



## APPROVAL

### Lots 4 and 5 Ludlow Road Limestone Extraction, Myalup, WA (EPBC 2019/8388)

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)	B. & J. CATALANO PTY LTD
ACN or ABN of approval holder	ACN 008 961 975
Action	The expansion of existing limestone extraction operations on Lots 4 and 5 Ludlow Road, Myalup, approximately 50 km north of Bunbury, WA

#### Proposed Approval decision

My decisions on whether or not to approve the taking of the action for the purposes of each controlling provision for the action are as follows.

#### Controlling Provisions

Wetlands of international importance	
Section 16	Approve
Section 17B	Approve
Listed Threatened Species and Communities	
Section 18	Approve
Section 18A	Approve
Listed migratory species	
Section 20	Approve
Section 20A	Approve

#### Period for which the approval has effect

This approval has effect until 31 December 2052

**Conditions of approval**

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

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## ANNEXURE A – CONDITIONS OF APPROVAL

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### Part A – Conditions specific to the action

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#### Carnaby's Black Cockatoo

1. To avoid and mitigate impacts to the **Carnaby's Black Cockatoo**, the approval holder must implement **Management Conditions 1-10** of clearing permit **CPS 8057/1**.
2. If **Management Conditions 1-10** of clearing permit **CPS 8057/1** are updated or otherwise changed, the approval holder must notify the **Department** within one month of the change.
3. To avoid and mitigate impacts to the **Carnaby's Black Cockatoo** the approval holder must not:
  - a. **clear** outside the boundaries of the **project area**;
  - b. **clear** any **Tuart trees**, which are outside of the clearing footprint shown in pink in Attachment 3; and
  - c. **clear** more than 7.4 hectares of **Carnaby's Black Cockatoo habitat**.
4. Within 12 months of the **commencement of the action**, the approval holder must provide the **Department** with written evidence that a **conservation covenant** has been executed over the **offset area**.
5. To mitigate and offset impacts to the **Carnaby's Black Cockatoo** the approval holder must implement the **Revegetation Plan** to revegetate at least 18 ha of land with species that are known to provide **Carnaby's Black Cockatoo habitat**. The approval holder must re-establish a self-sustaining vegetation cover, consistent with the surrounding ecosystem, which provides **Carnaby's Black Cockatoo habitat**. The approval holder must:
  - a. Begin revegetation within the entire 10.6 ha **offset area** within 6 months of **commencement of the action**.
  - b. Begin revegetation of at least 7.4 hectare of land within the **project area** within 6 months of **completion of extraction** and no later than 12 years from **commencement of the action**.
  - c. Not plant flora species identified as **Carnaby's Black Cockatoo habitat** within 10 metres of the edge of any sealed road to reduce the risk of vehicle strike.
  - d. Only cease revegetation works once a **suitably qualified ecologist** has verified, in a written report accepted by the **Department**, that at least 18 ha of revegetation meets the **completion criteria** prescribed in the **Revegetation Plan**.
  - e. Once the **completion criteria** have been achieved the approval holder must inspect all areas of revegetation once every 2 years, during Spring, for at least a further 10 years to ensure the **completion criteria** are being maintained. Within 20 **business days** of each inspection the approval holder must submit to the Department a written report demonstrating whether or not the **completion criteria** have been maintained.
  - f. Undertake **corrective actions** to improve vegetation quality within the revegetated areas within 3 months of becoming aware that an area of revegetation no longer meets the **completion criteria**. Corrective actions may cease once a **suitably qualified ecologist** has verified, in a written report accepted by the **Department**, that the **completion criteria** have again been achieved.
6. If the fifth verification report by a **suitably qualified ecologist** required under Condition 5(e) advises that less than 18 ha of revegetation meets the **completion criteria**, the approval holder must provide, within 20 **business days** of submission of the fifth verification report, written notification to the **Department**, providing details including:

- a. the total area of revegetation that fails to meet the **completion criteria**;
- b. how the approval holder will address any shortfall in revegetation through the provision of additional offset(s); and
- c. how the additional offset(s) are suitable for offsetting impacts to **protected matters**.

Any additional offset(s) must be approved by the **Department** in writing prior to their being accepted as an offset under these conditions. Any **offset areas** purchased by the approval holder must be managed for the conservation of **protected matters** for a period of no less than 20 years. An appropriate **conservation covenant** is to be in place within two years of the offset being approved by the Department (or another period agreed in writing by the **Department**).

- 7. To offset the loss of two potential **habitat trees**, the approval holder must install two **Carnaby's Black Cockatoo nest boxes** in undisturbed vegetation, adjacent to the **project area**, for **Carnaby's Black Cockatoo** nesting. The two **Carnaby's Black Cockatoo nest boxes** must be installed and maintained until at least until the end date of the period for which this approval has effect.

### Shorebirds and Ramsar Wetlands

- 8. To avoid and mitigate impacts to **shore birds** and Peel-Yalgorup System Ramsar Wetland the approval holder must:
  - a. ensure that no activities associated with the action occur within 200 metres of **Lake Preston**;
  - b. maintain at least a 4 metre vertical separation between the lowest point of the **pit floor** and the **groundwater level**, and ensure that the **pit floor** is no lower than 6 metres **AHD**, as shown in Attachment 2;
  - c. not undertake dewatering within the **project area**;
  - d. leave no standing water after the **completion of extraction**; and
  - e. contain within the **project area** all surface water runoff that originates within the **project area**.
- 9. If at any point during **extraction**, the **groundwater level** is intersected, the approval holder must:
  - a. stop **extraction** and report the **incident** to the **Department** in writing, as soon as practicable and no later than within two **business days** of the **incident**;
  - b. install a monitoring bore between the **project area** and **Lake Preston** at an appropriate location down hydraulic gradient from the **project area** to measure the **groundwater level**; and
  - c. not recommence **extraction** until the **Department** has confirmed in writing, having considered any evidence provided, that a minimum 4 meter vertical separation between the lowest point of the **pit floor** and **groundwater level** has been restored and will be maintained during all future **extraction** activities.
- 10. To prevent hydrocarbons or other contaminants from impacting the Peel-Yalgorup System Ramsar Wetland, only **minor servicing** of vehicles or plant can be undertaken within the **project area**. Any **minor servicing** activities must be undertaken in accordance with the *Western Australian Water Quality Protection Guidelines* No's 6, 7, 10 and 11, or subsequent revised currently official version. Management measures that must be implemented by the approval holder include but are not limited to:
  - a. all refuelling pipework must be of the 'snap-on-fast fill' type or auto-shut-off nozzles;
  - b. all vehicles must be serviced and refuelled within a contained and bunded area;

- c. any spills must be contained within the **project area**, mitigated and recorded;
- d. there must be no storage of fuels, lubricants or other toxic or hazardous chemicals within the **project area**;
- e. servicing of any vehicle must not take place within the **buffer**;
- f. prior to servicing, a suitably sized spill mat or drip tray must be placed under the vehicle to be serviced to capture any leaks or spills.
- g. servicing of vehicles must consist of the direct vacuuming of any waste fluids from the engine of the vehicle being serviced to a waste oil tank on the service truck
- h. a drip tray or drum, that ensures no spillage, must be placed under the oil filter of the vehicle being serviced prior to removal of the oil filter;
- i. any material captured in the drip tray or drum during the course of servicing must be disposed of into the waste facility of the service truck, removed off-site and disposed of at an appropriately licenced waste facility; and
- j. spill kits must be kept on all service trucks at all times, when servicing vehicles or plant on site and immediately deployed to clean up and remove any spilled hydrocarbons or other contaminants.

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## **Part B – Standard administrative conditions**

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### **Notification of date of commencement of the action**

- 11. 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**.
- 12. 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**

- 13. The approval holder must maintain accurate and complete **compliance records**.
- 14. 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.
- 15. Such records may be subject to audit by the **Department** or an independent auditor in accordance with section 45s 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.

### **Preparation and publication of plans**

- 16. The **approval holder** must:
  - a. publish the approved **Revegetation plan** on the **website** within 20 **business days** of **commencement of the action**, unless otherwise agreed to in writing by the **Minister**; and
  - b. keep **Revegetation Plans** published on the **website** until the end date of this approval.
- 17. The approval holder must ensure that any **monitoring data** (including **sensitive ecological data**), surveys, maps, and other spatial and metadata required under a **plan**, is prepared in accordance with the **Department's Guidelines for biological survey and mapped data** (2018) and submitted electronically to the **Department** in accordance with the requirements of the **plan**.

### Annual compliance reporting

18. The approval holder must prepare a **compliance report** for each 12 month period following the date of **commencement of the action**, or otherwise in accordance with an annual date that has been 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** and provide the weblink for the **compliance report** within five **business days** of the date of publication and provide documentary evidence of the date of publication on the website;
  - 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 five **business days** of publication.

### Reporting non-compliance

19. 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. any condition which is or may be in breach;
  - b. a short description of the **incident** and/or non-compliance; and
  - c. the location (including co-ordinates), date, and time of the **incident** and/or non-compliance. In the event the exact information cannot be provided, provide the best information available.
20. 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

21. The approval holder must ensure that **independent audits** of compliance with the conditions are conducted as requested in writing by the **Department**.
22. 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.
23. 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.

## Revision of action management plans

24. The approval holder may, at any time, apply to the **Minister** for a variation to an action management plan approved by the **Minister** under condition 5, or as subsequently revised in accordance with these conditions, by submitting an application in accordance with the requirements of section 143A of the **EPBC Act**. If the **Minister** approves a revised action management plan (RAMP) then, from the date specified, the approval holder must implement the RAMP in place of the previous action management plan.

## Completion of the action

25. Within 20 **business days** after whichever is the earlier of
- the **completion of the action**, or
  - 60 **business days** before the end date of the period for which this approval has effect, the approval holder must notify the **Department** in writing of the date of the **completion of the action** and submit all **completion data** to the **Department**.

If the **completion of the action** is unlikely to occur before the end date of the period for which the approval has effect, the approval holder must submit to the **Department**, before the end date of the period for which the approval has effect, a request, in accordance with the requirements of section 145C of the **EPBC Act**, to extend the period of effect of the approval.

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## Part C - Definitions

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In these conditions, except where contrary intention is expressed, the following definitions are used:

**Action management plan/s (strategy/s)** is the approved **Revegetation Plan** or any plan approved by the **Department** for the purpose of avoiding, mitigating or offsetting the impacts to **protected matters**.

**AHD** is the abbreviation for elevation in metres with respect to the Australian Height Datum (zero elevation is set at mean sea level)

**Buffer** means an exclusion zone between the **project area** boundary and the Ramsar wetland boundary as shown in Figure 1: Site and Surrounds.

**Business day** means a day that is not a Saturday, a Sunday or a public holiday in the state or territory of the action.

**Carnaby's Black Cockatoo/s** means the EPBC Act Listed endangered Carnaby's Black Cockatoo (*Calyptorhynchus latirostris*)

**Carnaby's Black Cockatoo habitat** includes foraging, breeding, potential breeding and roosting habitat for **Carnaby's Black Cockatoo**, as defined in the *EPBC Act Referral Guidelines for three species of Western Australian black cockatoos: Carnaby's Black Cockatoo (Calyptorhynchus latirostris), (Endangered) Baudin's Black Cockatoo (Calyptorhynchus baudinii) (Vulnerable) and Forest Red-tailed Black Cockatoo (Calyptorhynchus banksii naso) (Vulnerable)* (October 2012).

**Carnaby's Black Cockatoo nest boxes** means any constructed, artificial nesting hollow demonstrated to be an effective substitute for natural nest hollows for **Carnaby's Black Cockatoo**.

**Clear, cleared or clearing** 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)

**Clearing permit CPS8057/1** means the clearing permit granted to B and J Catalano by the Government of Western Australia under section 51E of the *Environmental Protection Act 1986* on 28 April 2020.

**Commencement of the action** means the first instance of any specified activity associated with the action including clearing of vegetation and **construction** of any infrastructure. **Commencement of the action** 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;
- iii. protect environmental and property assets from fire, weeds and pests, including **construction** of fencing, and maintenance of existing surface access tracks;
- iv. install temporary site facilities for persons undertaking pre-commencement activities so long as these are located where they have no impact on the **protected matters**.

**Completion criteria** means that the revegetated areas will have the characteristics prescribed in *Table 2: Closure criteria, objectives and interim targets* of the **Revegetation Plan**.

**Completion data** means an environmental report and spatial data clearly detailing how the conditions of this approval have been met. The **Department's** preferred spatial data format is **shapefile**.

**Completion of extraction** means the time at which all **extraction** activities within the **project area** are completed.

**Completion of the action** means the time at which all approval conditions (except this condition) have been fully met.

**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.

**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.

**Conservation covenant** means one of the following legally binding mechanisms which is executed by the person taking the action, registered on the title and implemented for the purpose of protecting an area of land, in perpetuity, from impacts that might diminish its ecological value and offsetting the residual impacts of the action:

- a conservation covenant under section 30 B of the *Soil and Land Conservation Act 1945*
- any other method approved by the **Department**.

**Department** means the Australian Government agency responsible for administering the **EPBC Act**.

**EPBC Act** means the *Environment Protection and Biodiversity Conservation Act 1999* (Cth).

**Extraction** is the removal of limestone and other material for limestone mining.

**Groundwater level** is the level represented by the highest point of the saturation zone

**Habitat trees** are trees suitable for breeding, roosting and foraging as defined in the *EPBC Act Referral Guidelines for three species of Western Australian black cockatoos: Carnaby's Black Cockatoo (Calyptorhynchus latirostris), (Endangered) Baudin's Black Cockatoo (Calyptorhynchus*



*baudinii*) (Vulnerable) and Forest Red-tailed Black Cockatoo (*Calyptorhynchus banksii naso*) (Vulnerable) (October 2012).

**Impact/s** means the definition assigned to it in section 527E of the *Commonwealth Environment Protection and Biodiversity Conservation Act 1999*.

**Incident** means any event which has the potential to, or does, impact on one or more **protected matter/s**.

**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* (2019).

**Lake Preston** means Lake Preston, WA part of the Peel-Yangorup System Ramsar wetland. The outer boundary of **Lake Preston** is defined by the high watermark.

**Management Conditions 1-10** means Conditions 1 through to 10 of the Western Australian Government Department of Water and Environmental Regulations **Clearing Permit CPS8057/1** granted to the approval holder under section 51E of the *Environmental Protection Act 1986*.

**Minor servicing** means any routine maintenance, refuelling, safety checks or necessary repairs such as tyre changes.

**Monitoring data** means the data required to be recorded under the conditions of this approval.

**Minister** means the Australian Government Minister administering the **EPBC Act** including any delegate thereof.

**Monitoring bore** means a bore(s) constructed for the purpose of, and capable of, assessing changes to **groundwater levels** that may result from the action or other hydrological influences.

**Native vegetation** means any vegetation endemic to the bioregion, especially vegetation that provides habitat for the **Carnaby's Black Cockatoo**.

**Offset area** means the 10.6 hectare area at Lot 17 shown in Attachment 5 or any other land purchased by the approval holder and set aside for rehabilitation with **native vegetation** for the purpose of offsetting impacts to **Carnaby's Black Cockatoos**.

**Pit floor** means the lowest point of the extraction area.

**Plan(s)** means any of the documents required to be prepared, approved by the **Minister**, and/or implemented by the approval holder and published on the **website** in accordance with these conditions (includes **action management plans** and/or strategies).

**Preliminary Documentation** means the final version of the Preliminary Documentation-set provided to the Department on 9 September 2020 and published for public information on 10 September 2020.

**Project area** is the 12.6 ha area of land within Lots 4 and 5 Ludlow Road, Myalup, WA as outlined in pink at Attachment 3 (labelled as proposed extraction area).

**Protected matter** means a matter protected under a controlling provision in Part 3 of the **EPBC Act** for which this approval has effect.

**Revegetation Plan** is the document entitled Revegetation Plan; Lot 4 and 5 Ludlow Road, Myalup Shire Of Harvey, version 2, dated 7 October 2020, authored by Lundstrom Environmental Consultants Pty Ltd, which was provided to the Department on 7 October 2020 and approved on 9 October 2020; or as revised under these conditions.

**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*.

**Shapefile** means location and attribute information of the action provided in an Esri shapefile format. Shapefiles must contain '.shp', '.shx', '.dbf' files and a '.prj' file that specifies the projection/geographic coordinate system used. Shapefiles must also include an '.xml' metadata file that describes the shapefile for discovery and identification purposes.

**Shore** means the high water mark surrounding Lake Preston.

**Shore birds** means the following listed threatened and/or migratory shorebird species:

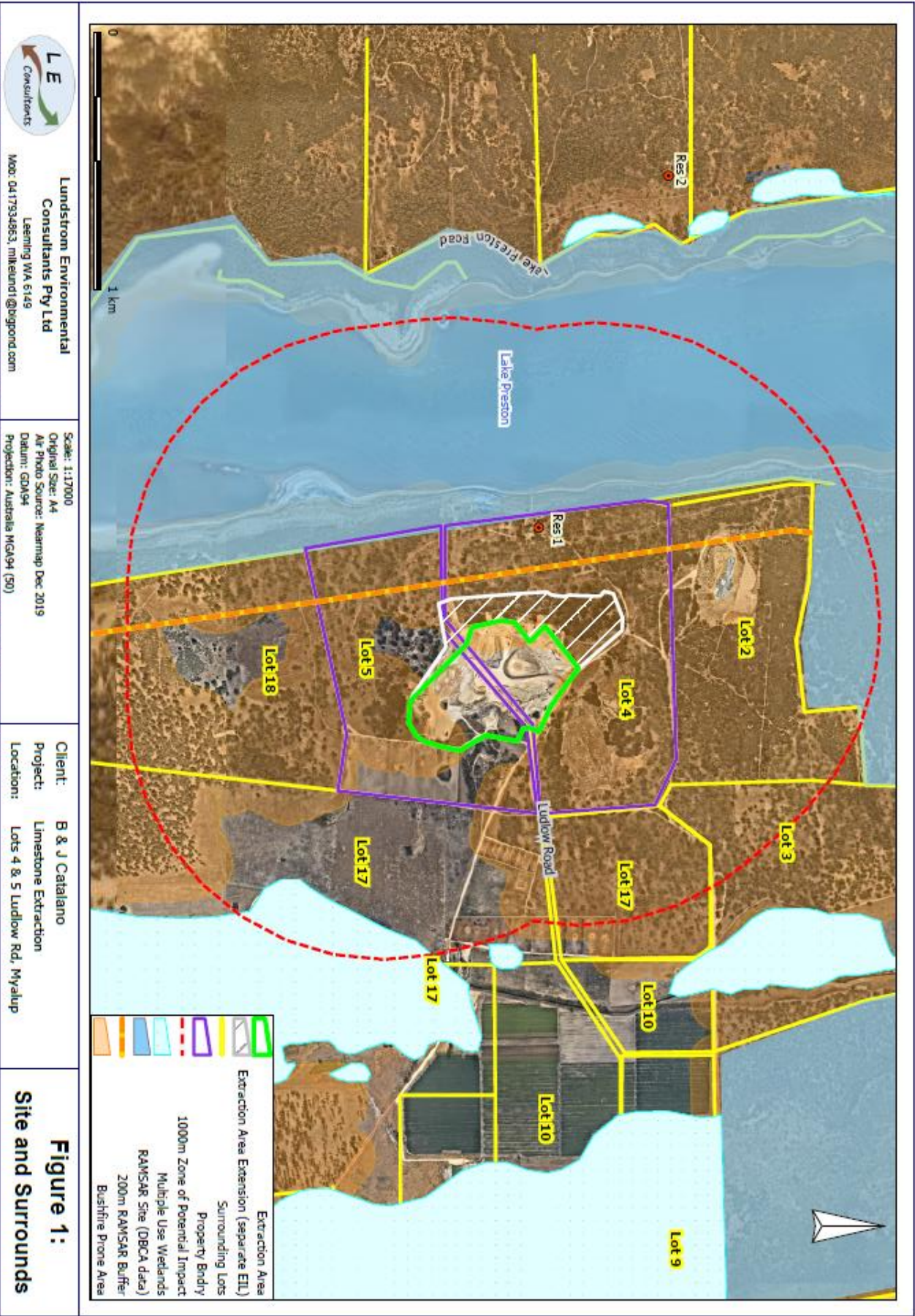
- Curlew Sandpiper (*Calidris ferruginea*) - critically endangered, migratory
- Great Knot (*Calidris tenuirostris*) - critically endangered, migratory
- Greater Sand Plover (*Charadrius leschenaultii*) - vulnerable, migratory
- Lesser Sand Plover (*Charadrius mongolus*) - endangered, migratory
- Eastern Curlew (*Numenius madagascariensis*) - critically endangered, migratory
- Bar-tailed Godwit (Baueri) (*Limosa lapponica baueri*) – vulnerable
- Red-necked Stint (*Calidris ruficollis*) – migratory.

**Standing water** means any water exposed above the pit floor for more than 24 hrs after a rain event.

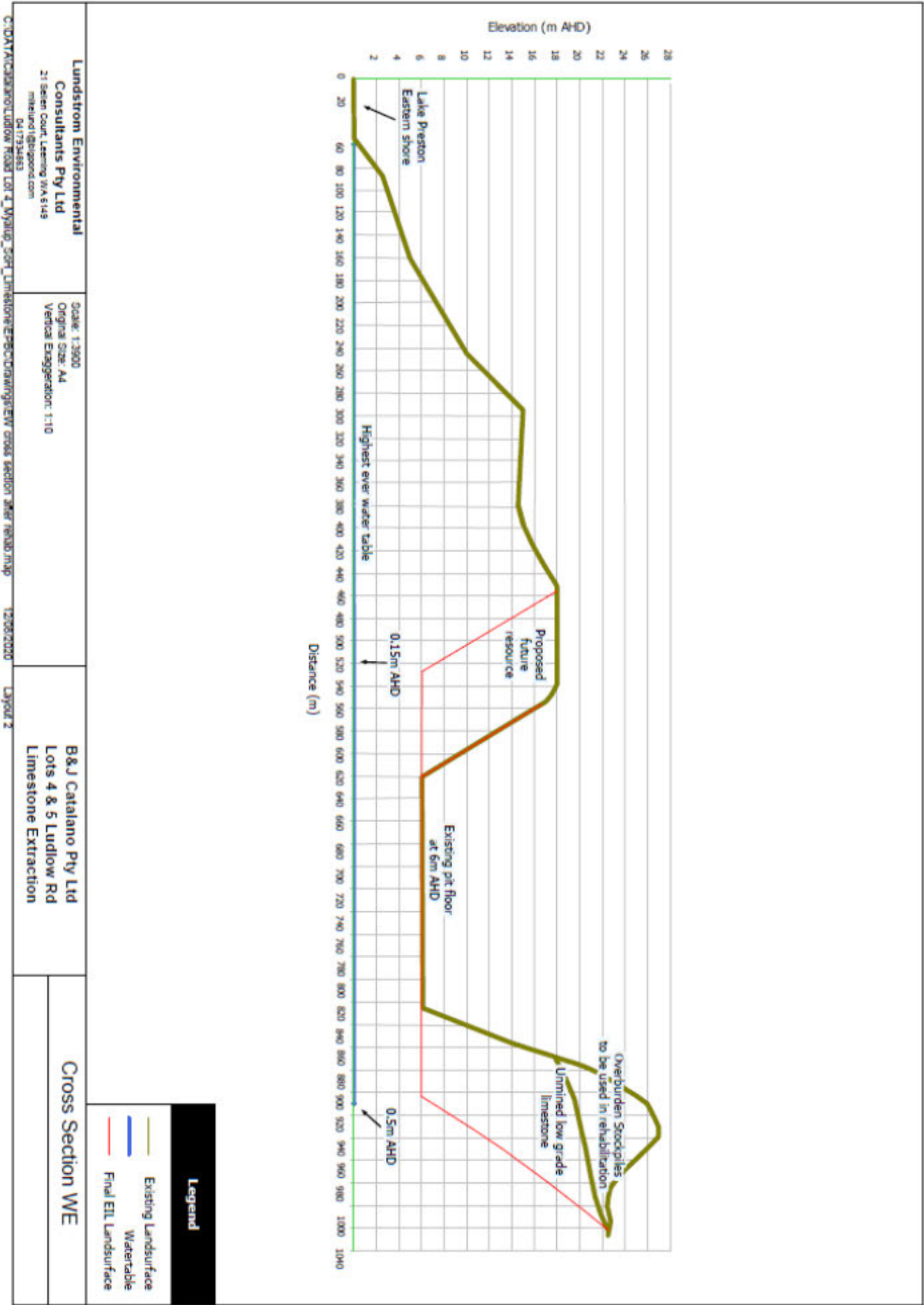
**Suitably qualified person** means a person who has professional qualifications and at least five years of relevant work experience in horticultural practices, tree establishment and plant identification in the Western Australian region and who can give authoritative assessment, advice and analysis on performance relative to the subject matter using relevant protocols, standards, methods or literature. If the person does not have appropriate professional qualifications, the person must have at least ten years of work experience related to the subject matter and can give an authoritative assessment, advice and analysis on performance relative to the subject matter using relevant protocols, standards, methods or literature.

**Tuart trees** means mature trees of the species *Eucalyptus gomphocephala*.

**Website** means a set of related web pages located under a single domain name attributed to the approval holder and available to the public.

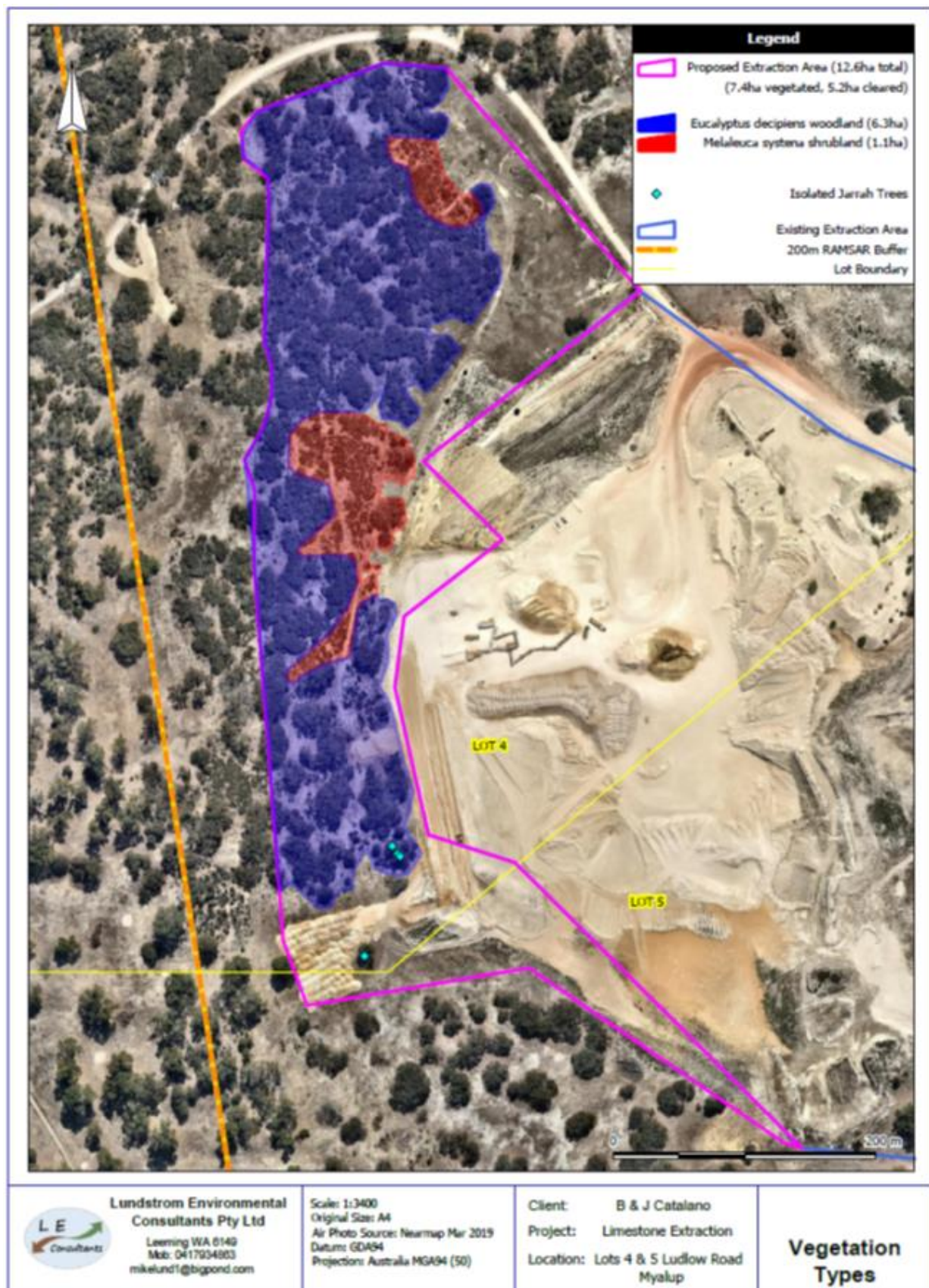


Attachment 2





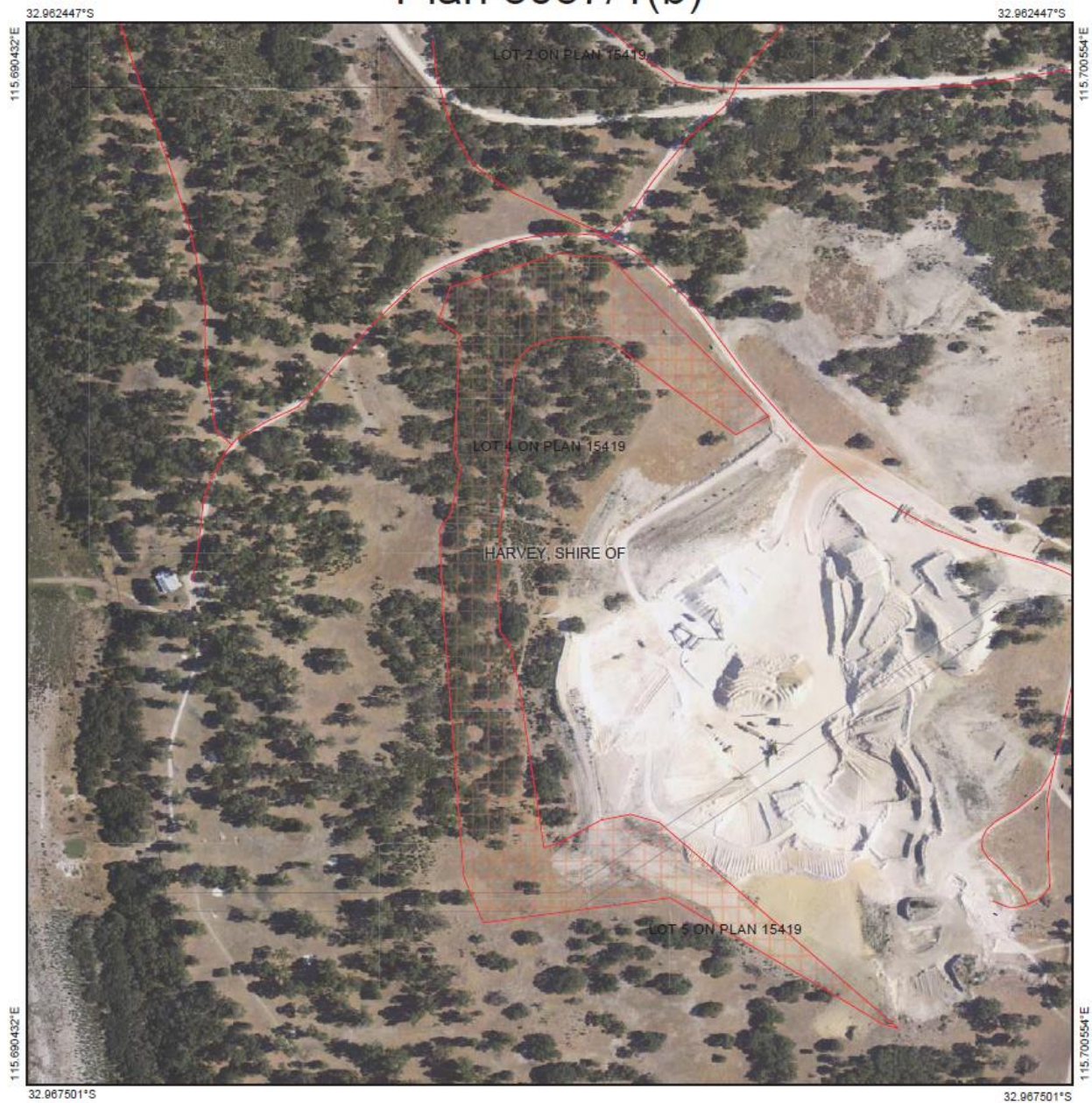
### Attachment 3





**Attachment 4**

# Plan 8057/1(b)



## Legend

-  Clearing Instruments Conditions
-  Imagery
-  Local Government Authority
-  Roads




1:5,013

(Approximate when reproduced at A4)

GDA 94 (Lat/Long)

Geocentric Datum of Australia 1994

 Date 28 April 2020...

Richard Newman  
Officer with delegated authority under Section 20 of the Environmental Protection Act 1986



GOVERNMENT OF  
WESTERN AUSTRALIA  
WA Crown Copyright 2020



## Attachment 5

