i>Pseudomys novaehollandiae</i>), Long-nosed Potoroo (<i>Potorous tridactylus tridactylus</i>), Spot-tailed Quoll (<i>Dasyurus maculates maculates</i>), Grey-headed Flying-fox (<i>Pteropus poliocephalus</i>) and Large-eared Pied Bat (<i>Chalinolobus dwyeri</i>), Regent Honeyeater (<i>Anthochaera Phrygia</i>) and Swift Parrot (<i>Lathamus discolour</i>).</p> | Compliant         | <p>The construction of the approved alternate haul route and the associated clearance works where completed in 2013/14.</p> <p>In accordance with the NSW State Approval (PA 08_0142), an Independent Environmental Audit (IEA) was undertaken in January 2018 for the audit period of January 2015 to December 2017. The auditor identified <i>"The operations have boundaries marked and are within the approved clearing boundaries"</i>.</p> <p>No further clearance works associated with the approved alternate haul route have been undertaken since initial works in 2013/14.</p> | No action required                               |
| 2   |     | The approval holder must submit a Landscape Management Plan for the alternate haul route area to the Minister within 6 months of the date of this approval or before any vegetation clearing of the alternate route area, whichever is sooner.  | Compliant         | The EPBC Landscape Management Plan was submitted to DoEE on 6 December 2013 and was subsequently approved on 13 December 2013.  | No action required                               |
| 3   | a)  | The Landscape Management Plan must specify:<br>Pre-clearance surveys that will be undertaken before any vegetation clearing of the alternate route area;  | Compliant         | As identified below:<br>Section 2.1.2 of the EPBC Landscape Management Plan specifies this detail.  | No action required                               |
|     | b)  | Weed monitoring and measurement measures, including ongoing monitoring parameters, frequencies, triggers, corrective actions, timing and scope for the duration of the project approval; and  | Compliant         | Section 2.2 of the EPBC Landscape Management Plan specifies this detail.  | No action required                               |
|     | c)  | Rehabilitation measures with the objective of re-establishing the Coastal Sand Apple-Blackbutt Forest Community   | Compliant         | Section 3.0 of the EPBC Landscape Management Plan specifies this detail.  | No action required                               |

| Ref | Sub | Condition No.   | Compliance Status | Supporting Evidence   | Observations/ Commentary and Recommended Actions    |
|-----|-----|---|-------------------|---|---|
| 4   |     | <p>Details of how the Landscape Management Plan will be monitored, reviewed and implemented must be provided to the minister.</p> <p>Note: The Minister may determine that a plan, strategy or program approved by the Director-General of the Department of Planning (NSW) satisfies a plan, strategy or program required by these conditions.</p> | Compliant         | Section 5.0 of the EPBC Landscape Management Plan specifies this detail.  | No action required                                  |
| 5   | a)  | <p>To aid safe movement of the following ground dwelling, gliding and arboreal species across the alternate haul road, the proponent must:</p> <p>Ensure a speed limit of 40km/hr applies for all vehicles using the proposed alternate haul road; and</p>  | Compliant         | <p>As identified below:</p> <p>In accordance with the NSW State Approval (PA 08_0142), an IEA was undertaken in January 2018 for the audit period of January 2015 to December 2017. The auditor identified speed signage had been installed and vehicles were complying with the 40km/hr speed limit along the Alternate Haul Road.</p>   | <p>No action required</p> <p>No action required</p> |
|     | b)  | Limit night traffic, consistent with the requirements of the Operating Conditions and Operating Hours as specified in the Environmental Assessment Modifications  | Compliant         | In accordance with the NSW State Approval (PA 08_0142), an IEA was undertaken in January 2018 for the audit period of January 2015 to December 2017. The IEA identified Mackas Sand was complying with the Operating Conditions and Operating Hours as specified in the Environmental Assessment Modifications.   | No action required                                  |
| 5   |     | Within 30 days after the commencement of the action, the person taking the action must advise the Department in writing of the actual date of commencement.   | Compliant         | <p>Mackas Sand obtained approval under the EPBC Act 1999 for the construction and utilisation of an alternate haul route from Nelson Bay Road to access Lot 218 on 29 November 2013.</p> <p>Construction of the alternate access route commenced on 9 December 2013.</p> <p>Formal notification of the Department regarding the commencement of the action was completed on 23 December 2013.</p> | No action required                                  |

| Ref | Sub | Condition No.   | Compliance Status | Supporting Evidence  | Observations/ Commentary and Recommended Actions  |
|-----|-----|---|-------------------|--|---|
| 6   |     | <p>By 1 September of each year after the commencement of the action, the approval holder must publish a report on their website addressing compliance with the conditions of this approval over the previous 12 months, including the implementation of any management plans specified in the conditions. Non-compliance with any of the conditions of this approval must be reported to the Department at the same time as the compliance report is published.</p> | Compliant         | <p>No non-compliances were identified during the reporting period and the report has been made publicly available before 1 September of each calendar year.</p> <p>The auditor assessed Mackas Sand to be non-compliant with the timing of this condition.</p> <p>The EPBC approval was granted 29 November 2013. The first compliance report assessed the period 29 Nov to 31 Dec 2013 and was completed during March 2014. Subsequent compliance reports for the 2014, 2015, 2016 and 2017 calendar years have been prepared during March / April of the following compliance review year. This review period aligns with the Annual Review reporting period required by the Approval.</p> <p>As the EPBC condition does not specify the compliance review period and as Mackas Sand has completed the required compliance reviews early i.e. "by 1 September of each year after the commencement of the action", (i.e. typically March) Mackas Sand believes it is compliant with this condition.</p> | <p>Mackas Sand seeks clarification from DOEE regarding the report timing requirements to address this question going forward.</p> |
| 7   |     | <p>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 is 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.</p>                    | Not triggered     | <p>No direction was given by the Minister in 2017.</p>   | <p>No action required</p>   |



| Ref | Sub | Condition No.   | Compliance Status | Supporting Evidence   | Observations/ Commentary and Recommended Actions |
|-----|-----|---|-------------------|---|--|
| 8   |     | If at any time after five years from the date of this approval, the approval holder has not substantially commenced the action, then the approval holder must not commence the action without the written agreement of the Minister.  | Not triggered     | The approval holder substantially commenced the action on 9 December 2013.<br>Formal notification of the Department regarding the commencement of the action was completed on 23 December 2013. | No action required                               |
| 9   |     | If the Minister believes that it is necessary or convenient for the better protection of threatened species and threatened ecological communities (s. 18 & 18A of the EPBC Act) to do so, the Minister may request that the approval holder make specified revisions to the plans approved pursuant to the above 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 person taking the action must continue to implement the plan originally approved, as specified in the conditions. | Not triggered     | The Minister did not request any specified revision be made to the approval plans during the reporting period.  | No action required                               |
| 10  |     | The approval holder must maintain accurate records substantiating all activities associated with or relevant to the conditions of approval, including those measures 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 audit 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         | Mackas Sand maintains accurate records to substantiate all activities associated with or relevant to the conditions of this approval.<br>Records will be made available upon request.           | No action required                               |

| Ref | Sub | Condition No.   | Compliance Status | Supporting Evidence   | Observations/ Commentary and Recommended Actions |
|-----|-----|---|-------------------|---|--|
| 11  |     | If the approval holder wishes to carry out any activity otherwise than in accordance with the Environmental Assessment and the Landscape Management Plan referred to in the above Conditions, the person taking the action may submit a revised plan for the Minister's approval. If the Minister approves the revised plan submitted, the person taking the action must implement this plan instead of the plan originally approved. | Not Triggered     | Mackas Sand has not sought any variations to this approval.   | No action required                               |
| 12  |     | Unless otherwise agreed to in writing by the Minister, the person taking the action must publish all management plans, referred to in these conditions of approval on their website. Each management plan must be published on the website within 1 month of being approved.  | Compliant         | The EPBC Landscape Management Plan is available on the Macka's Sand website.<br><a href="http://www.mackassand.com.au/compliance">http://www.mackassand.com.au/compliance</a> | No action required                               |



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