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Karuah East Quarry

2022-23 Annual Compliance Report

EPBC Approval 2014/7282

July 2023





EPBC Approval 2014/7282

Karuah East Quarry

Annual Compliance Report

27 April 2022 – 26 April 2023

Declaration of Accuracy

In making this declaration, I am aware that section 490 and 491 of the *Environmental Protection and Biodiversity Conservation Act 1999* (Cth) (EPBC Act) make it an offence in certain circumstances to knowingly provide false or misleading information or documents. The offence is punishable on conviction by imprisonment or a fine, or both. I declare that all the information and documentation supporting this compliance report is true and correct in every particular. I am authorised to bind the approval holder to this declaration and that I have no knowledge of that authorisation being revoked at the time of making this declaration.

Scott Ellerton
Environment & Development Manager

Shane Burton
Quarry Manager

Date: 11 July 2023
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Document Control:

Version	Description	Date	Prepared	Reviewers	Authorised
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GLOSSARY / ABBREVIATIONS

Acronym / Term	Definition
ACR	Annual Compliance Report
Black-eyed Susan	<i>Tetradthea juncea</i>
BOAMP	Biodiversity Offset Area Management Plan
Commonwealth Department	Commonwealth Department of Climate Change, Energy, the Environment and Water
Commonwealth Approval	Commonwealth EPBC 2014-7282
NSW Department	NSW Department of Planning and Environment
EPBC Act	Environment Protection and Biodiversity Conservation Act 1999
KEQ	Karuah East Quarry
Koala	<i>Phascolartos cinereus</i>
MOD 1	NSW Project Approval MP09_0175 MOD 1 – April 2018
MOD 2	NSW Project Approval MP09_0175 MOD 2 – December 2018
MOD 8	NSW Project Approval MP09_0175 MOD 8 – December 2018
MOD 9	NSW Project Approval MP09_0175 MOD 9 – December 2021
NSW Approval	NSW Project Approval MP09_0175
Project area	Approved disturbance areas according to PA09_0175 and any additionally approved modifications
Small-flower Grevillea	<i>Grevillea parviflora</i> subsp. <i>Parviflora</i>
The reporting period	27 April 2022 to 26 April 2023
TjTMP	<i>Tetradthea juncea</i> Translocation Management Plan
Trailing Woodruff	<i>Asperula asthenes</i>

1. INTRODUCTION

Karuah East Quarry (KEQ) is an approved hard rock quarry located at Karuah in the NSW Hunter Region, as illustrated by **Figure 1**. The project was approved by the NSW Planning Assessment Commission as a Part 3A Major Project on 17 June 2014 (NSW Approval, Project Approval MP09_0175).

Following receipt of the NSW Approval, referral under the Environment Protection and Biodiversity Act 1999 (EPBC Act) was made to the Commonwealth Department of the Environment (Commonwealth Department) in July 2014. It was determined by the Commonwealth Environment Minister in August 2014 that the project was a controlled action under the EPBC Act requiring further assessment regarding the “listed threatened species and ecological communities” under Section 18 and 18A.

In particular, the impacts on four species that were listed as “vulnerable” under the EPBC Act were identified for further assessment. These four species included:

- *Tetradlea juncea* (Black-eyed Susan) – Vulnerable (NSW and Commonwealth);
- *Asperula asthenes* (Trailing Woodruff) – Vulnerable (NSW and Commonwealth);
- *Grevillea parviflora* subsp. *Parviflora* (Small-flower Grevillea) – Endangered (NSW); and
- *Phascolartos cinereus* (Koala) – Vulnerable (NSW and Commonwealth).

The Black-eyed Susan, Trailing Woodruff and Small-flower Grevillea were identified in previous ecological studies as occurring within the project area (Kleinfelder, 2017) and surrounding vicinity. Koalas were previously identified in adjacent sites, but no individuals had been observed within the project area during the Environmental Assessment (ADWJ, 2013). It was estimated that approximately 24 Ha of Koala habitat was going to be directly impacted and the project was going to create a fragmentation of the adjacent Koala habitat (ELA, 2014).

KEQ received approval from the Commonwealth Department on 20 March 2015 (EPBC 2014/7282). Mitigation and management measures for the four identified species were considered as part of the assessment and incorporated into the Commonwealth Approval with 17 conditions.

1.1 Purpose, Scope and Key Dates

The purpose of the Annual Compliance Report (ACR) is to annually report compliance with the Commonwealth Approval as outlined by Condition 12.

“Condition 12

Within three months of every 12-month anniversary of the commencement of construction, the person taking the action must publish a report on their website addressing compliance with each of the conditions of this approval over the previous 12 months, including implementation of any management plan, 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. The compliance reports must remain on the website for 12 months from the date of publishing. Potential or actual contraventions of the conditions of the approval must be reported to the Department in writing within 2 business days of the person taking the action becoming aware of the potential or actual contravention. All contraventions must also be included in the compliance reports.”



Key dates relevant to this ACR are provided by **Table 1**, with this 2022-23 ACR covering the reporting period from 27 April 2022 to 26 April 2023.

Table 1 Key Dates

Date	Activity
17 June 2014	NSW Project Approval MP09_0175 approved by the NSW Planning Assessment Commission.
20 March 2015	Commonwealth EPBC 2014/7282 approved by the Commonwealth Environment Minister.
9 November 2015	Biodiversity Offset Area Management Plan finalised.
16 March 2016	BOAMP approved by the Commonwealth Department of the Environment.
27 April 2016	Commencement of construction.
16 November 2017	Commencement of operations.
27 April 2018	NSW Project Approval MP09_0175 MOD 1 approved by the NSW DPE
19 December 2018	NSW Project Approval MP09_0175 MOD 2 approved by the NSW DPE
23 December 2020	NSW Project Approval MP09_0175 MOD 8 approved by the NSW DPE
02 December 2021	NSW Project Approval MP09_0175 MOD 9 approved by the NSW DPE
31 December 2034	NSW Project Approval MP09_0175 expiry date
30 March 2045	Commonwealth EPBC 2014/7282 expiry date

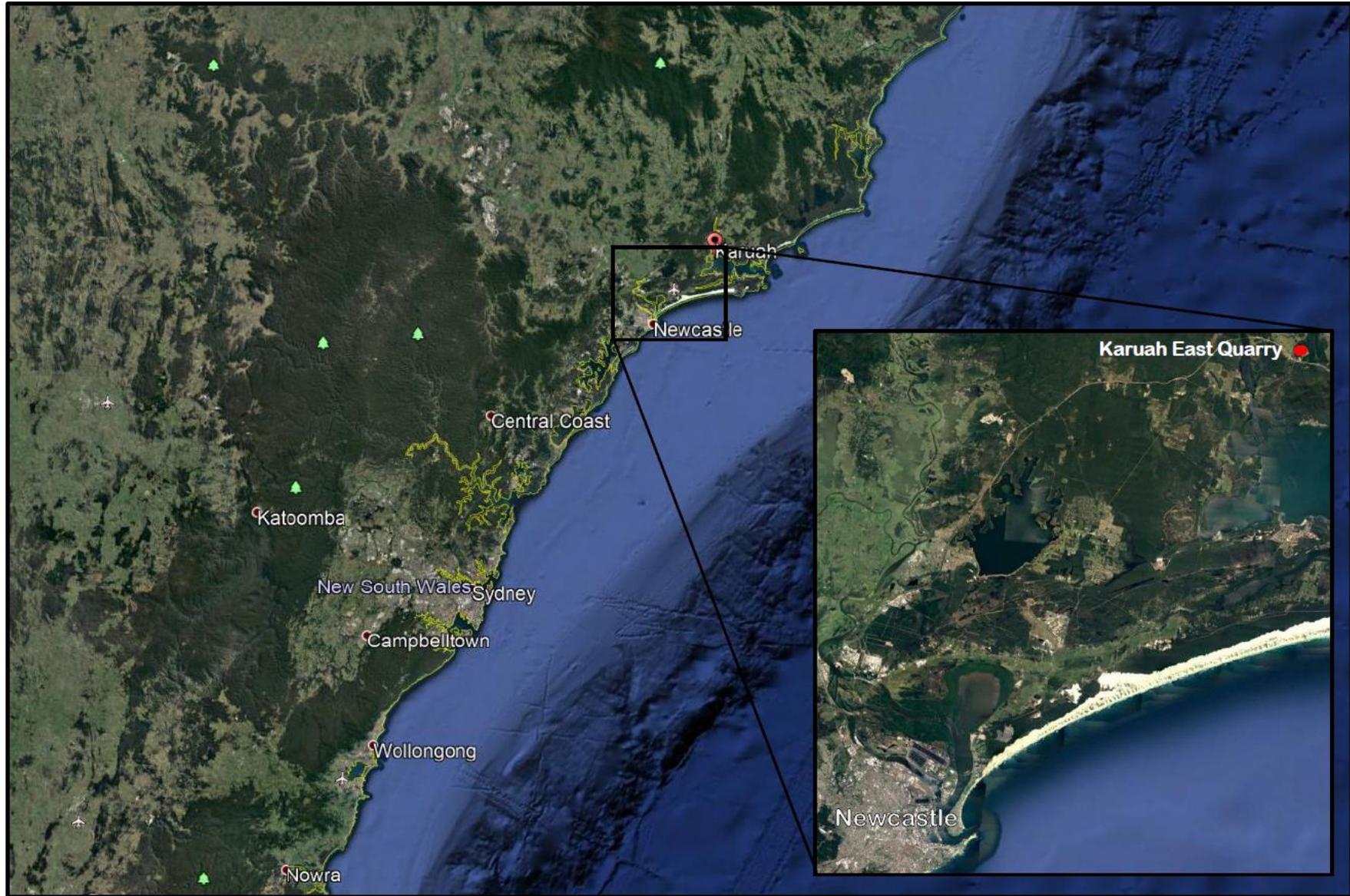


Figure 1 Regional context of Karuah East Quarry

2. COMPLIANCE ASSESSMENT

Each of the 17 conditions of the Commonwealth Approval have been assessed as per the Status Definitions provided by **Table 2** and reported in **Table 3** in accordance with the *Annual Compliance Report Guidelines* (Commonwealth Department of the Environment, 2014).

Table 2 Status Definitions

Status	Definition
Compliant	'Compliance' is achieved when all the requirements of a condition have been met, including the implementation of management plans or other measures required by those conditions.
Non-Compliant	A designation of 'non-compliance' should be given where the requirements of a condition or elements of a condition, including the implementation of management plans and other measures, have not been met.
Not Applicable	A designation of 'not applicable' should be given where the requirements of a condition or elements of a condition fall outside of the scope of the current reporting period. For example, a condition which applies to an activity that has not yet commenced.



Table 3 Compliance Status

EPBC 2014/7282 Condition	Compliance Status	Comments
1. The person taking the action must not impact on any Black-eyed Susan or Trailing Woodruff outside the project area identified at Appendix A.	Compliant	Black-eyed Susan and Trailing Woodruff outside of the project area were not impacted during the reporting period.
2. The person taking the action must not impact on any habitat for the Koala outside the project area identified at Appendix B.	Compliant	Koala habitat was not disturbed outside of the project area during the reporting period.
3. Prior to the commencement of construction, the person taking the action must install fencing around the perimeter of the project area and identify signed no-go areas. Fencing and no-go areas must be maintained for the life of the action.	Compliant	<p>Permanent chain wire fencing was installed August to October 2017 prior to the commencement of quarry operations. “Keep Out Conservation Offset Area” signs were erected along the project area boundary.</p> <p>Periodic inspections of fencing are performed. Minor maintenance and repairs were completed as required throughout the reporting period.</p>
4. Prior to the commencement of construction and for the life of the action, all on-site personnel must be inducted on environmental sensitivities in the area, including the risk of Koala vehicle strike. Induction material is to be prepared by a suitably qualified ecologist.	Compliant	A Site Induction has been prepared addressing sensitive environmental matters, including the welfare of fauna, on site. All personnel are required to be inducted prior to commencing work.
5. Should injury to Koalas occur, advice from a wildlife expert must be sought and action taken in accordance with that advice. Records of any Koala injury within the project area must be documented and maintained.	Compliant	No injuries occurred to Koalas during the reporting period.

EPBC 2014/7282 Condition	Compliance Status	Comments
<p>6. Within 48 hours before the clearing of vegetation, pre-clearance surveys must be undertaken by a suitably qualified ecologist to ensure the absence of the Koala in the project area. If any Koalas are found to be present, salvage and translocation must be undertaken by a suitably qualified ecologist.</p>	Compliant	<p>The Pre-Clearing Survey Protocol, outlined in <i>Section 6.2</i> of the <i>Landscape and Rehabilitation Management Plan (SLR, 2020)</i>, governs pre-clearance works.</p> <p>During the reporting period, 0.86 Ha of clearing was undertaken, with no Koalas found.</p>
<p>7. The person taking the action must comply with the offset conditions set out in the NSW Project Approval.</p>	Compliant	<p><u>Schedule 3, Condition 27</u> The <i>Tetratheca juncea</i> (Black-eyed Susan) translocation program was implemented in accordance with the NSW Project Approval, the BOAMP and the <i>TjtMP</i>. In May 2016, all identified Black-eyed Susan within the initial disturbance area were translocated. Additionally, on 5 April 2019 a further 13 Black-eyed Susan within the MOD 1 approval area were translocated. No translocations were assessed as necessary for the MOD 2 approval area.</p> <p><u>Schedule 3, Condition 28 & 29</u> A section 69 Conservation Agreement is being developed in consultation with the NSW Department to create a long-term security of the Biodiversity Offset Area (BOA). Consultation with the NSW Department is ongoing.</p> <p><u>Schedule 3, Condition 33</u> A Biodiversity Offset Area Management Plan (BOAMP) addressing all the requirements of this condition had been prepared and implemented. The BOAMP was updated (April 2018) and approved by the NSW Department on 4 October 2018.</p>

EPBC 2014/7282 Condition	Compliance Status	Comments
<p>8. Prior to the commencement of construction, to compensate for the impact to the Trailing Woodruff and habitat for the Koala, the person taking the action must secure suitable offset sites consistent with the Karuah East Quarry EPBC Act Assessment Report. In the case that offsets for the Trailing Woodruff or habitat for the Koala consistent with those set out in the Karuah East Quarry EPBC Act Assessment Report cannot be secured, alternative offset sites must be secured, consistent with the EPBC Act Offsets Policy.</p>	Compliant	<p>As per Section 7 of the KEQ EPBC Act Assessment Report (ELA, 2014), KEQ acquired Lot 5 DP 838128 in January 2016. This provided a total undisturbed area of approximately 135.57 ha to be utilised and secured for offset. After excluding Asset Protection Zones (APZ's), fire trails and powerline easements, this has given 131.49 ha of offset area. A Section 69 Conservation Agreement is being developed in consultation with the NSW Department to implement a long-term security measure for the offset site. Consultation with the NSW Department is ongoing.</p>
<p>9. Prior to the commencement of construction, the person taking the action must provide the Minister with a Biodiversity Area Offset Management Plan for approval. The Biodiversity Area Offset Management Plan must be consistent with the NSW Project Approval and include:</p> <p>a) survey information identifying the number of Trailing Woodruff present across all proposed offset sites; and</p> <p>b) details on the management and monitoring of the Trailing Woodruff, and corrective actions and contingency plans to be implemented where the re-establishment of the Trailing Woodruff fails to meet targets specified in the Karuah East Quarry EPBC Act Assessment Report.</p> <p>The approved Biodiversity Area Offset Management Plan must be implemented.</p>	Compliant	<p>The NSW Department approved the updated BOAMP on 4 October 2018. The BOAMP had been developed to bring together the relevant approval conditions and requirements as stipulated in the NSW Approval (MP09_0175), Commonwealth Approval (EPBC 2014/7282), Biodiversity Offset Strategy (ELA, 2013) and the Statement of Commitments (Appendix 6, PA 09_0175).</p> <p>The background ecological assessments are described in detail in Section 2.3.4 of the BOAMP. Threatened flora specie locations, including Trailing Woodruff (<i>Asperual asthenes</i>), are illustrated in Figure 2.</p> <p>The <i>Asperual asthenes</i> monitoring requirements are specifically addressed under Section 3.13 of the BOAMP. Contingency measures are detailed in Section 7 if targets are not met.</p> <p>During the reporting period, the Annual Monitoring Report for BOA and Lot 12 was prepared and finalised March 2023.</p>



EPBC 2014/7282 Condition	Compliance Status	Comments
10. Within 30 days after the commencement of construction, the person taking the action must advise the Department in writing of the actual date of commencement of construction.	Compliant	The Commonwealth Department was notified on 23 May 2016. This was within 30 days after the commencement of construction on 27 April 2016.
11. The person taking the action must maintain accurate records substantiating all activities associated with or relevant to the conditions of approval, including measures taken to implement the management plan, and make it 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 publicised through the general media.	Compliant	KEQ maintains records relating to EPBC 2014/7282 and associated conditions. KEQ did not receive any requests from the Department and no auditing was undertaken within the reporting period.

EPBC 2014/7282 Condition	Compliance Status	Comments
<p>12. Within three months of every 12 month anniversary of the commencement of construction, the person taking the action must publish a report on their website addressing compliance with each of the conditions of this approval over the previous 12 months, including implementation of any management plan, 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. The compliance reports must remain on the website for 12 months from the date of publishing. Potential or actual contraventions of the conditions of the approval must be reported to the Department in writing within 2 business days of the person taking the action becoming aware of the potential or actual contravention. All contraventions must also be included in the compliance reports.</p>	Compliant	<p>The ACR for the reporting period ending on 26 April 2021 was prepared and published on the company's website by 26 July 2022.</p> <p>This date was within three months of the project anniversary date (27 April).</p>
<p>13. Upon the direction of the Minister, the person taking the action 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.</p>	Not Applicable	<p>No direction has been provided by the Minister to undertake an independent audit.</p>

EPBC 2014/7282 Condition	Compliance Status	Comments
<p>14. If the person taking the action wishes to carry out any activity otherwise than in accordance with the management plan as specified in the conditions, the person taking the action must submit to the Department for the Minister's written approval a revised version of that management plan. The varied activity shall not commence until the Minister has approved the varied management plan in writing. If the Minister approves the revised management plan, that management plan must be implemented in place of the management plan originally.</p>	Compliant	<p>During the reporting period, four modifications to the NSW Approval have been approved by the NSW Department:</p> <ul style="list-style-type: none"> • MOD 1: Increased disturbance area in April 2018; • MOD 2: Increased disturbance area in December 2018; • MOD 8: Operational noise criteria in December 2020; and • MOD 9: Extended operating hours in December 2021. <p>Subsequently, the management plans for KEQ were revised and lodged with the appropriate State or Commonwealth Department for approval.</p>
<p>15. 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 person taking the action make specified revisions to the management plan specified in the conditions and submit the revised management plan for the Minister's written approval. The person taking the action 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 person taking the action must continue to implement the management plan originally approved, as specified in the conditions.</p>	Not Applicable	<p>No direction has been provided by the Minister to make specified revisions to the management plans.</p>



EPBC 2014/7282 Condition	Compliance Status	Comments
<p>16. If, at any time after 5 years from the date of this approval, the person taking the action has not substantially commenced the action, then the person taking the action must not substantially commence the action without the written agreement of the Minister.</p>	<p>Not Applicable</p>	<p>The action was approved by the Minister on 20 March 2015, following which the action was commenced on 27 April 2016 as triggered by the commencement of construction of the project.</p> <p>This was within 5 years from the approval date and therefore this condition has not been triggered and remains Not Applicable.</p>
<p>17. 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. The person taking the action must notify the Department within 5 business days of publishing the management plan on their website and the management plan must remain on the website for the period this approval has effect.</p>	<p>Compliant</p>	<p>The most current and approved BOAMP can be viewed and downloaded using the following link: https://hunterquarries.com.au/reporting/.</p> <p>No updates to the Management Plans were completed during the reporting period.</p>



3. CONCLUSION

This ACR for the Commonwealth Approval has assessed 14x of the 17-conditions to be complaint during the reporting period. The remaining 3x conditions were assessed to be not applicable during the reporting period.

4. REFERENCES

ADW Johnson Pty Ltd (2013). *Environmental Assessment Report, Proposed Karuah East Hard Rock Quarry*. Prepared for Karuah East Quarry Pty Ltd, January 2013.

Eco Logical Australia (ELA) (2014). *EPBC Act Assessment Report: Karuah East Quarry – EPBC 2014/7282*. Prepared for Karuah East Quarry Pty Ltd, October 2014.

Firebird ecoSultants Pty Ltd (2015). *Tetratheca juncea Translocation Management Plan for the Karuah East Quarry Site*. Prepared for Karuah East Quarry Pty Ltd, August 2015.

Kleinfelder (2018). *Biodiversity Offset Area Management Plan: Karuah East Quarry Project*. Prepared for Karuah East Quarry Pty Ltd, April 2018.

Kleinfelder (2017). *Flora and Fauna Impact Assessment: Karuah East Quarry Project – Modification Application*. Prepared for Karuah East Quarry Pty Ltd, October 2017.

SLR (2020). *Landscape and Rehabilitation Management Plan, Karuah East Quarry*. Prepared for Karuah East Quarry Pty Ltd, March 2020.

RPS Australia Pty Ltd (2013). *Terrestrial Ecology Survey and Assessment Report: Karuah East Quarry, Karuah NSW*. Prepared for Karuah East Quarry Pty Ltd, July 2013.