



Decision Statement

REF CM9 file no.	DOC24/137887 and DOC24/137887-19
Title of proposal:	Gardens of Stone Multi-Day Walk Section One (as modified)
Park name:	Gardens of Stone State Conservation Area
Proponent:	Toby Settree, Acting Area Manager Kanangra Area

Based on the Review of Environmental Factors (REF), the Addendum Report to the REF and any additional information obtained, and after having taken into account to the fullest extent possible all matters likely to affect the environment as a result of the proposed activity (in accordance with section 5.5 of the *Environmental Planning and Assessment Act 1979*), **I hereby determine that:**

Activity to proceed

Further information/assessment is not required:

- an Environmental Impact Statement (EIS) is **not** required as the activity is not likely to significantly affect the environment
- a Species Impact Statement (SIS) is **not** required as the activity is not proposed to occur on land that is part of an area of outstanding biodiversity value or critical habitat, and is not likely to significantly affect threatened species or ecological communities, or their habitats.

The activity may proceed, subject to the conditions specified in the attached Schedule 1 and subject to any necessary approvals (if approval required under other legislation) being obtained first.

Related matters

Further, it is considered that the proposed activity:

- **is unlikely to** impact significantly on matters of **National Environmental Significance** under the Commonwealth *Environment Protection and Biodiversity Conservation (EPBC) Act 1999*.
- **is unlikely to** impact significantly on **local council infrastructure**, including roads, water, sewer and stormwater, **local heritage items** listed by the council, and **flood liable land**.
 - a record of any required consultation with the appropriate council has been provided.
- **will not** require certification to Building Code of Australia or Australian Standards in accordance with the NPWS *Construction Assessment Procedures*

Recommendation for determination

NPWS Area Manager recommendation:

Name: Toby Settree, A/Manager, Kanangra Area

Name: Tobias Settree

Signature: **Date: 13 February 2025**

Date: 13 February 2025

Determination

I certify that I have reviewed and endorsed the contents of this REF and the Addendum Report and, to the best of my knowledge, both are in accordance with the EP&A Act, the EP&A Regulation and the Guidelines approved under section 170 of the EP&A Regulation, and the information it contains is neither false nor misleading.

Name: Lisa Menke, A/Director Blue Mountains Branch

Name: Lisa Menke

Signature: **Date: 13 February 2025**

Date: 13 February 2025

Schedule 1: Conditions of Determination

REF CM9 file no.	DOC24/137887-19
Title of proposal:	Gardens of Stone Multi-Day Walk Section One
Park name:	Gardens of Stone State Conservation Area
Proponent:	Area Manager, Kanangra Area
NPWS Branch:	Blue Mountains Branch

GENERAL INFORMATION ABOUT THIS DETERMINATION

References to the Review of Environmental Factors

All references to the Review of Environmental Factors are references to the following documents:

- Review of Environmental Factors: Gardens of Stone Multi-Day Walk, Section One, prepared by Lesryk Environmental Pty Ltd, dated February 2024, and determined in April 2024 inclusive of:
 - Flora and Fauna Biodiversity Assessment Report, prepared by Lesryk Environmental Pty Ltd, dated August 2023
 - Aboriginal Cultural Heritage Due Diligence Report, prepared by Kelleher Nightingale Consulting, dated July 2023
 - Gardens of Stone Multi-Day Walk Protected Matters Search Tool Report, obtained by Lesryk Environmental Pty Ltd, in August 2023
 - Scope of works, prepared by NPWS in July 2023
 - Fisheries Management Act s.199 Referral – Gardens of Stone Multi-Day Walk Section One, dated March 2024.
- Addendum Report: Modification of a Determined Review of Environmental Factors - Gardens of Stone Multi-Day Walk, Section One, prepared by Lesryk Environmental Pty Ltd, dated 29 January 2025 inclusive of:
 - Revised figures (Appendix A of the Addendum Report), dated December 2024
 - Slope Risk Assessment for Gardens of Stone Multi-Day Walk (Appendix B of the Addendum Report), prepared by Jacobs Group (Australia) Pty Ltd, dated 18 October 2024
 - NPWS Tree risk management procedures (Appendix C to the Addendum Report), prepared by NPWS in October 2019
 - Photographic record (Appendix D of the Addendum Report), dated October 2024
 - Gardens of Stone State Conservation Area, NSW: Aboriginal Heritage Assessment (Appendix E of the Addendum Report), prepared by Kelleher Nightingale Consulting Pty Ltd, dated 27 November 2024
 - Impact assessment (Appendix F of the Addendum Report), prepared by Lesryk Environmental Pty Ltd, dated December 2024.

Responsibilities of the proponent

The proponent is responsible for the manner in which the activity detailed in the REF and this determination is performed.

DETERMINATION CONDITIONS

Duration and scope of determination

1. The proponent must have commenced the activity within 5 years from the date of determination.
2. This determination only applies to those parts of the activity as identified in the Review of Environmental Factors that will be undertaken within the Gardens of Stone State Conservation Area at the locations indicated in Figure A in the Gardens of Stone Multi-Day Walk Section One Review of Environmental Factors Addendum. The proponent must determine whether any other approvals are required for any associated works that are to occur outside this area, including any works in other parts of the Gardens of Stone State Conservation Area or outside the Gardens of Stone State Conservation Area.

Emergency works

3. Notwithstanding any other conditions of this determination, in the event that emergency works are required, the applicant must take all reasonable steps to ensure that these occur as expeditiously as possible. Emergency works are generally works of a temporary and reversible nature which are urgently required to arrest an imminent threat to life, safety, public liability, and/or threat to fabric or property.
4. In the event that emergency works are undertaken the applicant must notify the Environment Line on 131555 as soon as practicable. Once notification has been made, the applicant must contact the Blue Mountains Branch Director or delegate to seek direction on any further procedures to be implemented.

Undertaking the activity

5. The 'activity' detailed in the REF must be undertaken:
 - at the location identified in the REF as modified by the REF addendum
 - in accordance with the description of the activity and environmental safeguards or mitigation measures listed in the REF
 - as required or amended by the conditions of this determination.
6. In the event of any inconsistency between the REF and the conditions of this determination, the conditions of the determination shall prevail.
7. This determination, and the conditions of this determination, do not relieve the applicant of any obligation to obtain other statutory approvals necessary to undertake the activity, including but not limited to any approvals required under the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999*.
8. The applicant must undertake the activity in accordance with the requirements of the *Work Health and Safety Act 2011*, including codes of practice adopted under the Act, and the *Work Health and Safety Regulation 2017*. Any contractors on the site are to have appropriate insurances, including public liability insurance.

Prior to commencement of activity conditions

Approvals and compliance

9. Prior to the commencement of the activity, the proponent must carry out, seek or obtain the following:
 - Fisheries Management Act cl.199 Referral (see Appendix E)
 - Aboriginal Cultural Heritage Due Diligence Aboriginal Heritage Assessment Review – 28 day review period (see Appendix B)
 - site assessments to identify if the Small Pale Grass-Lily intersects the track's alignment, with re-alignments to be considered to minimise impacts.

DECISION STATEMENT FOR: GARDENS OF STONE MULTI-DAY WALK SECTION 1
(AS MODIFIED)

- consultation with a qualified archaeologist to review detailed track design in areas proximate to identified Aboriginal Cultural Heritage sites.
10. Prior to the commencement of the activity, the proponent must comply with any other relevant requirements of this determination, including submission and approval of:
- A communication and incident response plan (see Condition 14)
 - A construction environmental management plan
 - An erosion and sediment control plan.
11. Prior to the commencement of the activity the proponent (including any employees, contractors, subcontractors and agents involved in undertaking the activity) must hold an onsite meeting with the project manager (or delegate).

Certification of building and infrastructure works prior to commencement

12. For those proposed works that do not require certification under the NPWS Construction Assessment Procedure, the proponent must still ensure that the activity is undertaken in accordance with any relevant requirements to the Building Code of Australia, Disability (Access to Premises – Buildings) Standards or Australian Standards, and is safe and fit for the intended purpose.

Environmental Management Plan

13. The proponent must comply with all environmental management measures identified in the REF (specifically the safeguards and mitigation measures in Section 9 of the REF, as modified in Appendix F of the REF Addendum Report).

Incident and emergency preparedness and management

14. A communication and incident response plan must be prepared prior to the commencement of the activity and kept on site by the proponent. The proponent must implement the plan. The content of the plan must detail procedures to be followed in the event of an emergency or similar event including bushfires.

Signage and public notification

15. At least 7 days before the activity commences, the proponent must erect signs at the park entrance or in the immediate vicinity of the activity site, detailing the location of closed areas. Signs must be visible and clearly identify the proponent and list:
- a map of the activity area and closed areas for the activity
 - duration of the activity
 - a contact telephone number for public enquiries.

Erosion and sediment control

16. The proponent must comply with all erosion and sediment controls identified in the Review of Environmental Factors. The controls must comply with the guidelines 'Managing urban stormwater: soils and construction (Landcom 2004)', and Section 5 *Tracks and Related Structures* of the 'Parks Facilities Manual (NPWS 2016)', as they apply to each specific location.

Vegetation management

17. The proponent must only clear vegetation identified in the REF and must maintain the ground cover vegetation.
18. In the event that mature or hollow-bearing trees require removal or management for safety reasons, all works must be completed in line with NPWS's tree risk management procedures. Any maintenance or management of high value trees will be completed with advice from a suitably qualified arborist and/or ecologist.

OPERATIONAL CONDITIONS

Availability of REF determination and conditions

19. A copy of the REF, this determination and attached schedule of conditions must be kept at the site to which the REF applies, and must be available for inspection by any employee or agent of the proponent working at the site or produced to any authorised officer of NPWS who asks to see it.
20. The REF, this determination and attached schedule of conditions must be published on the NSW Planning Portal or NSW Government's Environment website.

Discovery of unknown Aboriginal and historic heritage values

21. Should any Aboriginal objects be uncovered by the work, excavation or disturbance of the area:
 - work is to stop immediately;
 - Heritage NSW is to be informed in accordance with the *National Parks and Wildlife Act 1974*;
 - work may not commence unless approved by Heritage NSW.
22. The proponent must ensure that, if substantial intact archaeological deposits and/or state significant relics or any other buried fabric are found:
 - work must cease in the affected area(s);
 - the Heritage Council of NSW must be notified.

Additional assessment and approval may be required prior to works continuing in the affected area(s) based on the nature of the discovery.

Discovery of unknown biodiversity values

23. If, during the course of undertaking the activity, the applicant becomes aware of the presence of threatened species or endangered ecological communities, or their habitats, that were not identified and assessed in the REF and which are likely to be affected by the activity, the applicant must:
 - Immediately cease all work likely to affect the threatened species or endangered ecological communities, or their habitats;
 - Notifications must be made by telephoning the Environment Line on 131 555;
 - Inform the Blue Mountains Branch Director or delegate to seek direction on any further procedures to be implemented;
 - The proponent must provide written details of the notification to NPWS within 7 days of the date on which the incident occurred;
 - The proponent must not recommence work likely to affect the threatened species or endangered ecological communities, or their habitats until receiving written advice from NPWS and/or DPIRD Fisheries to do so.

Equipment and materials storage

24. The proponent must store any machinery, equipment or materials required for the activity in existing cleared areas or areas determined to be cleared in accordance with the REF.
25. At all times that the activity is not being undertaken, machinery, vehicles and equipment must be stored in a secure location with authorised access only.

Fire prevention and control

26. Machinery or equipment which may result in sparking or ignition must not be operated during a park fire ban for the Gardens of Stone State Conservation Area or a declared total fire ban for the zone which includes the Gardens of Stone State Conservation Area.

DECISION STATEMENT FOR: GARDENS OF STONE MULTI-DAY WALK SECTION 1
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27. The proponent must store fuel and other similar flammable materials, such as gas cylinders and paint, in appropriate fire-resistant storage containers.

Demolition

28. The applicant must carry out all demolition work in accordance with the provisions of relevant Australian Standards, including AS2601-2001 *Demolition of structures*. Any demolition works involving asbestos materials must also comply with the *Protection of the Environment Operations (Waste) Regulation 2014* with regard to handling and movement of asbestos material.

Waste management

29. Waste generated at the site from works undertaken as part of the activity must be managed in accordance with the *Protection of the Environment (Waste) Regulation 2014*.

30. Removal of any asbestos-containing material must be undertaken in accordance with *Code of practice: How to safely remove asbestos* published by SafeWork NSW in December 2022.

Operation hours & site access

31. Work can be conducted between the following hours: 6am-7pm, Monday to Saturday.

32. The proponent must take reasonable steps to limit restrictions on public access during the activity. Where access restrictions are required, such as in areas where works are underway, temporary barriers and appropriate signage must be erected by the proponent around the work area prior to commencement.

33. The proponent is to encourage staff and contractors involved in the activity to carpool to the site during the proposed activity.

Waterway protection

34. Except as may be expressly provided in any other condition of this determination, the applicant must comply with s.120 of the *Protection of the Environment Operations Act 1997*.

POST ACTIVITY CONDITIONS

Post-activity conditions

35. Within 7 days of any area being damaged by vehicular or other access to the site, the proponent must repair and rehabilitate such land to the satisfaction of the Blue Mountains Branch Director or delegate.

36. The applicant must only use locally sourced indigenous plant species for site restoration works, unless otherwise agreed in writing by the Kanangra Area Manager.