

Notice of decision

Section 2.22 and clause 20 of Schedule 1 of the *Environmental Planning and Assessment Act 1979*

Application type	State significant development modification
Application number and project name	DA470-11-2003-Mod-13 Dunmore Quarry Expansion Project Modification 13
Applicant	Boral Resources (NSW) Pty Ltd
Consent Authority	Minister for Planning and Public Spaces

Decision

The Director Energy and Resource Assessments under delegation from the Minister for Planning and Public Spaces has, under 4.55(2) of the *Environmental Planning and Assessment Act 1979 (the Act)* modified the consent subject to the recommended conditions.

A copy of the Department's assessment report, instrument of modification and a consolidated version of the conditions is available at <https://www.planningportal.nsw.gov.au/major-projects/projects/modification-13-dunmore-quarry-pit-extension>.

Date of decision

25 June 2024

Reasons for decision

The following matters were taken into consideration in making this decision:

- the relevant matters listed in section 4.15 of the Act and the additional matters listed in the statutory context section of the Department's assessment report;
- the prescribed matters under the *Environmental Planning and Assessment Regulation 2021*;
- the reasons given by the consent authority for the grant of the original consent;
- the objects of the Act;
- all information submitted with the modification application during the assessment and information considered in the Department's assessment report;
- the findings and recommendations in the Department's assessment report;
- the submissions made concerning the modification; and
- the views of the community about the project (see **Attachment 1**).

The findings and recommendations set out in the Department's assessment report were accepted and adopted as the reasons for making this decision.

The decision maker was satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted was modified.

The decision maker was satisfied that the development to which the consent as modified relates is substantially the same development as the development authorised by the consent (as last modified under section 75W).

The key reasons for granting the modification are as follows:

- the modification would provide a range of benefits for the region and the State as a whole, including continued employment for around 41 employees, 15 contractors and 150 indirect employees and additional high-quality resources for the construction and infrastructure industry;
- the modification is permissible with consent, and is consistent with NSW Government policies;
- the impacts on the community and the environment can be appropriately minimised, managed or offset to an acceptable level, in accordance with applicable NSW Government policies and standards;
- the issues raised by the community during consultation and in submissions have been considered and adequately addressed through the recommended conditions of consent; and
- weighing all relevant considerations, the modification is in the public interest.

Attachment 1 – Consideration of Community Views

The Department exhibited the modification from Tuesday 11 April 2023 until Thursday 11 May 2023 and received four submissions, including two submissions objecting to the modification and two in support.

The key issues raised in the community submissions and considered in the Department's assessment report and by the decision maker included impacts on biodiversity. Other issues are addressed in detail in the Department's assessment report.

Issue	Consideration
Biodiversity impacts	<p><i>Assessment</i></p> <ul style="list-style-type: none"> • The modification would involve clearing approximately 8 hectares (ha) of the NSW Critically Endangered Ecological Community <i>Melaleuca armillaris</i> Tall Shrubland, a candidate entity at risk of Serious and Irreversible Impacts. • Boral has committed to retire double the calculated number of biodiversity credits for the proposed modification, with at least 50% of the credits retired via a proposed biodiversity stewardship site on Boral landholdings. • To mitigate the risk of Serious and Irreversible Impacts on <i>Melaleuca armillaris</i> Tall Shrubland, Boral has also committed to retire an additional 111 <i>Melaleuca armillaris</i> Tall Shrubland credits using the credits generated by the proposed biodiversity stewardship site. • Boral also committed to incorporating an additional small area of <i>Melaleuca armillaris</i> Tall Shrubland into the proposed BSA. • Boral noted regulatory challenges in implementing the Biodiversity Conservation and Science Group's recommendation to include the existing Offset Area and existing Compensatory Habitat Area (required by the existing development consent conditions) in the proposed BSA. Boral committed to continue investigating a consolidated stewardship site. • The Department agrees with the advice to include the existing offset and conservation areas in the proposed biodiversity stewardship agreement. • Following discussions between Boral, the Department and the Biodiversity Conservation and Science Group, in-principle support had been reached for a biodiversity offset proposal to minimise the proposed impacts. <p><i>Conditions</i></p> <ul style="list-style-type: none"> • Boral would be required to retire 112 ecosystem credits and 2,911 species credits prior to any disturbance occurring in the RIC pit extension area. • A Biodiversity Stewardship Agreement (BSA) must also be established within two years of commencing quarrying operations in the RIC pit extension area and Boral would be required to retire the credits required for the modification generated by the BSA and further retire an additional 111 <i>Melaleuca armillaris</i> Tall Shrubland credits. • Boral has also committed to the translocation of topsoil and Illawarra Irene and Illawarra Zieria plants from the modification extension area to the proposed Dunmore Quarry Habitat Corridor and a Vegetation Translocation Plan would be prepared to support this approach. • The Department considered that combining the management of the existing areas and the proposed biodiversity stewardship site would improve in-perpetuity management, funding and enforcement of the required biodiversity conservation outcome and has recommended a condition to this effect.