



APPROVAL

Albemarle lithium hydroxide manufacturing plant, Kemerton, WA (EPBC 2017/8099)

This decision is made under sections 130(1) and 133(1) of the *Environment Protection and Biodiversity Conservation Act 1999 (Cth)*. Note that section 134(1A) of the **EPBC Act** applies to this approval, which provides in general terms that if the approval holder authorises another person to undertake any part of the action, the approval holder must take all reasonable steps to ensure that the other person is informed of any conditions attached to this approval, and that the other person complies with any such condition.

Details

Person to whom the approval is granted (approval holder)	Albemarle Lithium Pty Ltd
ACN or ABN of approval holder	618 095 471
Action	To construct and operate a lithium hydroxide product manufacturing plant located in Kemerton Strategic Industrial Area, approximately 17 km north-east of Bunbury, Western Australia [See EPBC referral 2017/8099].

Approval decision

My decision on whether or not to approve the taking of the action for the purposes of the controlling provision for the action is as follows.


Controlling Provision

Listed Threatened Species and Communities	
Section 18	Approve
Section 18A	Approve

Period for which the approval has effect

This approval has effect until 31 October 2050.

Decision-maker

Name and position	Gregory Manning Assistant Secretary of Assessments (WA, SA, NT) and Post Approvals Branch Department of the Environment and Energy
Signature	
Date of decision	26/11/18

Conditions of approval

This approval is subject to the conditions under the EPBC Act as set out in ANNEXURE A.

ANNEXURE A – CONDITIONS OF APPROVAL

Part A – Conditions specific to the action

1. For the protection of the **protected matters**, the approval holder must not **clear** more than 54.31 hectares of **native vegetation** and 33.39 ha of **pine plantation** within the **project area**.
2. To mitigate the impacts of the action to the **protected matters**, the approval holder must comply with and implement conditions 6-1 to 6-6 and 7-1 to 7-6 of **Ministerial Statement 1085**.
3. To offset the impacts of the action to the **protected matters**, the approval holder must:
 - a. implement conditions 10-1 to 10-5 of **Ministerial Statement 1085**
 - b. within 20 **business days** of finalising the Offset Strategy required by conditions 10-1 to 10-5 of **Ministerial Statement 1085**, provide the **Department** with the **offset attributes** and a **shapefile** for the offset area required by condition 3.a.
 - c. within 20 **business days** of securing the offset area under a protection mechanism, as required by condition 10-2(4) of **Ministerial Statement 1085**, provide the **Department** with the final **offset attributes** and a final **shapefile** for the secured offset area.
4. The approval holder must:
 - a. notify the **Department** in writing of any proposed changes to the conditions of the **Ministerial Statement 1085** no later than 2 **business days** after the approval holder:
 - i. proposes such a change in writing; or
 - ii. becomes aware of a proposal for such a change.
 - b. publish each management plan/offset strategy provided for under conditions 2 and 3 on the approval holder's **website** within 20 **business days** of the date the management plan/offset strategy is approved by the Western Australian Government
 - c. keep management plans and offset strategy published on the approval holder's **website** until at least the end date of this approval
 - d. exclude or redact **sensitive ecological data** from management plans/offset strategy published on the **website** or provided to a member of the public.

Part B – Standard administrative conditions

Notification of date of commencement of the action

5. The approval holder must notify the **Department** in writing of the date of **commencement of the action** within 10 **business days** after the date of **commencement of the action**.
6. If the **commencement of the action** does not occur within 5 years from the date of this approval, then the approval holder must not **commence the action** without the prior written agreement of the **Minister**.

Compliance records

7. The approval holder must maintain accurate and complete **compliance records**.
8. If the **Department** makes a request in writing, the approval holder must provide electronic copies of **compliance records** to the **Department** within the timeframe specified in the request.

Note: Compliance records may be subject to audit by the **Department** or an independent auditor in accordance with section 458 of the **EPBC Act**, and or used to verify compliance with the conditions. Summaries of the result of an audit may be published on the **Department's** website or through the general media.

Preparation and publication of plans

9. The approval holder must ensure that any **monitoring data** (including **sensitive ecological data**), surveys, maps, and other spatial and metadata required under conditions of this approval, is prepared in accordance with the **Department's Guidelines for biological survey and mapped data** (2018) and submitted electronically to the **Department** within three months of the submission of the **compliance report**.

Annual compliance reporting

10. The approval holder must prepare a **compliance report** for each 12 month period following the date of **commencement of the action**, or as otherwise agreed to in writing by the **Minister**. The approval holder must:
 - a. publish each **compliance report** on the **website** within 60 **business days** following the relevant 12 month period;
 - b. notify the **Department** by email that a **compliance report** has been published on the **website** within five **business days** of the date of publication;
 - c. keep all **compliance reports** publicly available on the **website** until this approval expires;
 - d. exclude or redact **sensitive ecological data** from **compliance reports** published on the **website**; and
 - e. where any **sensitive ecological data** has been excluded from the version published, submit the full **compliance report** to the **Department** within 5 **business days** of publication.

Note: **Compliance reports** may be published on the **Department's** website.

Reporting non-compliance

11. The approval holder must notify the **Department** in writing of any: **incident**; non-compliance with the conditions; or non-compliance with the commitments made in **plans**. The notification must be given as soon as practicable, and no later than two **business days** after becoming aware of the **incident** or non-compliance. The notification must specify:
 - a. the condition which is or may be in breach; and
 - b. a short description of the **incident** and/or non-compliance.
12. The approval holder must provide to the **Department** the details of any **incident** or non-compliance with the conditions or commitments made in **plans** as soon as practicable and no later than 10 **business days** after becoming aware of the **incident** or non-compliance, specifying:
 - a. any corrective action or investigation which the approval holder has already taken or intends to take in the immediate future;
 - b. the potential impacts of the **incident** or non-compliance; and
 - c. the method and timing of any remedial action that will be undertaken by the approval holder.

Independent audit

13. The approval holder must ensure that **independent audits** of compliance with the conditions are conducted as requested in writing by the **Minister**.
14. For each **independent audit**, the approval holder must:
 - a. provide the name and qualifications of the independent auditor and the draft audit criteria to the **Department**;
 - b. only commence the **independent audit** once the audit criteria have been approved in writing by the **Department**; and

- c. submit an audit report to the **Department** within the timeframe specified in the approved audit criteria.
15. The approval holder must publish the audit report on the **website** within 10 **business days** of receiving the **Department's** approval of the audit report and keep the audit report published on the **website** until the end date of this approval.

Completion of the action

16. Within 30 days after the **completion of the action**, the approval holder must notify the **Department** in writing and provide **completion data**.

Part C - Definitions

17. In these conditions, except where contrary intention is expressed, the following definitions are used:
- a. **Business days** means a day that is not a Saturday, a Sunday or a public holiday in the state or territory of the action.
 - b. **Clearing/clear** means the cutting down, felling, thinning, logging, removing, killing, destroying, poisoning, ringbarking, uprooting or burning of vegetation (but not including weeds – see the *Australian weeds strategy 2017 to 2027* for further guidance).
 - c. **Commencement of the action** means the first instance of any specified activity associated with the action including clearance of vegetation and **construction** of any infrastructure. Commencement does not include minor physical disturbance necessary to:
 - i. undertake pre-clearance surveys or monitoring programs;
 - ii. install signage and /or temporary fencing to prevent unapproved use of the project area; and
 - iii. protect environmental and property assets from fire, weeds and pests, including erection or **construction** of fencing and signage, and maintenance or use of existing surface access tracks where these protective actions have been pre-agreed by the Department in writing..
 - d. **Completion data** means an environmental report and spatial data information clearly detailing how the conditions of this approval have been met. The **Department's** preferred spatial data format is shapefile.
 - e. **Completion of the action** means all specified activities associated with the action have permanently ceased.
 - f. **Compliance records** means all documentation or other material in whatever form required to demonstrate compliance with the conditions of approval in the approval holder's possession or that are within the approval holder's power to obtain lawfully;
 - g. **Compliance reports** means written reports:
 - i. providing accurate and complete details of compliance, **incidents**, and non-compliance with the conditions and the **plans**;
 - ii. consistent with the **Department's Annual Compliance Report Guidelines (2014)**;
 - iii. include a shapefile of any clearance of any **protected matters**, or their habitat, undertaken within the relevant 12 month period; and
 - iv. annexing a schedule of all **plans** prepared and in existence in relation to the conditions during the relevant 12 month period.

- h. **Department** means the Australian Government agency responsible for administering the **EPBC Act**.
- i. **EPBC Act** means the *Environment Protection and Biodiversity Conservation Act 1999* (Cth).
- j. **Incident** means any event which has the potential to, or does, impact on **protected matter(s)**.
- k. **Independent audit**: means an audit conducted by an independent and **suitably qualified person** as detailed in the *Environment Protection and Biodiversity Conservation Act 1999 Independent Audit and Audit Report Guidelines* (2015).
- l. **Monitoring data** means the data required to be recorded under the conditions of this approval.
- m. **Minister** means the Australian Government Minister administering the **EPBC Act** including any delegate thereof.
- n. **Ministerial Statement 1085** means the Ministerial Statement number 1085 granted by Minister for Environment; Disability Services Deputy Leader of the Legislative Council on 26 October 2018 under section 45 of the *Environmental Protection Act 1986* (WA) or as updated or replaced from time-to-time.
- o. **Native vegetation** means the flora in the areas designated as 'Marri forest', 'Melaleuca woodland', 'regenerating farmland with *Xanthorrhoea brunonis*', 'sedgeland', 'flooded gum-Melaleuca-pine woodland over sedgeland' and 'Jarrah-Marri woodland' in Attachment A.
- p. **Offset attributes** is an excel file ('.xls') capturing relevant attributes of the offset area, including the corresponding **EPBC Act** reference ID number, the physical address of the offset area, coordinates of the boundary points in decimal degrees, the **EPBC Act** protected matters that the offset area compensates, any additional **EPBC Act** protected matters which benefit from the offset area, the size of the offset area in hectares and the legal mechanism used to protect and conserve the offset area.
- q. **Pine plantation** means the trees in the areas designated as 'pine plantation' and 'pine plantation with flooded gum' in Attachment A.
- r. **Project area** is the area marked with a blue boundary line designated as 'Albemarle Kemerton Plant Development Envelope' in Attachment A.
- s. **Protected matter** means a matter protected under a controlling provision in Part 3 of the **EPBC Act** for which this approval has effect including Carnaby's Black Cockatoo (*Calyptohynchus latirostris*), Forest Red-Tailed Black Cockatoo (*Calyptohynchus banksii naso*), Baudin's black cockatoo (*Calyptohynchus baudinii*), Banksia Woodlands of the Swan Coastal Plain Ecological Community, Glossy-Leafed Hammer Orchid (*Drakaea elastica*), Dwarf Bee-Orchid (*Diuris micrantha*) and Dwarf Hammer Orchid (*Drakaea micrantha*).
- t. **Sensitive ecological data** means data as defined in the Australian Government Department of the Environment (2016) *Sensitive Ecological Data – Access and Management Policy V1.0*.
- u. **Shapefile** is an ESRI shapefile containing '.shp', '.shx' and '.dbf' files, a '.prj' file or specification of the projection/geographic coordinate system used and other files capturing attributes of the offset area, including the shape, **EPBC Act** reference ID number and **EPBC Act** protected matters present at the relevant site. Attributes should also be captured in '.xls' format.
- v. **website** means a set of related web pages located under a single domain name attributed to the approval holder and available to the public.

ATTACHMENTS

1. Attachment A

