



Wingecarribee Shire Council Environmental Assessment Form

FRM-ENV-ALL-001

Old South Road – Proposed rehabilitation works – Stage 2

13/12/22



Introduction

- [Part 5](#) of the [Environmental Planning and Assessment Act 1979](#) (EP&A Act) deals with activities that do not require consent under Part 4 of the EP&A Act, and where an approval is required from a determining authority. These are often infrastructure proposals approved by local councils or State agencies. Part 5 provides for the environmental impact assessment (EIA) obligations of determining authorities to carry out, or approval of others carrying out activities. Part 5 does not apply to exempt or complying development. This form applies to the identification of exempt development and the assessment requirements under Division 5.1 of Part 5.

Council has a legal duty to consider environmental impact of activity

- Although development consent under Part 4 may not be required, the environmental impacts of the proposal still need to be assessed. Environment is defined in s.1.4 of the EP&A Act as including 'all aspects of the surroundings of humans, whether affecting any human as an individual or in his or her social groupings'.
- When deciding whether to grant approval for an activity under Division 5.1, a determining authority is obliged under section 5.5 of the EP&A Act to examine all matters that affect or are likely to affect the environment because of the activity. The authority must take these into account 'to the fullest extent possible'.
- Section 5.7 also requires the determining authority to determine whether an activity is likely to significantly affect the environment. If so, an environmental impact statement (EIS) and/or species impact statement (SIS) or biodiversity development assessment report (BDAR) will be required to be prepared and considered by the determining authority.

What is an 'activity'?

- For the purposes of Part 5 of the EP&A Act, an activity is defined as:
 - The use of land
 - The subdivision of land
 - The erection of a building
 - The carrying out of work
 - The demolition of a building or work
 - Anything else referred to in section 3.14 that is prescribed by the Regulations.

Activity does not mean:

- Anything for which development consent under Part 4 is required or has been obtained
- Anything that is prohibited under an Environmental Planning Instrument
- Exempt development
- Development carried out in compliance with a development control order
- Any development prescribed by the Regulations for the purposes of this definition.

Matters that do not require Part 5 assessment

- Section 5.4 of the EP&A Act expressly provides the following matters do not require consideration of environmental impact under Part 5:
 - Modifications of an activity where:
 1. The environmental impact of the activity has already been considered, and
 2. The modification will reduce its overall environmental impact.

- Routine activities (such as the maintenance of infrastructure) that the Minister for Planning has determined has a low environmental impact and that are carried out in accordance with a code approved by the Minister.
 - Activities (or parts of activities) that have been approved, or are to be carried out, by another determining authority after environmental assessment under Part 5.
- In addition, some environmental planning instruments (EPIs) identify certain types of 'exempt development' because of its minor impact. Under section 1.6 of the EP&A Act, exempt development may be carried out without the need for development consent under Part 4 of the EP&A Act and Part 5 of the EP&A Act does not apply to exempt development. The *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* makes clear that development described in that SEPP will not be exempt if it is carried out in declared areas of outstanding biodiversity value, wilderness areas or on land on which there is State Heritage.¹
 - Similarly, the Courts have also found that an activity such as herbicide spraying is not an activity under the EP&A Act (*Rundle v Tweed Shire Council* (1989) 68 LGRA 308).
 - When completing this form, the allocation of responsibilities to Council staff needs to be reasonable in the circumstances of the case. Staff members should be provided with access to appropriate resources to ensure that their assessment is adequate and accurate. The staff member may need to seek additional guidance from appropriate experts.

Table of changes

Version	Brief Description
V2	Formatting, review wording relating to Native Title; and strengthening of sign-off
V3	Review considering legislation changes relating to <i>Biodiversity Conservation Act 2016</i> , <i>Local Land Services Act 2013</i> , <i>Biosecurity Act 2015</i> and <i>State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017</i> .
V3	Update text to improve usability; and reference to delegated authority for sign-off.
V4	Reference to change in EP&A Act section no. & ISEPP exempt development criteria
V5	Modification throughout after legal review
V6	Review and additions to Part A4; and formatting and update hyperlinks throughout.
V7	Formatting; update hyperlinks; reference/links to guidelines etc.; additional guidance for determinations; reference to s.15AA SEPP Infrastructure 2007; references to ECM; legal review including relationship with s.7.8 of BC Act; update and modification of A2 Checklist.

¹ Note that the EP&A Act no longer specifies these restrictions and any restrictions therefore depend on the terms of the relevant EPI.

Details of Activity

Refer to Council's **Environmental Assessment Procedure under Part 5 of the Environmental Planning and Assessment Act** for procedural detail (see Intranet)

<p>Description of activity:</p>	<p>Wingecarribee Shire Council (WSC) plans to upgrade Old South Road between Merrigang Street in Bowral and Aylmerton Road in Mittagong, NSW.</p> <p>The project is being assessed and completed in two stages. Stage 1 works, between Merrigang Street and Range Road was assessed as part of a separate REF completed in 2021.</p> <p>The Proposed Activity for the purposes of this REF is Stage 2 works, between Range Road and Aylmerton Road.</p> <p>The proposed works include:</p> <ul style="list-style-type: none"> • Pavement reconstruction along the existing road, with existing base material to remain in-situ following stabilization activities; • Realignment of road geometry in limited areas with non conforming road geometry; • Improvements to the vertical geometry, to remove unnecessary hazards, undulations and blind spots. Predominantly the road sits approximately 200mm above existing levels; • Shoulder widening where constraints permit; • Any excavated materials are to be exported from the site; • Bulk Earthworks resulting from modifications to existing levels; • Guardrail installation; • Some tree removal and vegetation modification is required to accommodate the new road design; • Stormwater management structures including an Inquik bridge to improve drainage while minimizing impacts to aquatic species and habitats, and new headwalls in areas with less than the minimum required lane widths; • Access to private properties will be maintained at all times. Some access ways will be re-constructed to align with the new road surface.
--	--

	<ul style="list-style-type: none"> Relocation of services as required to accommodate the new road design, unless other safety measures are proposed. Appropriate revegetation and site rehabilitation measures will be implemented following road construction.
Reason for activity:	Old South Road acts as a local distributor road connecting the Old Hume Highway to rural and residential areas west of the Mittagong and Bowral town centres. The road presents as a rural road with large private holdings and sections of traffic volumes have increased in recent years as users have sought to avoid increasing congestion of town centers. The current annual average daily traffic estimate for Old South Road is 5,966 vehicles, and this is only expected to increase given significant land releases proposed or being developed in Mittagong, Bowral and Moss Vale.
Alternative options: 1. Describe alternative routes, locations or sites that would avoid or minimise environmental impact. 2. Comment why these were not the preferred option.	<p>No route alternatives exist, as Old South Road is already a highly used rural road. It was the first road leading into the Southern Highlands and the aim of this project is to improve road safety.</p> <p>The original proposed design for the widening of Old South Road was assessed as part of an earlier Draft Review of Environmental Factors. Internal review with Council staff decided that the project required significant changes in the design to reduce impacts to the stands of Endangered Ecological Communities, particularly in the northern section of the alignment.</p> <p>As such, the project was split in to two stages. Stage 1 in the south is dominated by exotic and horticultural plantings, and impacts to any native vegetation were minimal.</p> <p>Stage 2 works has been completely redesigned by Maker Engineering in consultation with Wingecarribee Shire Council to reduce impacts to EEC vegetation as much as possible whilst ultimately improving the overall safety of the road. This new design is presented and assessed in this REF.</p>
Location:	Old South Road, between Range Road and Aylmerton Road in Mittagong, NSW including compound site within Lot 841 DP 1253894 Lot 11 DP 1226788 (Mittagong Airfield) - see maps 1 to 19 attached.
Proposed hours of work:	Normal Council Work Hours. 7am-5pm Monday-Friday, reduced Saturday

1. Normal hours are 7am to 5pm Monday to Friday and 8am to 1pm Saturday. Excludes Sunday or public holidays.	hours. No work on Sunday and Public Holidays.
2. Determine if either a qualitative or quantitative noise assessment is required ²	
Land Owner: <i>check</i> Environmental Impact Assessment Map set	The proposed activity is located within the existing road reserve which is Council owned/managed land. The site compound location is located on private land owned by the Berrima District Aero Club and is subject to an access agreement with WSC
Land Zone: <i>check</i> Environmental Impact Assessment Map set	Land Zoning according to <i>Wingecarribee LEP 2010</i> is Zone E3 Environmental Management along the majority of the subject road.
Estimated Commencement Date:	Estimated commencement and completion date for the road works is within the 2022-23 financial year.
Estimated Completion Date:	End of FY 23/24
Project Manager:	James Knight (WSC)
Materials to be used: <ol style="list-style-type: none"> List supplier and volumes of materials likely to be used. Ensure Safety Data Sheets have been provided. Ensure any waste material proposed to be used as a resource is identified and complies with a current resource recovery order & exemption (if applicable). 	Pavement materials <ul style="list-style-type: none"> Approximately 15,000 cubic metres of pavement materials will be imported to site. Subgrade shall be compacted in accordance with WSC construction specification C08 and in accordance with the Terrainsight geotechnical report Existing pavement materials to be stabilized in accordance with Terrainsight geotechnical report; All basecourse material, sub base materials and heavily found materials to apply with the latest TfNSW specifications. An application rate of 0.10 - 0.30 l/m² of residual bitumen. 2 coat seal shall conform to TfNSW form R106 and Wingecarribee Shire Council construction specification C09. The contractor is responsible to supply safety data sheets provided by the supplier of the pavement materials. Geotechnical supervision and inspections required to be in accordance with Council specifications.

² Use Table 2 of NSW EPA [Construction Noise Guideline](#) to determine if either qualitative or quantitative noise assessment method is required. A qualitative assessment is generally only appropriate in low-risk situations. See that guideline for further guidance.

	Other materials include the supply and installation of stormwater pipes (using granular material such as quarry fines of coarse river sand), geofabric, rip rap, guardrails, sub soil lines and line marking. Any waste material requiring reuse on the site will comply with the EPA Excavated Natural Material (ENM) resource recovery order & exemption.
Work equipment and machinery: 1. List all work equipment and machinery required– including contractor’s equipment and machinery.	Excavators, rollers, graders, trucks, scrapers, bull dozer, paver, dump truck, track loaders.
List all applicable ancillary works and their location: 2. Ancillary works include temporary stockpiles, temporary lay-down areas for materials or equipment, hoardings or temporary structures.	The contractor will be responsible for identifying suitable stockpile / laydown areas within the road reserve, within the Project area that has been assessed by this REF including the nominated project compound, and outside areas of environmental sensitivity.
Vegetation impacts: Describe the proposed impacts – and provide specific details on impacts to; <p>(a) Mapped threatened ecological communities, flora threatened species, threatened species habitat</p> <p>(b) Vegetation within heritage items or heritage conservation areas</p> <p>(c) Trees with a trunk diameter greater than 500mm (measured at 1.4m above ground)</p> <p>(d) Hollow bearing trees³</p> <p>(e) Encroachments: >10% in tree protection zone; or within structural root zone (see Australian Standard 4970-2009⁴).</p>	Vegetation impacts have been detailed in a Flora and Fauna Assessment report prepared by EcoPlanning (2021) for the original scope of works, being shoulder widening and rehabilitation of Old South Road between Merrigang Street and Aylmerton Road. A field survey was conducted by an ecologist from EcoPlanning and Environmental Scientist from EMAP Consulting of the site on 9th of December 2020 to assess impacts to flora and fauna. Following field survey, a field validated vegetation map was prepared for the road alignment. This mapping has been intersected with the revised impact area for Stage 2 works. A total of 1.38 ha of field validated vegetation exists within the Stage 2 project footprint. This includes: Two vegetation communities were mapped in the project area: <ul style="list-style-type: none"> <i>Eucalyptus quadrangulata</i> – <i>Eucalyptus globoidea</i> shrub-grass woodland on elevated terrain – disturbed (0.32 ha); and <i>Eucalyptus tereticornis</i> – <i>E. ovata</i> shrub-grass woodland on flats – disturbed (0.23 ha); Exotic vegetation and horticultural plantings (0.83 ha).

³ Hollow bearing trees includes living or dead trees with a diameter at breast height (DBH) of greater than 500mm; and/or where hollow entrances can be seen and are greater than 20mm; and the hollow appears to have depth. Trees must be examined from all angles. Note: Council has a draft procedure for managing impacts to hollow bearing trees.

⁴ Contact Administration Officer (Assets and Project Delivery) for access to Australian Standards.

Threatened Ecological Communities

The two field validated native vegetation communities listed above both conform to *PCT 1254 – Sydney Peppermint - White Stringybark moist shrubby forest on elevated ridges, Sydney Basin Bioregion*, which is a component of:

- *Southern Highlands Shale Woodland endangered ecological community in the Sydney Basin Bioregion* listed under the NSW Biodiversity Conservation Act, and
- *Southern Highlands Shale Forest and Woodland endangered ecological community in the Sydney Basin Bioregion* under the EPBC Act.

As such, a total of 0.55 ha of threatened ecological communities will be impacted by the proposed activity.

Threatened Flora Species

A search of the NSW Bionet Atlas and EPBC Protected Matters identified eight threatened flora species within 5 km of the study area. However no threatened flora species or populations which are listed under the BC Act or EPBC Act were recorded during field survey.

Threatened Fauna Species and habitats

According to NSW Bionet Atlas, the following threatened fauna species have records within 2km of the proposed road works:

- Dusky Woodswallow (*Artamus cyanopterus cyanopterus*)- 2 records;
- Eastern False Pipistrelle (*Falsistrellus tasmaniensis*)- 4 records;
- Gang-gang Cockatoo (*Callocephalon fimbriatum*)- 13 records;
- Greater Broad-nosed Bat (*Scoteanax rueppellii*)- 3 records;
- Greater Glider (*Petauroides Volans*)- 15 records;
- Grey-headed Flying-fox (*Pteropus poliocephalus*)- 14 records;
- Koala (*Phascolarctos cinereus*)- 87 records;
- Large Bent-winged Bat (*Miniopterus orianae oceanensis*)- 5 records;
- Latham's Snipe (*Gallinago hardwickii*)- 2 records;
- Little Eagle (*Hieraaetus morphnoides*)- 1 record;
- Powerful Owl (*Ninox strenua*)- 4 records;
- Scarlet Robin (*Petroica boodang*)- 8 records;

- Squirrel Glider (*Petaurus norfolcensis*)- 2 records; and
- Varied Sitella (*Daphoenositta chrysoptera*)- 6 records.

Field survey identified nine fauna species comprising six birds, two reptile and one amphibian, all of which are not listed under the BC Act or EPBC Act. No threatened fauna species or populations listed under the BC Act or EPBC Act were recorded in the study area. However, two species are considered to have a moderate likelihood of occurrence – *Phascolarctos cinereus* (Koala) and *Pteropus poliocephalus* (Grey-headed Flying-Fox). Both species are listed as “Vulnerable” under both the BC Act and EPBC Act. The Flora and Fauna Assessment prepared by Ecoplanning (2021) conducted tests of significance conducted for these species and concluded that the proposed activity may have a significant effect on these species and/or their habitat, and that a Significance Impact Statement (SIS) or Biodiversity Development Assessment Report (BDAR) was required.

The Tests of Significance have been reviewed and revised based on the revised project footprint, and have found that the proposed activity will NOT have a significant impact on these species, due to the vastly reduced project area.

The study area has moderate shrub layers and dense groundcover for fauna species to shelter and forage in the wooded areas of the road corridor. Patches of forest/woodlands and riparian habitat provide corridors and habitat for birds, arboreal mammals, reptiles and amphibians. Areas of dense horticultural shrub plantings, such as those in the vicinity of Range Road and south can also provide harbour for small birds, reptiles and other ground-dwelling fauna. Patches of forest/woodlands and riparian habitat provide corridors and habitat for birds, arboreal mammals and other species.

Hollow Bearing Trees / Significant Trees (over 500mm diameter)

There are 15 hollow bearing trees discovered in the vicinity of the Stage 2 study area, of variable size (Maps 13, 17 & 18).

The arborist assessment conducted by Moore Trees (June 2022) reported that based on the current plans, up to 105 trees are proposed to be removed. None of these trees were found as having hollows capable of bearing habitat. Most of the trees proposed to be removed are due to the

	<p>works impacting on 40% or more of the TPZ area of the trees. The viability of keeping trees where the SRZ has been impacted by the works will be assessed by the project arborist during construction, with a view to further reduce the total number of trees to be removed wherever possible.</p> <p>No large or mature specimens within the EEC communities will be impacted by the works.</p> <p>Vegetation within heritage items or heritage conservation areas</p> <p>Old South Road is a heritage item under Wingecarribee LEP 2010.</p>
<p>Waste treatment:</p> <ol style="list-style-type: none"> 1. Is there any proposal to generate waste⁵? 2. If yes, complete Appendix A - Waste Treatment Planning 3. See definition of waste in dictionary of Protection of the Environment Operations Act 1997. 	<p>It is intended to reuse all pavement and other ENM materials on site as much as possible. If there is any surplus excavated material, this will be placed at a dedicated stockpile site. Waste classification is to be guided by a preliminary site investigation report. All materials will be tested and disposed of appropriately.</p>
<p>Environmental Management</p> <ol style="list-style-type: none"> A. Describe (list) the measures proposed to protect the environment (e.g. site delineation; erosion and sediment control, rehabilitation and revegetation; selection of materials; maintenance and monitoring) or attach the relevant Environmental Management Plan. B. Describe efforts to reduce the footprint of the proposal – including efforts to avoid and minimise impacts on clearing of native vegetation and habitat. <i>For example locating the works in areas where there are no biodiversity values; or the habitat is in the poorest condition; or avoiding threatened ecological communities; or maintaining connectivity.</i> C. Where connectivity barriers or hostile gaps have been created, identify structures provided to enable species and genetic material to maintain connectivity. 	<p>Pre-Construction:</p> <ul style="list-style-type: none"> - A Vegetation Management Plan has been prepared and will be implemented to: <ul style="list-style-type: none"> o Delineate the project footprint; o Mark out 'no go areas' including EECs and hollow bearing trees; o Identify weed management strategies; and o Provide recommendations for restoration of the site following construction completion. - All personnel working on site will receive training to ensure awareness of environment protection requirements to be implemented during the project. This is to include site induction and regular 'toolbox' briefings. - All site workers and contractors should be inducted to the area and informed of their obligations regarding Aboriginal cultural heritage under the <i>National Parks and Wildlife Act 1974</i>. In the unlikely event that an Aboriginal object is found. Temporary fencing must be placed around the object with a buffer of at least 10 meters. An appropriately qualified archaeologist should be engaged to assess

⁵ Review Council's *Infrastructure Construction & Maintenance Waste and Resource Recovery Options* for relevant works.

	<p>the finding, should the object be determined to be an Aboriginal object Heritage NSW should be informed. Works should not proceed until advice is received from Heritage NSW. In the unlikely event that suspected human remains are encountered during construction, all works should cease immediately. The location, including a 10 m buffer should be secured using a barrier to avoid further disturbance; the NSW Police should be contacted immediately; no further action is to be undertaken until the NSW Police provide advice that it is safe to do so. If skeletal remains are identified as being Aboriginal, contact Heritage NSW via the Environment Line on 131 555, and representatives of the Local Aboriginal Land Council. No works are to continue until Heritage NSW provides notification to Wingecarribee Shire Council.</p> <ul style="list-style-type: none"> - Site specific training to include management of any unexpected native flora or fauna located at any time during construction. In this scenario, works are to cease immediately, Council's Environment Officer notified, and a suitably qualified ecologist engaged to determine if any further assessment or management plans are required. - An Erosion and Sediment Control Plan must be prepared to outline best practice protocols such as those documented in Landcom (2004) and any guidelines developed by Wingecarribee Shire Council. These may include use of linear silt fencing to be installed down slope of all affected areas and stockpiles; and sandbags, hay bales wrapped in geotextile fabric etc. will be used to slow water flow and trap sediment. No straw bales are to be used. <p>During Construction:</p> <ul style="list-style-type: none"> - Implement measures documented in the Vegetation Management Plan throughout the construction phase. - A qualified ecologist to be engaged to manage any potential impacts to native fauna throughout construction; - Implement measures documented in the Erosion and Sediment Control Plan throughout the construction phase; - Implement measures from the Construction Environmental
--	---

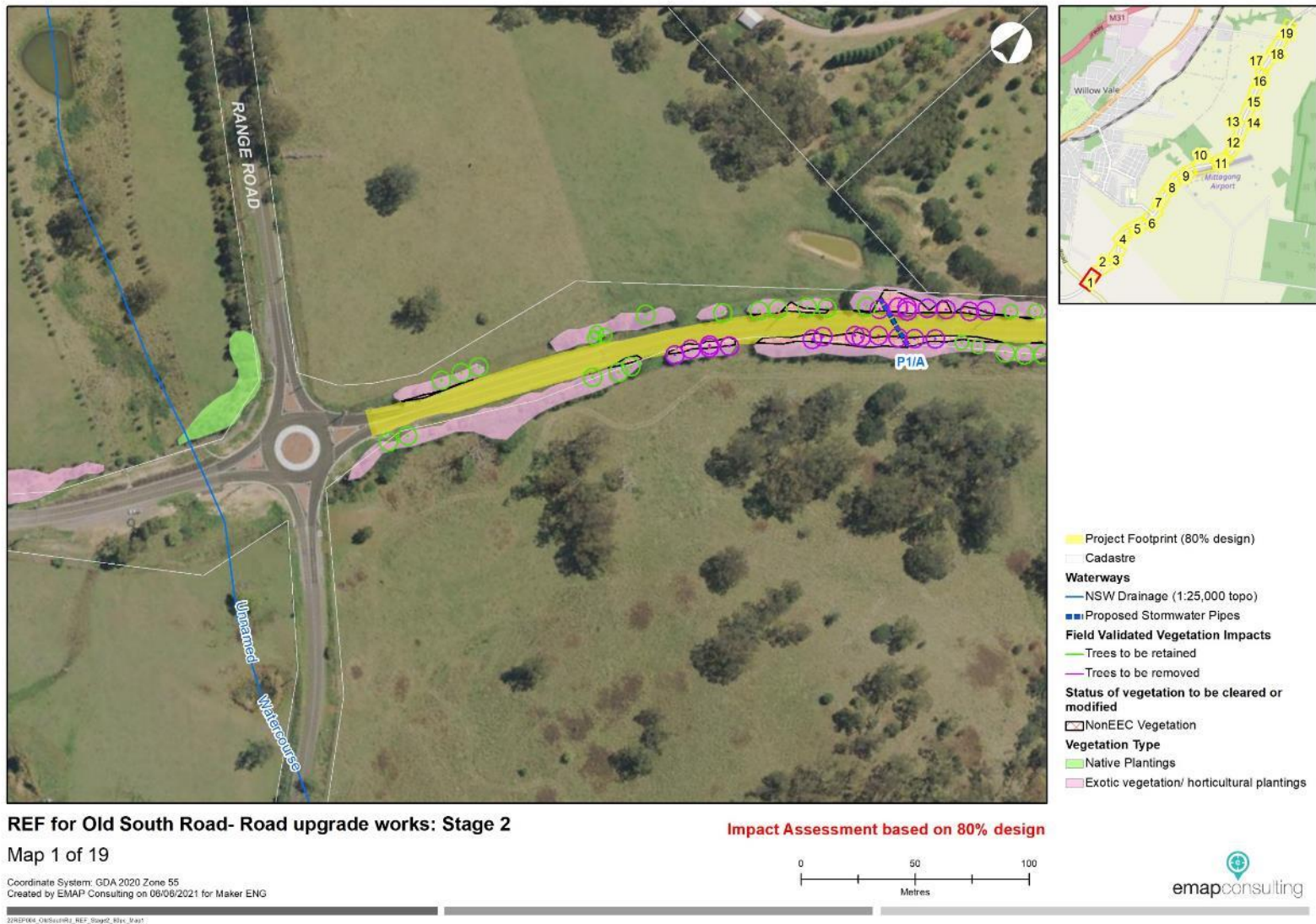
	<p>Management Plan that document requirements for ongoing monitoring and recording of all direct and indirect environmental impacts.</p> <p>Post-Construction:</p> <ul style="list-style-type: none"> - The rehabilitation of disturbed areas will be carried out progressively as construction stages are completed, and in accordance with the Erosion and Sediment Control Plan and the Vegetation Management Plan.
--	--

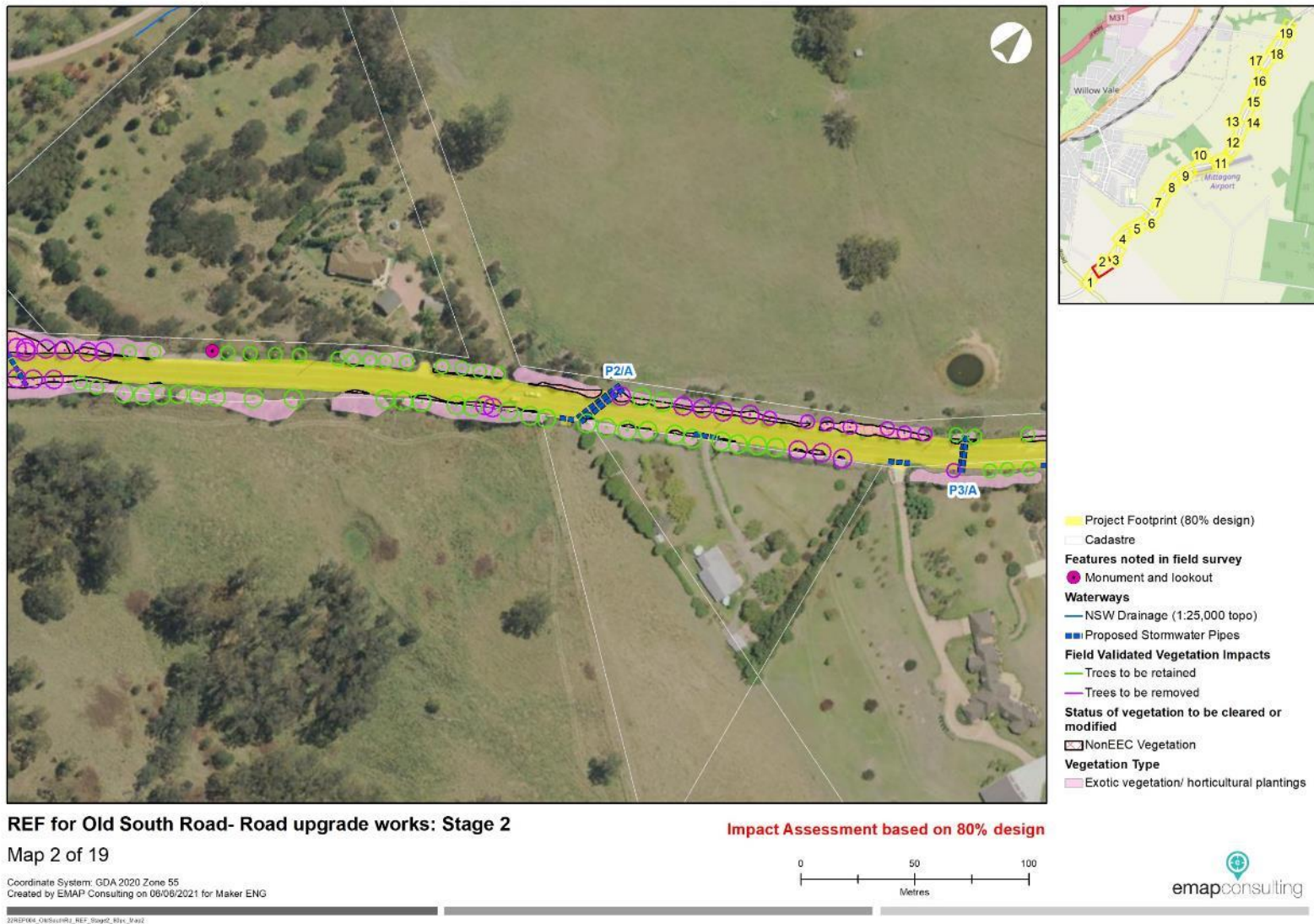
Attach map and/or plans:

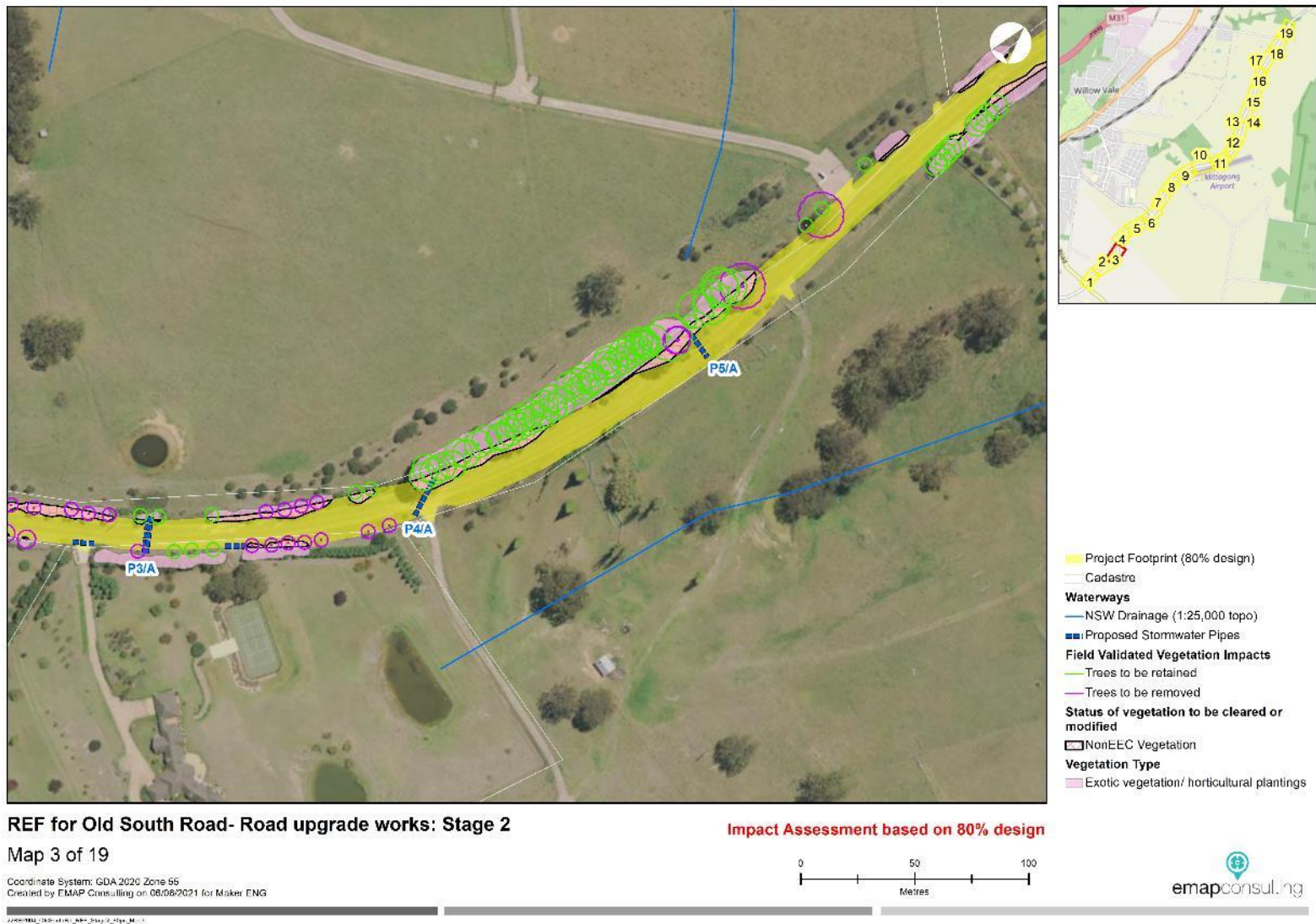
The following maps have been prepared to document all findings of the literature review, database audits and field survey undertaken to inform this REF, and to identify potential impacts within the project footprint.

Map layers include:

1. The project footprint for road works, which includes road shoulders, guard rails, verges and swales - as provided by Maker ENG in DWG and PDF format – 80% Detailed Design Issue, 09/05/22 (note as at 29/9/22 no further changes to the project footprint have been made since the 80% design issued and nominated project compound)
2. Field validated vegetation mapping following field survey by Elizabeth Norris (Ecologist from Eco Planning) and Dr Emma McIntyre (Environmental Scientist from EMAP Consulting) on 9 December 2020, and confirmed by Tamika Flanigan (EMAP Consulting) on 22 April 2022;
3. The vegetation impact area, which is an intersect of the validated vegetation mapping with the project footprint;
4. Individual trees to be removed or retained, as per Maker ENG Plans (09/05/22)
5. Hollow bearing trees mapped by Eco Planning following field survey in December 2020;
6. Natural Drainage from NSW 1:25,000 topographic map;
7. Proposed stormwater infrastructure including stormwater pipes, culverts and an inquit;
8. Key Fish Habitat areas mapped by DPI Fisheries;
9. Cadastre lot boundaries from NSW digital cadastral database;
10. Aerial Imagery from NSW Spatial Services.

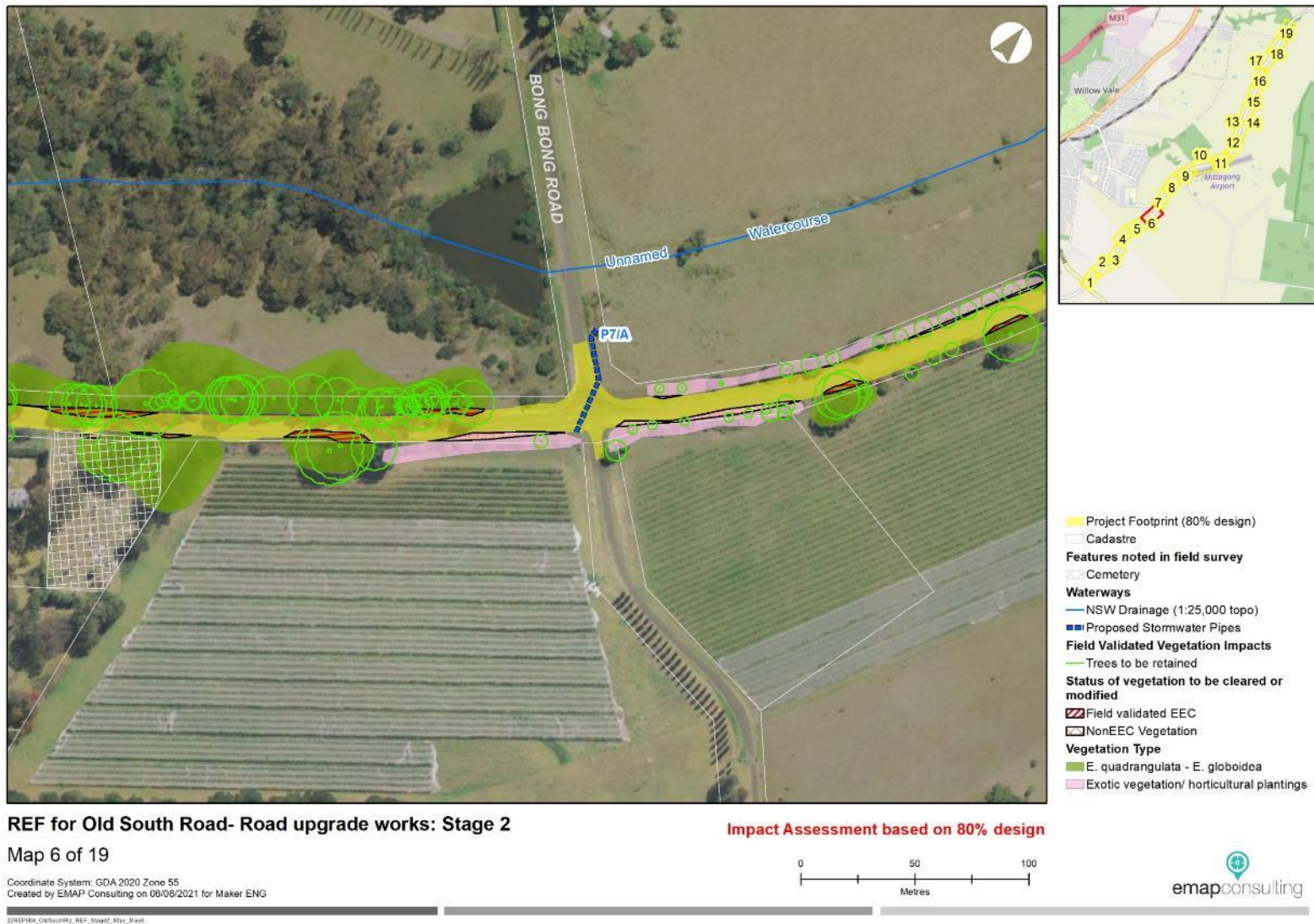


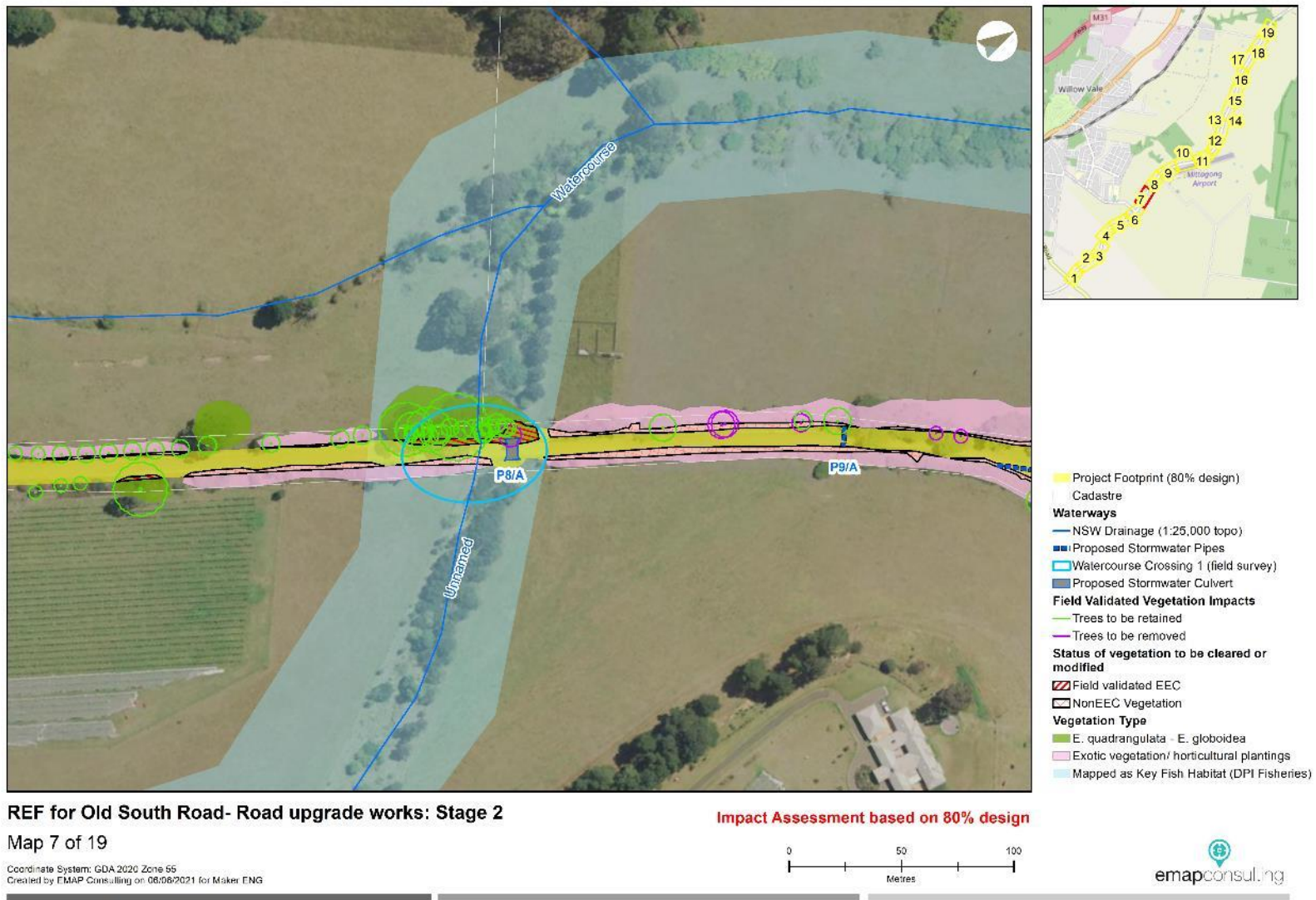


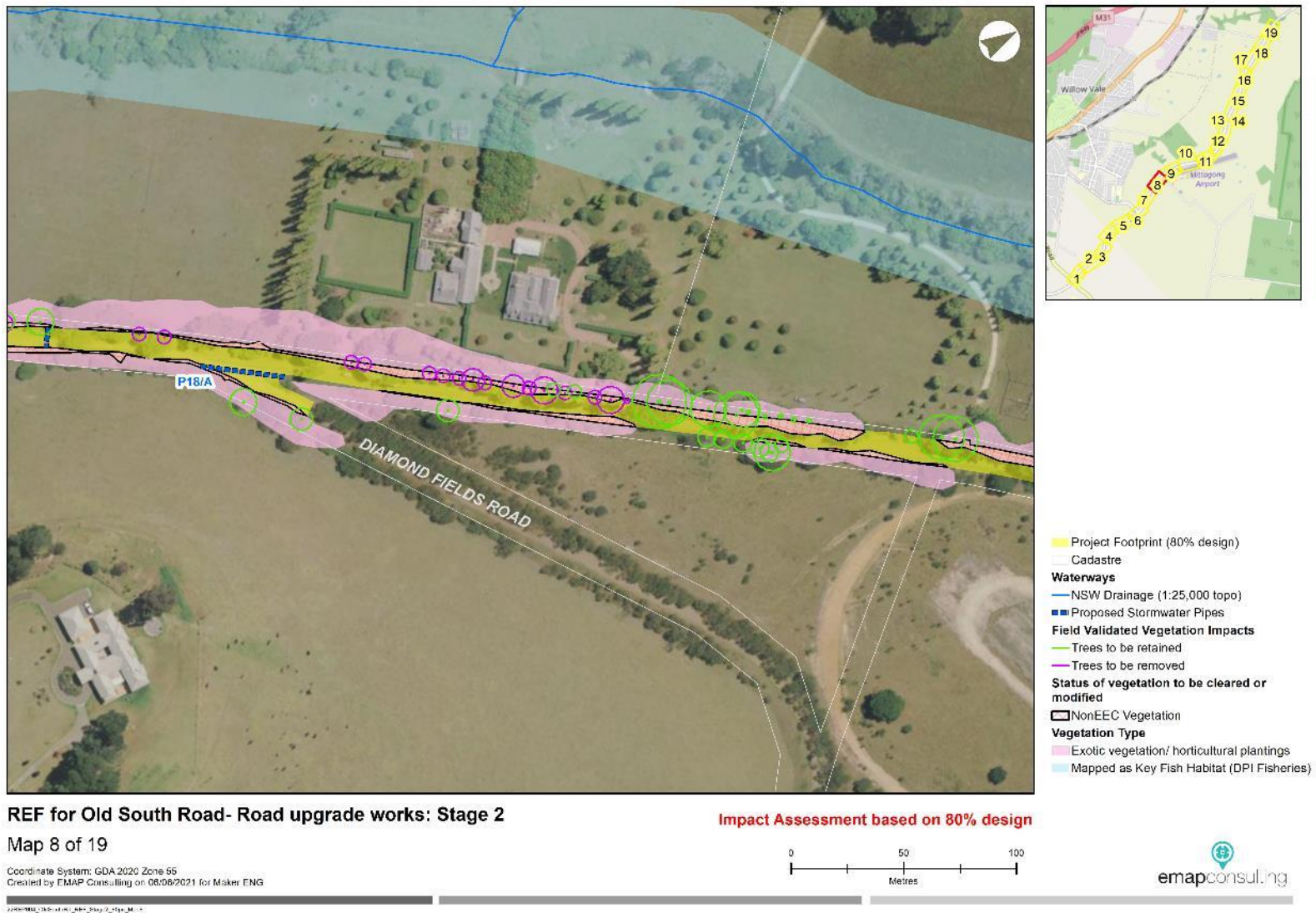


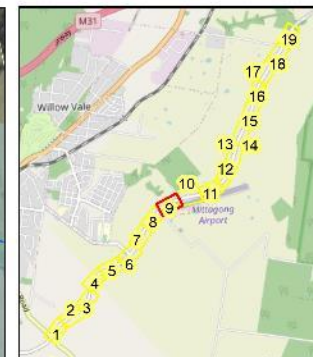
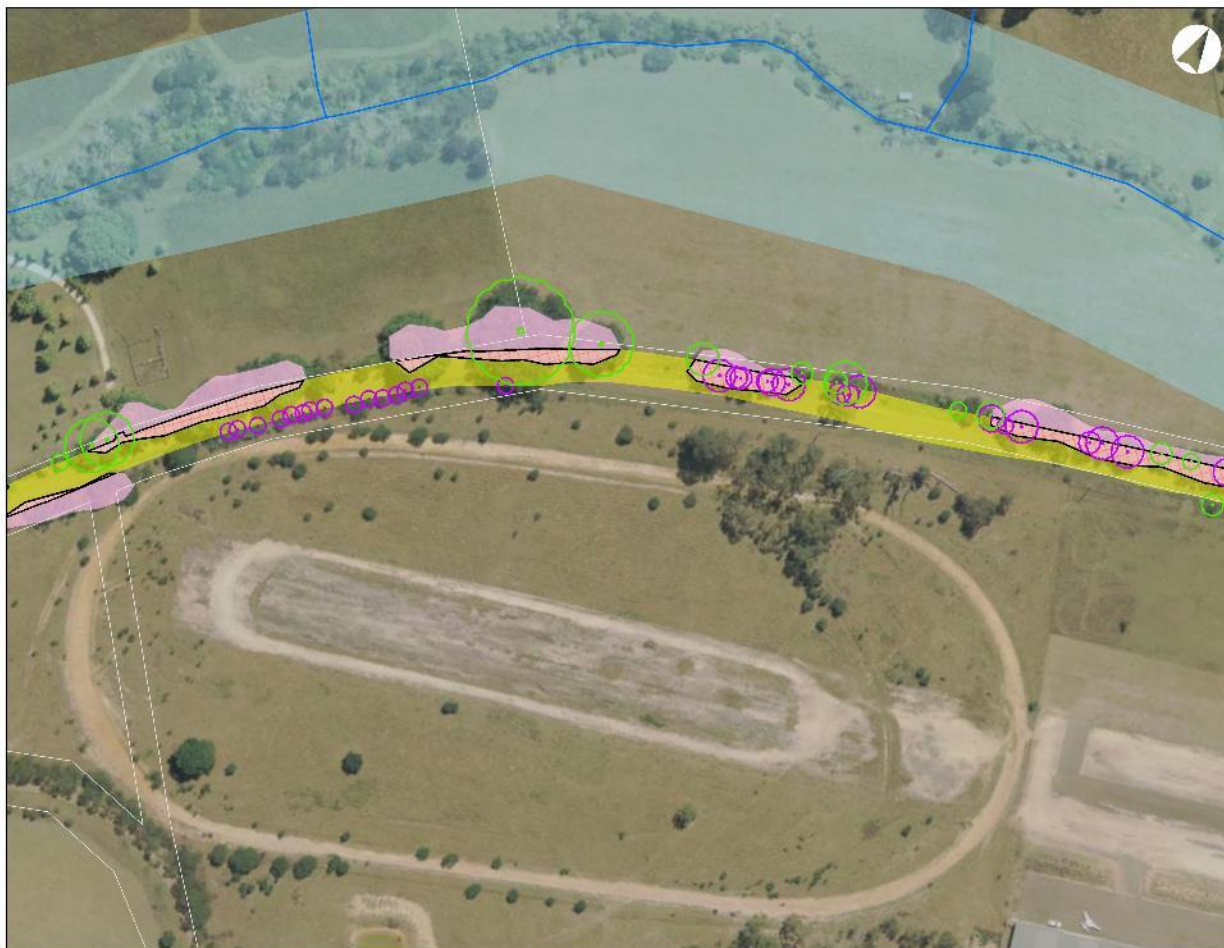












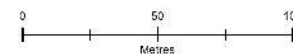
- Project Footprint (80% design)
- Cadastra
- Waterways**
 - NSW Drainage (1:25,000 topo)
- Field Validated Vegetation Impacts**
 - Trees to be retained
 - Trees to be removed
- Status of vegetation to be cleared or modified**
 - NonEEC Vegetation
- Vegetation Type**
 - Exotic vegetation/ horticultural plantings
 - Mapped as Key Fish Habitat (DPI Fisheries)

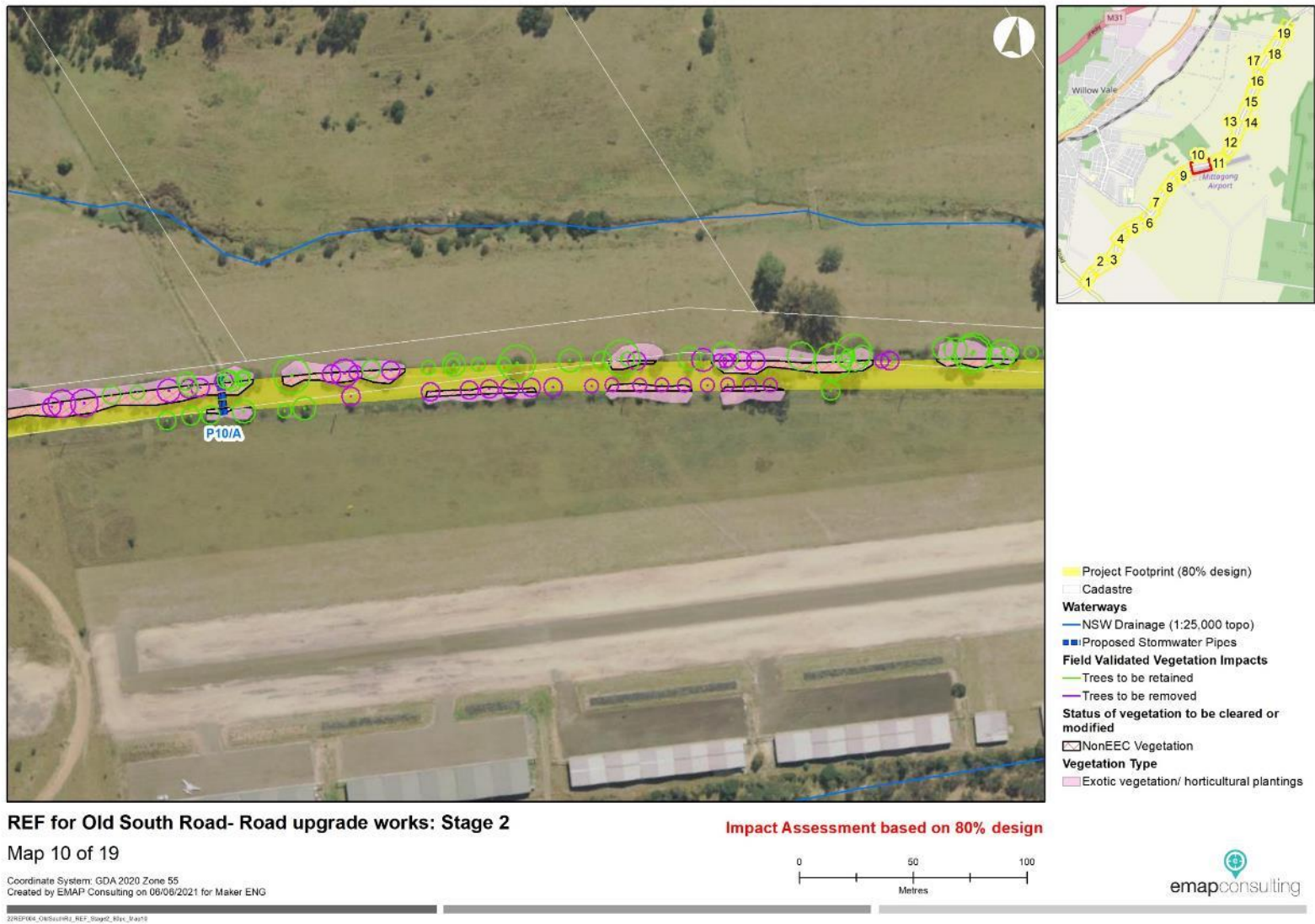
REF for Old South Road- Road upgrade works: Stage 2

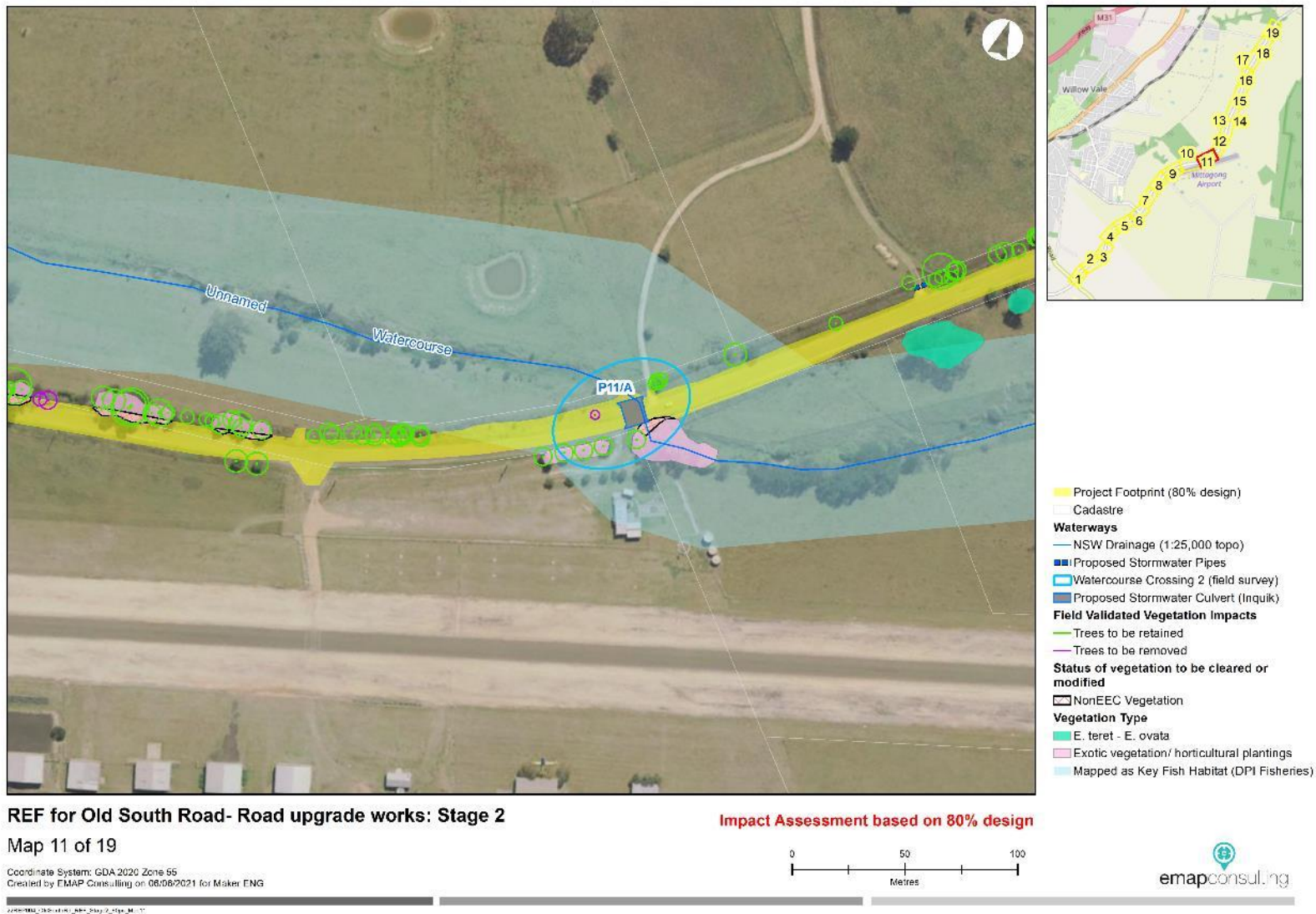
Map 9 of 19

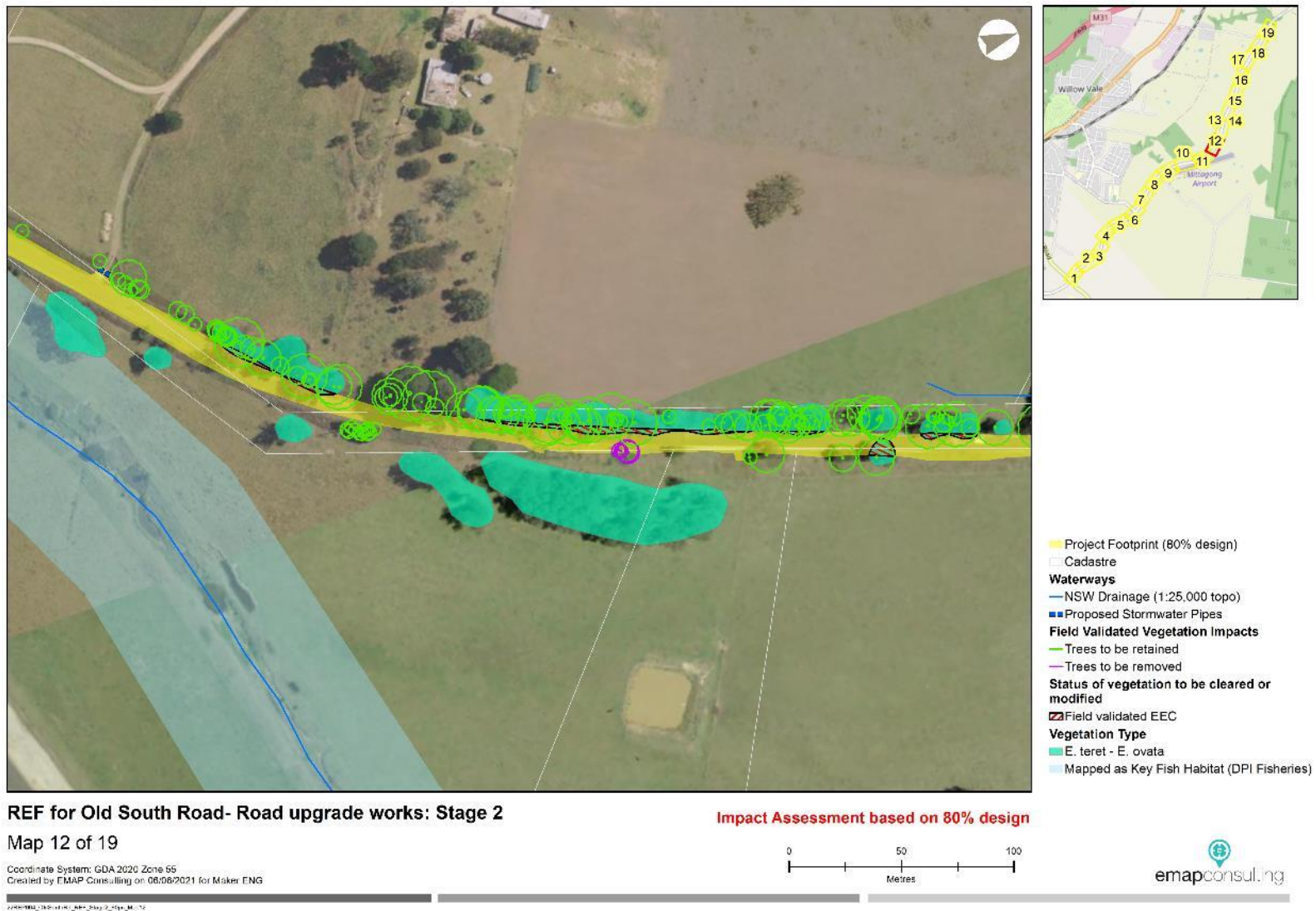
Coordinate System: GDA 2020 Zone 55
Created by EMAP Consulting on 08/06/2021 for Makers ENG

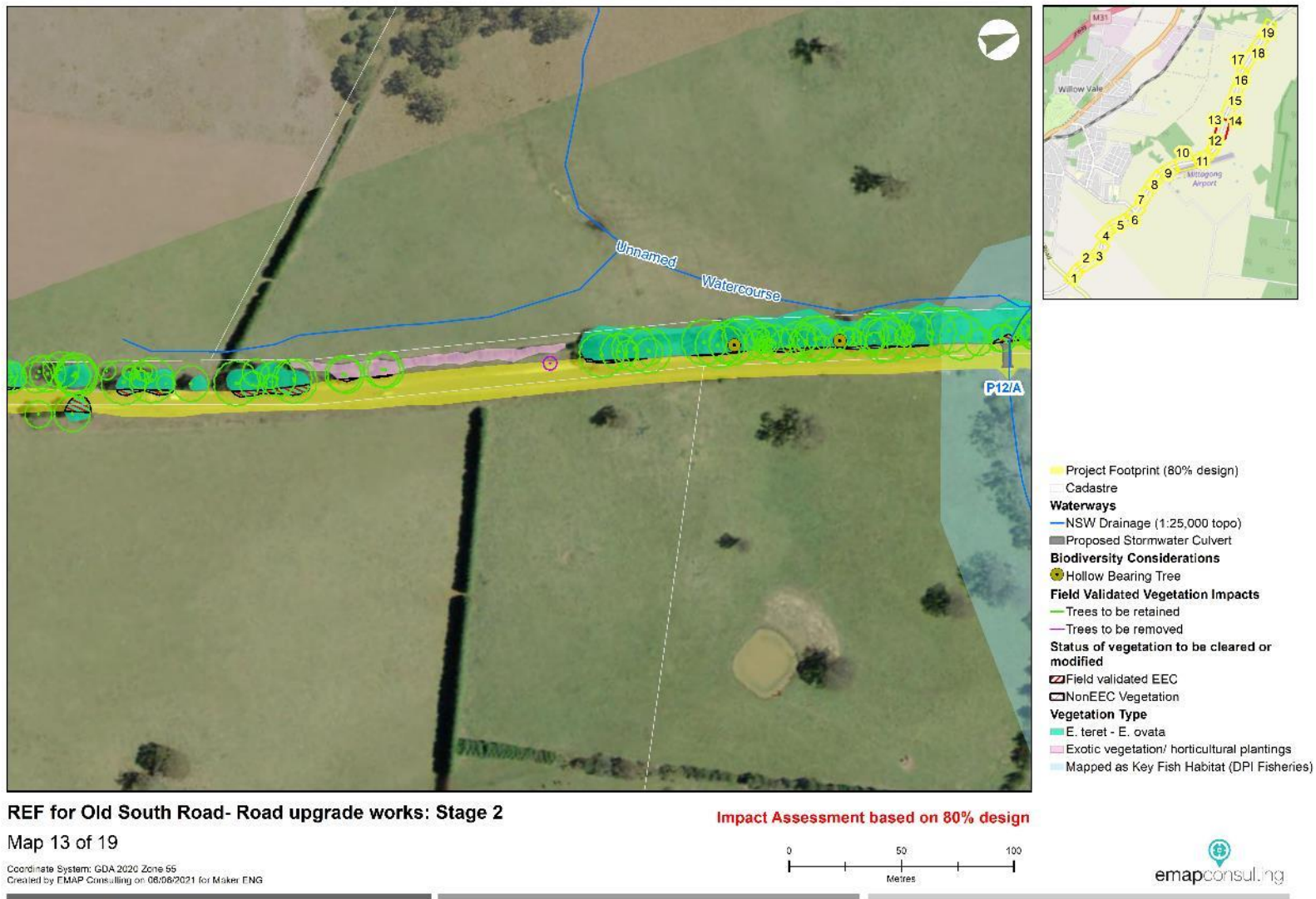
Impact Assessment based on 80% design

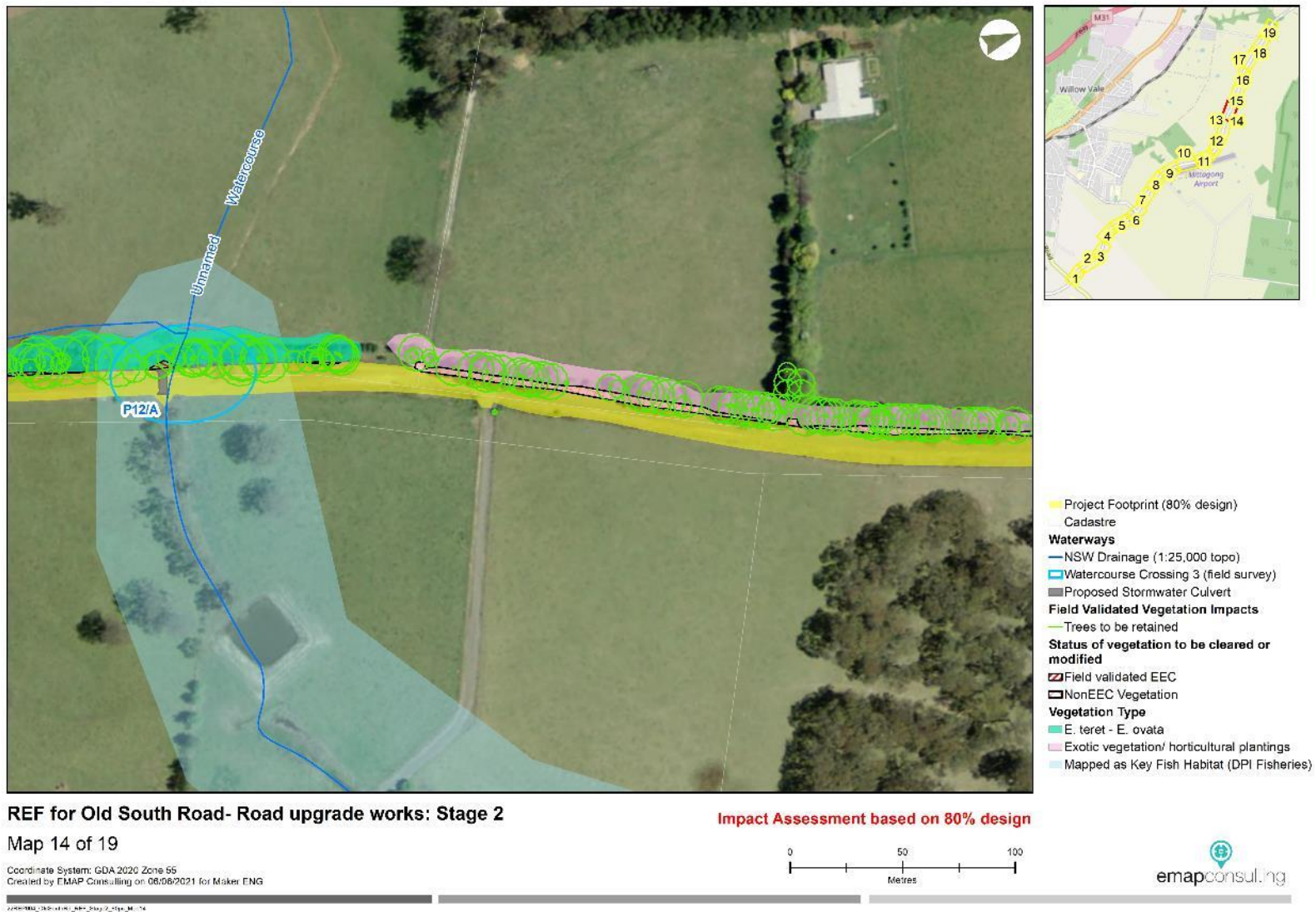


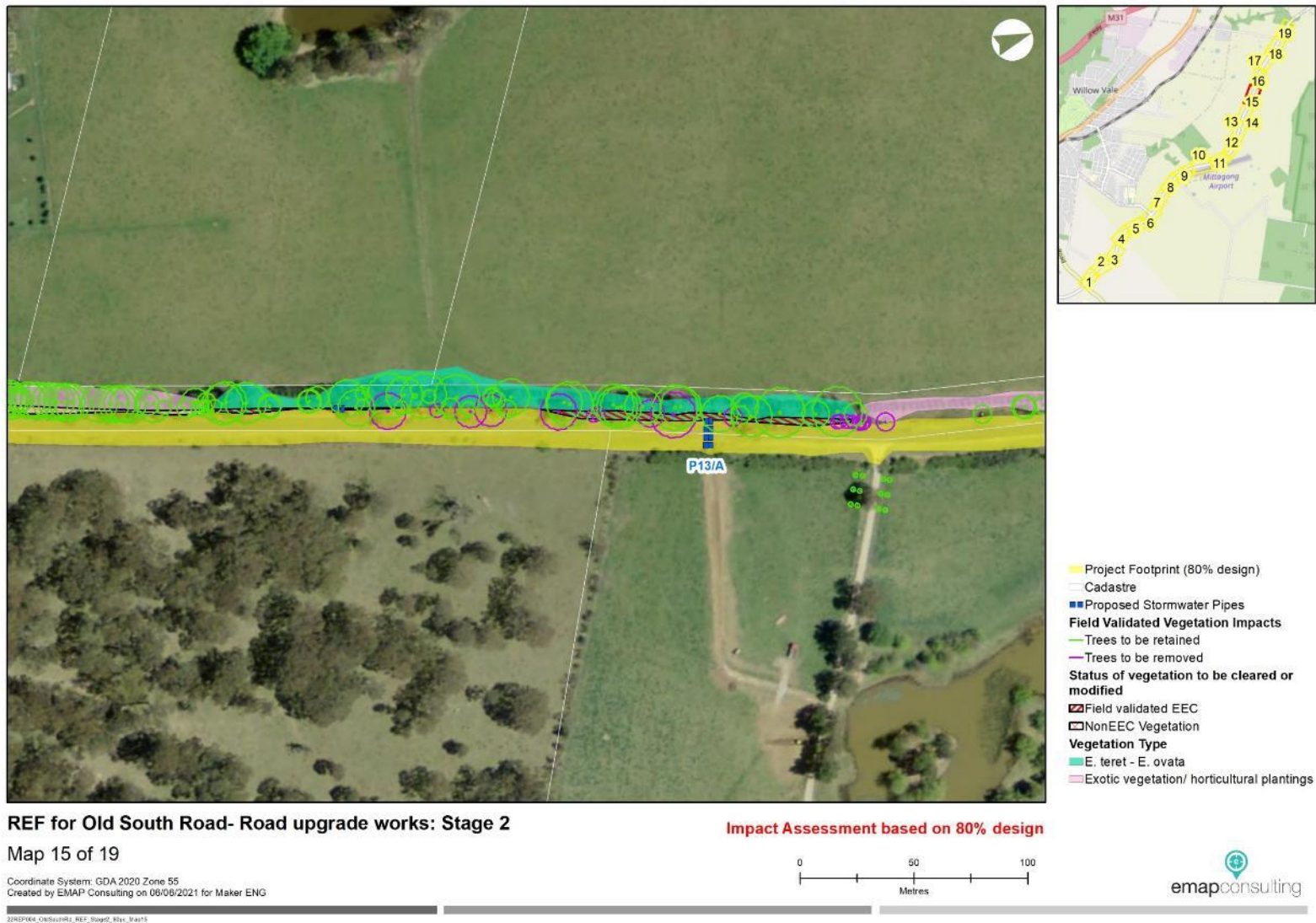


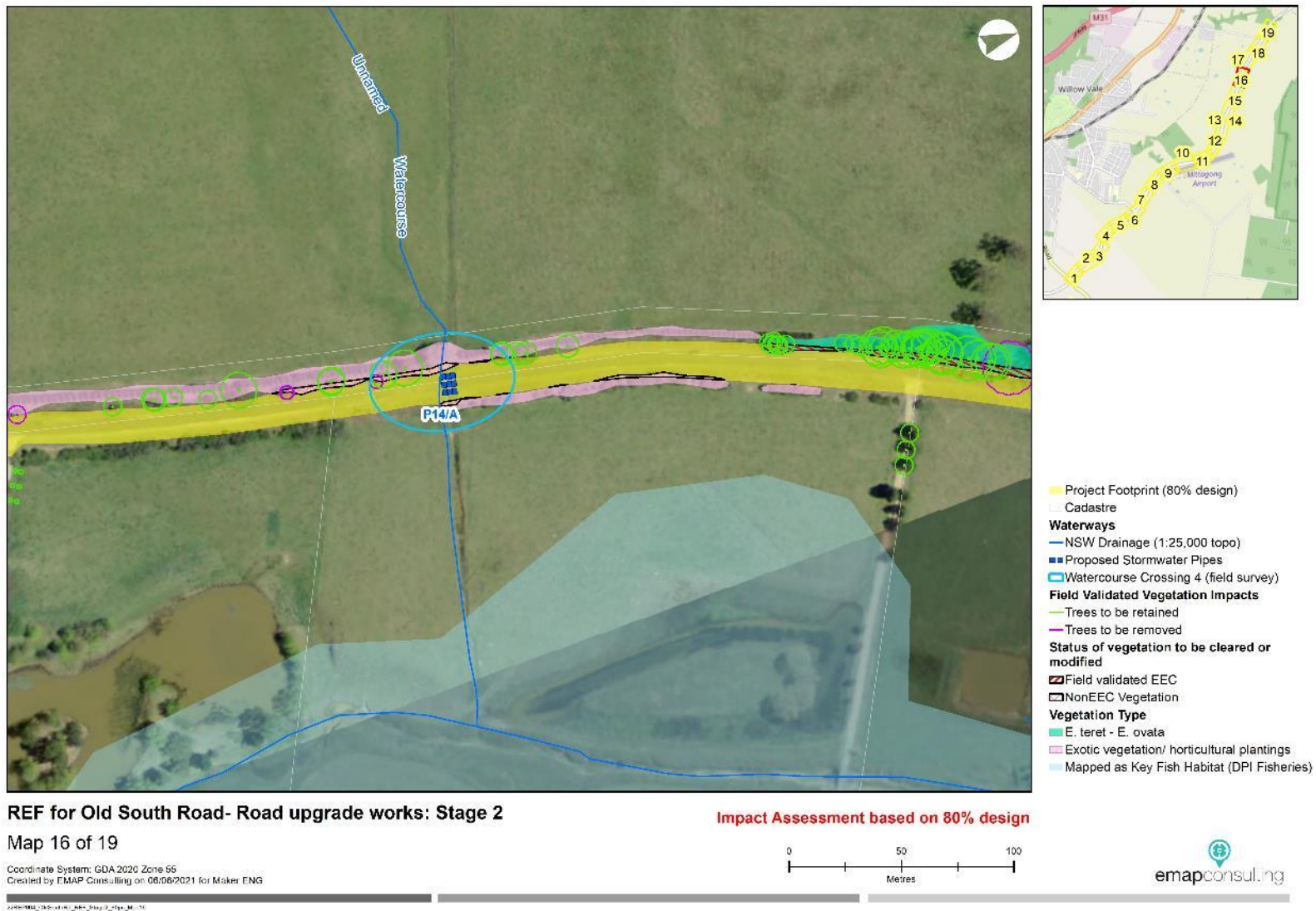


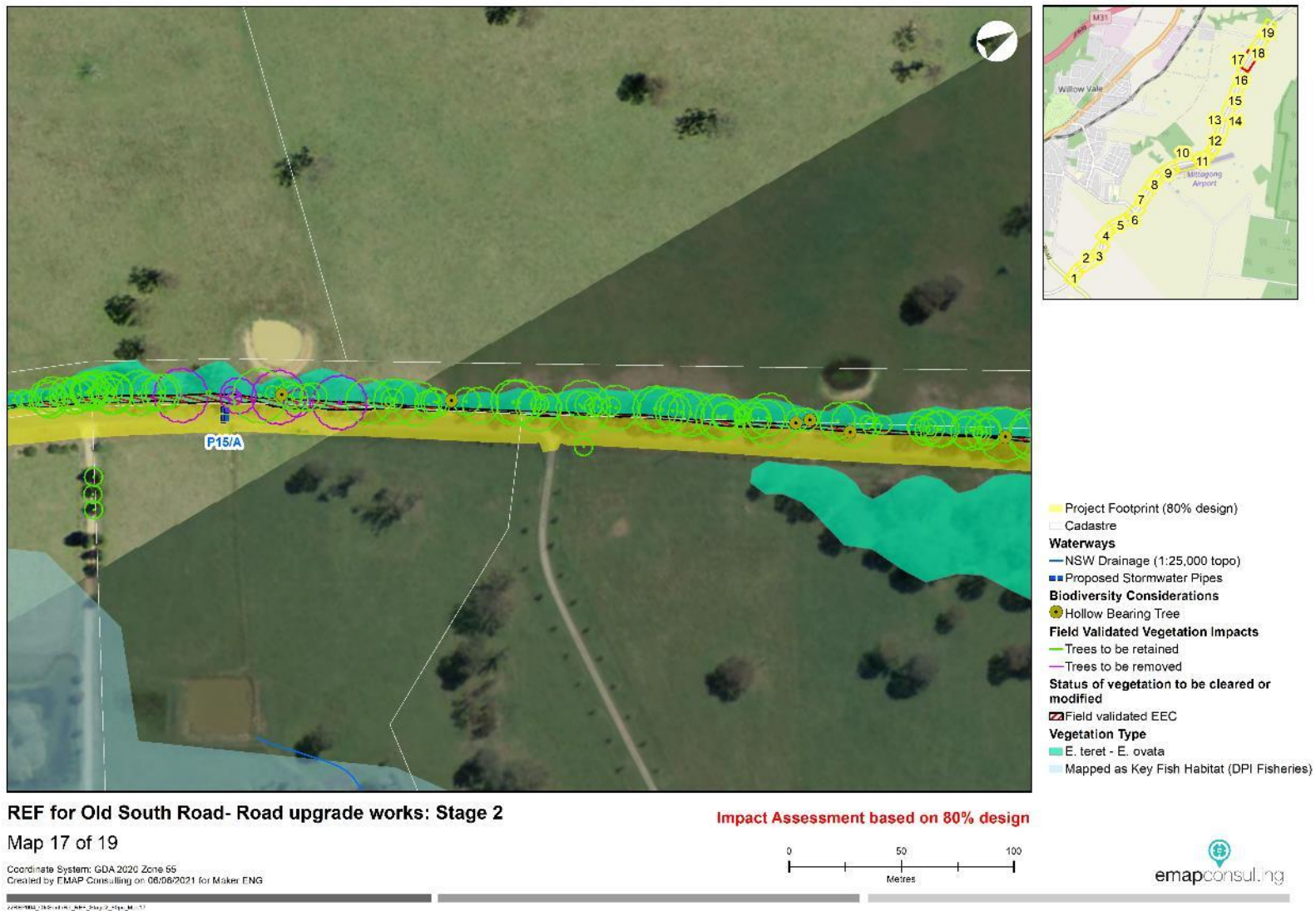




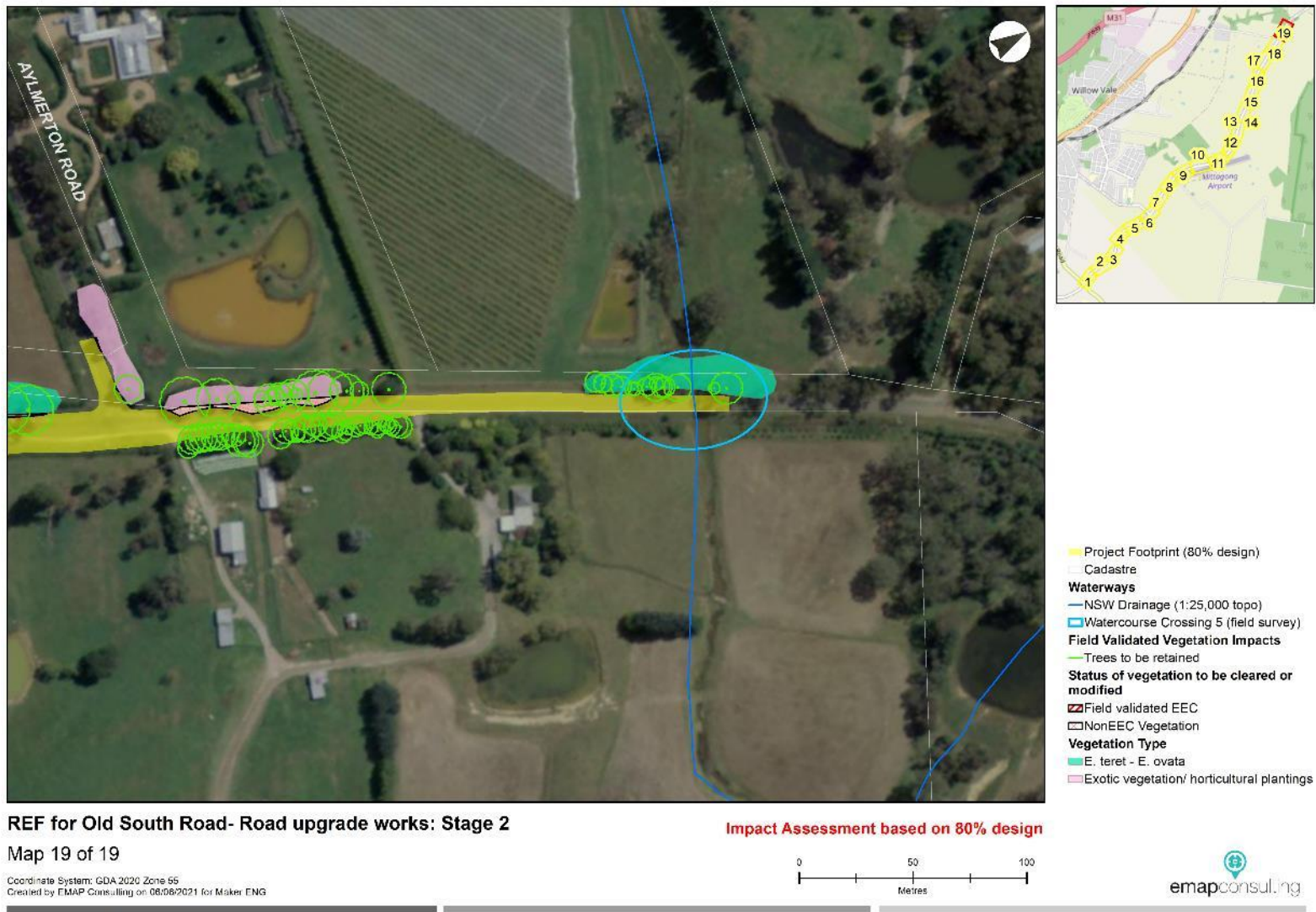














Nominated Project Compound

Part A

Use **Part A** to assess whether the development is excluded from Part 5 Environmental Assessment of the EP&A Act.

A1. IS PART 5 EXCLUDED?

For Questions 1 – 5:

- If 'yes' is answered to ANY of the questions, Part 5 of the Act will not apply (see instruction in '**Note**').
- If 'no' is answered to ALL of the questions, go to A3 PART A DETERMINATION and complete PART B.

Tick Yes or No	Yes	No	Note
• Is the work being conducted as a result of a development control order issued under Division 9.3 of the EP&A Act ? ⁶ E.g. an order issued by the state government to demolish a structure.		✓	If yes, the development can be carried out without Part 5 assessment. Refer to conditions of the order.
• Does the project only involve the demolition of a temporary structure? ⁷		✓	If yes, the development can be carried out without Part 5 assessment.
• Is the development "exempt development"? To be considered exempt development the activity must be listed in the Wingecarribee LEP or a SEPP (e.g. SEPP (Infrastructure) 2007) as "exempt development" plus meet additional requirements for exempt development outlined in the Part A2 Exempt Development Form.		✓	If yes, the development can be carried out without Part 5 assessment IF it meets the general requirements for exempt development outlined in A2 EXEMPT DEVELOPMENT CHECKLIST of this form.
• Is development consent (i.e. a DA or Complying Development Certificate) required under the Wingecarribee LEP or a SEPP e.g. SEPP (Infrastructure) 2007		✓	If yes, development consent is to be obtained and Part 5 does not apply. Refer to Development Assessment.
• Is the development prohibited under the Wingecarribee LEP or SEPP (Infrastructure) 2007		✓	If yes, the development cannot be carried out and Part 5 does not apply. Revisit scope of project/ investigate further.

⁶ To be assessed under Part 5, the proposed development must fall within the definition of an 'Activity' under s.110(1) of the EP&A Act (see commentary above on "what is an activity"). The above questions are designed to check whether the proposed development constitutes an 'Activity'.

Section 5.1 of the EP&A Act provides that if the development is carried out in compliance with a development control order then it is not an Activity. In Council's case, such orders would be made by the Minister or Director-General on an infrequent basis.

⁷ If the proposed development is prescribed under 227AA of the EP&A Regulation 2000 as being development for the purpose of s.5.1(1) then it is also not an Activity. At last review of this form, demolition of temporary structure was the only development prescribed under the regulation as 'not' to be considered an Activity.

A2. EXEMPT DEVELOPMENT CHECKLIST

Use this **A2 EXEMPT DEVELOPMENT CHECKLIST** only if selected 'YES' in **Q. 3**.

1. If "TRUE" is answered to ALL of the following applicable questions, the development may be carried out as exempt development.
2. If "FALSE" is answered to ANY OF the following applicable questions, the development may NOT be carried out as exempt development.

Answer questions 6 – 9 for all exempt development

Tick True or False	True	False
<ul style="list-style-type: none"> The development meets relevant deemed-to-satisfy provisions of the <i>Building Code of Australia</i>, or if there are no such relevant provisions, the development is structurally adequate (Note: answer true if this question is not applicable). 		
<ul style="list-style-type: none"> The development does not cause a building to contravene the <i>Building Code of Australia</i> or compromise the fire safety of the building or affect access to any fire exit (Note: answer true if this question is not applicable). 		
<ul style="list-style-type: none"> The development will not be installed contrary to manufacturers specifications which apply. 		
<ul style="list-style-type: none"> The development does not involve removal or pruning of a tree or other vegetation that requires a permit or development consent, unless that removal or pruning is undertaken in accordance with a permit or development consent. Note. A permit for the removal or pruning of a tree or other vegetation may be granted under State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017. Development consent for the removal of native vegetation may be granted under the Local Land Services Act 2013. <i>check</i> Environmental Impact Assessment Map set 		

Only answer questions 10 – 14 if exempt development covered by [SEPP \(Infrastructure\) 2007](#)

Tick True or False	True	False
<ul style="list-style-type: none"> The development will be carried out in accordance with relevant requirements of Managing Urban Stormwater: Soils & Construction (4th edition, Landcom, 2004), commonly referred to as the "Blue Book". 		
<ul style="list-style-type: none"> The development is not designated development by way of its listing under Schedule 3 Designated development of the EP&A Regulation or by nomination under the Wingecarribee LEP or a SEPP e.g. SEPP (Infrastructure) 2007 		
<ul style="list-style-type: none"> The development will not have a more than minimal impact on the heritage significance of a state or local listed heritage item or conservation area; and will not involve the demolition of a building or work that is, or is part of, a State or local heritage item. Refer to State Heritage Register for listings and Environmental Impact Assessment Map set for local conservation items and areas. 		
<ul style="list-style-type: none"> The development complies with applicable exempt development criteria at: <i>i.</i> Part 3 Development controls of SEPP (Infrastructure) 2007; and 		

ii.	Schedule 1 of SEPP (Infrastructure) 2007.		
•	The development will not involve the removal of asbestos, unless that removal is undertaken in accordance with Working with Asbestos: Guide 2008 (ISBN 0 7310 5159 9) published by the WorkCover Authority; and if it involves the demolition of a building, will be carried out in accordance with Australian Standard AS 2601—2001 <i>The demolition of structures</i> ⁸ .		
Only answer questions 15 – 19 if exempt development covered by SEPP (Exempt and Complying Development Codes) 2008⁹ and/or exempt development covered by Wingecarribee Local Environmental Plan 2010			
Tick True or False		True	False
•	The development is not on land that comprises areas of outstanding biodiversity value under the Biodiversity Conservation Act 2016 or critical habitat under the Fisheries Management Act 1994 . <i>check Environmental Impact Assessment Map set</i>		
•	The development is not on land that contains an item on the State Heritage Register or is subject to an interim heritage order under the Heritage Act 1977 . Refer to State Heritage Register for listings ¹⁰		
•	The development is for a class 1b or 2-9 building under the BCA, requires fire safety measures and the building has a current fire safety certificate or fire safety statement (Note: answer true if this question is not applicable).		
•	The development meets the applicable exempt development criteria under Part 2 of SEPP (E&CD) 2008 (excludes that covered by WLEP 2010).		
•	The development is not on land that is a wilderness area under the Wilderness Act 1987 . <i>check Environmental Impact Assessment Map set</i> (excludes that covered by WLEP 2010).		
Only answer questions below if exempt development covered by Wingecarribee Local Environmental Plan 2010			
Tick True or False		True	False
•	The development is not designated development by way of its listing under Schedule 3 Designated development of the EP&A Regulation or by nomination under the Wingecarribee LEP or a SEPP e.g. SEPP (Infrastructure) 2007		
•	The land does not contain coastal waters.	✓	
•	The land does not contain a coastal lake.	✓	
•	The land is not identified as coastal wetlands and littoral rainforests area (within the meaning of the Coastal Management Act 2016) or is not within 100m of such land.	✓	

⁸ Contact Administration Officer (Assets and Project Delivery) for access to Australian Standards

⁹ Note: only specified types of development cannot occur as 'exempt development' in environmentally sensitive areas under the [SEPP \(Exempt and Complying Development Codes\) 2008](#) (see definition of *environmentally sensitive areas* in [s.1.5](#)).

¹⁰ Note that cl 1.16(1A)-(1C) of [SEPP \(Exempt and Complying Development Codes\) 2008](#) has some exceptions with respect to heritage land.

• The land is not an aquatic reserve under the <i>Fisheries Management Act 1994</i> or is not within 100m of such land.	✓	
• The land is not a marine park under the <i>Marine Parks Act 1997</i> or is not within 100m of such land.	✓	
• The land is not within a wetland of international significance declared under the Ramsar Convention on Wetlands or is not within 100m of such land.	✓	
• The land is not within a world heritage area declared under the World Heritage Convention or is not within 100m of such land. <i>check</i> Environmental Impact Assessment Map set		
• The land has not been identified in a LEP or SEPP as being of high Aboriginal cultural significance.		
• The land has not been identified in a LEP or SEPP as being of high biodiversity significance.		
• The land is not reserved under the <i>National Parks and Wildlife Act 1974</i> . <i>check</i> Environmental Impact Assessment Map set		
• The Minister for the Environment is not in the process of acquiring the land under Part 11 of the <i>National Parks and Wildlife Act 1974</i> .		
• The land is not reserved or dedicated under the <i>Crown Lands Act 1989</i> for the preservation of flora, fauna, geological formations or for other environmental protections purposes. <i>check</i> Environmental Impact Assessment Map set		
• The development is not on land within 50 metres from the top of bank of Category 1 streams (as per WSC LEP Natural Resources Sensitivity Map). <i>check</i> Environmental Impact Assessment Map set		
• The development is not on land within 30 metres from the top of bank of Category 2 streams (as per WSC LEP Natural Resources Sensitivity Map). <i>check</i> Environmental Impact Assessment Map set		
• The development is not on land that forms part of the “Regional Wildlife Habitat Corridor” mapped on the WSC LEP Natural Resources Sensitivity Map. <i>check</i> Environmental Impact Assessment Map set		
• The development is not on land that is declared to be a special area under the Water NSW Act 2014 <i>check</i> Environmental Impact Assessment Map set		

A3. PART A DETERMINATION

	Tick yes or no	Yes	No
Is the proposal exempt development ?			✓

If '**No**' – 'False' has been selected to one or more questions in the A2 EXEMPT DEVELOPMENT CHECKLIST; you cannot claim works as exempt development and **Part B of this form must be completed**. Go to [A4 APPROVALS, LICENCES & PERMITS CHECKLIST](#).

If '**Yes**' – 'True' has been selected to all applicable questions in the A2 EXEMPT DEVELOPMENT CHECKLIST and you are claiming works are exempt development and therefore not completing Part B of this form. Please summarise (below) the reasons for reaching this determination. Include details of the applicable Environmental Planning Instrument and clause under which the development is proposed. Then go to [A4 APPROVALS, LICENCES & PERMITS CHECKLIST](#).

Development is permitted without consent in accordance with State Environmental Planning Policy (Infrastructure) 2007, Division 17 Roads and Traffic:

Section 94(1) *Development for the purpose of a road or road infrastructure facilities may be carried out by or on behalf of a public authority without consent on any land.*

and (2) *In this clause and clause 96, a reference to development for the purpose of **road infrastructure facilities** includes a reference to development for any of the following purposes if the development is in connection with a road or road infrastructure facilities-*

(c) alterations or additions to an existing road (such as widening, narrowing, duplication or reconstruction of lanes, changing the alignment or strengthening of the road).

A4. APPROVALS, LICENCES & PERMITS CHECKLIST

Exempt Development or the preparation and approval of an environmental impact assessment does not negate the need for other NSW or Commonwealth approvals, licences and permits (as may be required under Part 4 of the EP&A Act).

The following checklist contains a non-exhaustive list of the more common approvals, licences and permits that *may* be required. It is the responsibility of Council as the determining authority to ensure all approvals, licences and permits are obtained.

Consultation with the appropriate approval bodies should occur as early as possible. Talk to Council's environmental staff if you are unsure if any of the following will apply.

Triggers	Approval	Approval body & legislation	Does mapping identify the site is subject to this trigger? Y/N	Does the approval, licence or permit apply? Y/N	Provide justification for your selection
Threatened Species	A licence to harm or pick threatened species, or ecological communities or damage habitat or areas of outstanding biodiversity value. ¹¹ <i>check</i> Environmental Impact Assessment Map set	Office of Environment & Heritage Biodiversity Conservation Act 2016	Y	N	The Proposed Activity will impact the following: <u>Threatened Ecological Communities</u> Approximately 0.55 ha of the vegetation to be cleared or modified to allow for the road upgrade works, constitutes <i>Southern Highlands Shale Woodlands in the Sydney Bioregion</i> , declared as Endangered in NSW and <i>Southern Highlands Shale Forest and Woodland</i> in the Sydney Basin Bioregion, which is Critically Endangered under Commonwealth legislation.

¹¹ At the most recent review of this document, there were no declared AOBVs in the Wingecarribee local government area.

					<p><u>Habitat for threatened species</u></p> <p>The road works has the potential to clear or modify habitat for threatened species which have been identified in the Flora and Faunas Assessment (Ecoplanning 2021) as having a moderate likelihood of occurrence:</p> <p>(i) Threatened Flora</p> <ul style="list-style-type: none"> • <i>Eucalyptus macarthurii</i> (Paddys River Box, Camden Woollybutt) <p>(ii) Threatened Fauna</p> <ul style="list-style-type: none"> • Grey-headed Flying-fox (<i>Pteropus poliocephalus</i>)- 14 records; • Koala (<i>Phascolarctos cinereus</i>)- 87 records. <p>The revised Tests of Significance have determined that the revised level of impact on EECs, threatened species and their habitats does not constitute a significant impact.</p>
Protected Animals	A licence to control or harm protected animals identified in Schedule 5 of the <i>Biodiversity Conservation Act 2016</i> . For example: handling or eviction of Wombat from burrow, or animal from tree hollow, or birds from nest.	Office of Environment & Heritage Biodiversity Conservation Act 2016	Y	N	<p>Protected animals identified in Schedule 5 of the Biodiversity Conservation Act 2016 have the potential to occur within the area of the proposed works. A qualified ecologist will conduct a pre-clearing survey prior to construction works commencing.</p> <p>Additionally, site specific training of all personnel is to include management of any unexpected native flora or fauna located at any time during construction. In this scenario, works are to cease immediately, Council's Environment</p>

					Officer notified, and a suitably qualified ecologist engaged to determine if any further assessment or management plans are required.
Fish and Marine Vegetation	<p>Section 144 requires an aquaculture permit.</p> <p>Section 200 requires a permit to carry out dredging or reclamation work. (Note this includes the removal of any in stream material including vegetation) <i>check Environmental Impact Assessment Map set</i></p> <p>Section 205 requires a permit to cut, remove, damage or destroy <u>marine vegetation on public water land</u> or an aquaculture lease, or on the foreshore of any such land or lease.</p> <p>Section 219 requires a permit to: set a net, netting or other material, or construct or alter a dam, floodgate, causeway or weir, or otherwise create an obstruction, across or within a bay, inlet, river or creek, or across or around a flat.</p> <p>The Minister is to be notified under s.218(5) where a public authority proposes to construct, alter or modify a dam, weir or reservoir on a waterway where the passage of fish may be affected.</p> <p>If the proposed works constitute a key threatening process, as defined under</p>	<p>Department of Primary Industries Fisheries Management Act 1994</p>	Y	X	<p>“Key Fish Habitat” areas have been mapped by DPI in some watercourses within the project area.</p> <p>As addressed by Ecoplanning’s Flora and Fauna Assessment (2020), a field survey and assessment by a qualified ecologist deemed all subject areas to be degraded and therefore were not considered to constitute “Key Fish Habitat”. See photos of subject watercourses in Appendix E of this REF.</p> <p>However, as a Controlled Activity Approval is not required (Councils are exempt for Part 5 activities), and the works to be undertaken fall in parts of the subject watercourses that are below top of bank, consultation with NSW Fisheries has been undertaken, and determined that a Section 200 permit is required.</p> <p>This permit application has been prepared to accompany this REF.</p> <p>Further, as per NSW Fisheries advice, attempts were made to consult with NSW Office of Water*, however a response was not received.</p> <p>* Consultation via phone and email 18th August, follow up phone call on 2nd September, advised the email would be forwarded again, and to wait 10 business</p>

	the Act, notification or permits are required under section 220. Section 220ZW provides for a licence to harm threatened species, populations or ecological community or damage habitat				days for a response. No response was received as at 29/9/22. See Appendix F.]
Matters of National Environmental Significance	<p>Division 1 of Part 3 Environmental Approval to carry out work that is likely to have a significant effect on matters of national environmental significance, including:</p> <ul style="list-style-type: none"> • World Heritage properties • National Heritage places • Wetlands of International significance (listed under the RAMSAR Convention) • Commonwealth listed threatened species or ecological communities • Commonwealth listed migratory species • Nuclear actions • Commonwealth marine areas. <p>[Use <i>EPBC Act Protected Matters Report generated from Protected Matters Search Tool</i>]</p>	<p>Department of Sustainability, Environment, Water, Population and Communities</p> <p>Environment Protection and Biodiversity Conservation Act 1999 (Cth)</p>	Y	N	<p>Results of the EPBC Protected Matters search identified the following Matters of National Environmental Significance within 5km of the subject site:</p> <ul style="list-style-type: none"> • 6 listed threatened ecological communities; • 53 listed threatened species; • 15 listed migratory species. <p>The proposed activity will result in clearing of 0.60 ha of Southern Highlands Shale Forest and Woodland endangered ecological community in the Sydney Basin Bioregion under the <i>EPBC Act</i>, however this does not constitute a significant impact.]</p>
National Parks	<p>Working within an area that is subject to any plan of management under the <i>National Parks and Wildlife Act 1974</i>. check Environmental Impact Assessment Map set</p>	<p>Office of Environment & Heritage</p> <p>National Parks and Wildlife Act 1974</p>	N	N	<p>The proposed activity is not in the vicinity of any NPWS Estate, and is not subject to any plan of management under the <i>National Parks and Wildlife Act 1974</i>.]</p>

Aboriginal artifacts or sites	Section 90 grant of Aboriginal heritage impact permit where working near known Aboriginal relics or places or where an Aboriginal relic is likely to be discovered. Follow section 1 of the Due Diligence Code of Practice . <i>[Contact E&S Branch for assistance in locating Aboriginal relics and places]</i>	Office of Environment & Heritage National Parks and Wildlife Act 1974	Y	N	An Aboriginal Objects Due Diligence Assessment has been prepared by Regal Heritage (2022). The assessment found that it is unlikely that aboriginal items or objects occur within the vicinity of the proposed works, and therefore an AHIP is not required]
Heritage	Section 58 approval in respect of the doing or carrying out of an act, matter or thing referred to in s.57(1). Refer to State Heritage Register .	Heritage Council Heritage Act 1977	Y	N	The following items on the State Heritage Register occur along Old South Road: SHR No 00491: Hassall and Jefferis Cottages, otherwise known as Cutter's Inn. This item is located outside the road reserve and therefore will not be impacted by the proposed activity.
Works in mines subsidence area	Section 22 approval to alter or erect improvements, or to subdivide land, within a mine subsidence district. <i>check</i> Environmental Impact Assessment Map set	Mines Subsidence Board Coal Mine Subsidence Compensation Act 2017	Y	N	The proposed activity is not in the vicinity of a mine subsidence district]
Emissions into air, water, land	Environment protection licence to authorise carrying out of scheduled development work at any premises , scheduled activities at any premises , or to control carrying out of non-scheduled activities for the purposes of regulating water pollution resulting from the activity.	Environment Protection Authority Protection of the Environment Operations Act 1997	Y	N	The proposed activity will not result in emissions into air, water or land, and as such an Environmental Protection Licence is not required.]

Clearing non-rural areas	Permit if vegetation preserved under Vegetation SEPP (i.e. land within the following zones in Wingecarribee LEP: R2, R3, R5, B1, B2, B4, B5, B7, IN1, IN2, IN3, SP1, SP2, SP3, RE1, RE2, E2, E3 and E4).	Council (Tree & Vegetation Assessment Officer) State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017	Y	N	The proposed activity is in land zoned E3 Environmental Management. Confirmation is required from Council's Tree and Vegetation Assessment Officer as to whether a permit is required for tree clearing for the purposes of the proposed activity. (Note current version of this legislation to date does not list Wingecarribee local government area in list of LGAs to which this legislation applies).
Clearing rural areas	Approval for clearing native vegetation in rural areas (i.e. land within the following zones in Wingecarribee LEP: RU1, RU2, RU3 and RU4).	<i>Local Land Services</i> Local Land Services Act 2013	N	N	The proposed activity is not located on land in rural zones.
State Forest	Working within a State Forest. check Environmental Impact Assessment Map set	Department of Primary Industries Forestry Act 2012	N	N	The proposed activity is not within a State Forest]
Crown Lands	Working on Crown Lands not under Council control. check Environmental Impact Assessment Map set	Department of Primary Industries Crown Land Management Act 2016	N	N	The proposed activity is not in the vicinity of Crown land]
Crown Lands	Working on land subject to Native Title claims. Contact Council's Native Title Manager.	Native Title (New South Wales) Act 1994	N	N	A search of the Register of Native Title Claims conducted on 17 th May 2022 indicated that the proposed activity is not in the vicinity of land subject to Native Title claims]

Roads	Working on Classified Roads not under a current maintenance program. <i>check</i> Environmental Impact Assessment Map set	Roads and Maritime Services Roads Act 1993	N	N	The proposed activity is located within road reserves of Local Roads]
Extraction of Water	Taking water without, or otherwise than authorised by, an access licence.	Department of Primary Industries Office of Water Water Management Act 2000	N	N	The proposed activity does not require extraction of water for any purpose.
Use of fire	A fire permit is required during the Bush Fire Danger Period . If use of fire is proposed, also discuss with Council's Bushland Project Officer if a Hazard Reduction Certificate is applicable.	NSW Rural Fire Service Rural Fires Act 1997	N	N	The statutory Bushfire Danger Period runs from 1 October to 31 March. If the proposed activity construction period occurs within this timeframe, contact NSW RFS and Council's Bushland Project Officer to confirm if a fire permit and/or Hazard Reduction Certificate is required.
Special and controlled areas	Approval is required for works in Schedule lands that are also Crown or Water NSW lands. Notification is required in Schedule lands on private land i.e. other than Crown or Water NSW lands. <i>check</i> Environmental Impact Assessment Map set	Water NSW Water NSW Act 2014	N	N	The proposed activity is not located within special and controlled areas under the <i>Water NSW Act 2014</i>
Railway	Accessing the Rail Corridor controlled by Australian Rail Track Corporation (ARTC)	ARTC Transport Administration Act 1988	N	N	The proposed activity does not require access to any rail corridor]

Wilderness Areas	Consent to carry out development in a wilderness area subject to a wilderness protection agreement or a conservation agreement <i>check Environmental Impact Assessment Map set</i>	Office of Environment and Heritage Wilderness Act 1987	N	N	The proposed activity does not occur in the vicinity of any wilderness areas as per <i>Wilderness Act 1987</i>]
-------------------------	--	---	---	---	--

PART A Sign-off

As the determining authority, Council has a legal duty under the EP&A Act to examine to the fullest extent possible all matters that affect or are likely to affect the environment by reason of the proposed activity.

We declare that the information contained in Part A of this form is neither false nor misleading.

Prepared by (1):

Signature



Date __29__ / __09__ / __2022__

Name


Dr Emma McIntyre

Title

Director and Environmental Scientist,
EMAP Consulting

Prepared by (2):

Signature



Date 13/12 /2023

Name

James Knight

Title

WSC Project Manager

Delegated Authority Sign-Off

- PART A can only be approved (signed) by staff with delegated authority under Part 5 of the *Environmental Planning and Assessment Act 1979*.
- The delegate must be confident that the **PART A DETERMINATION** is supported by references to the applicable legislation and that it was made by staff with the training and/or experience to do so.
- The approving manager must also ensure that the **A4 APPROVALS, LICENCES & PERMITS CHECKLIST** has been completed.
- The Environmental Assessment process is not complete until the signed form is registered in ECM (use quick add profile 'Environmental Assessment'). This must be done prior to works commencing.

Delegate Approval:



Date 15/12/22

Part B Review of Environmental Factors

What is a REF?

- Part B contains a Review of Environmental Factors (REF). Whilst an REF is not specified in Division 5.1 of the EP&A Act, its purpose is to inform the determining authority, by addressing all environmental impacts associated with a proposed activity in accordance with the requirements of section [5.5](#) of the EP&A Act and Clause [228](#) of the EP&A Regulation.
- The outcome of a REF will enable the determining authority to determine:
 1. whether the proposal is likely to significantly affect the environment;
 2. whether the proposal should proceed based on this assessment; and
 3. the proposed measures to avoid, minimise or manage environmental impacts associated with the proposal.
- If after completing the REF, the conclusion is made that the proposed activity is *not* likely to significantly affect the environment, Council may determine that the activity may proceed.
- If after completing the REF, it is considered likely that the proposed activity will significantly affect the environment including:
 - if it is likely to significantly affect listed threatened species, or ecological communities or their habitats under the *Biodiversity Conservation Act 2016*, or
 - If it will be carried out in a declared area of outstanding biodiversity value, or
 - if it is likely to significantly affect critical habitat, threatened species, ecological communities or their habitats under the *Fisheries Management Act 1994*

further environmental assessment in the form of an environmental impact statement (EIS) and/or a species impact statement (SIS) - or a biodiversity development assessment report (BDAR) in relation to matters under the *Biodiversity Conservation Act* - will need to be prepared and considered by Council, and concurrence obtained from the relevant department, should it wish to proceed with the proposal.
- If the proposal or action is likely to have a significant impact on a matter of national environmental significance contact the Commonwealth Department of the Environment under the EPBC Act to confirm that environmental assessment under PART 5 of the EP&A Act is sufficient.

Note: On 26 February 2015, the Commonwealth and New South Wales Governments signed a new Bilateral Agreement under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) relating to environmental [assessment](#). The agreement allows the Commonwealth Minister for the Environment to rely on specified environmental impact assessment processes of NSW in [assessing](#) actions under the EPBC Act. An [amended agreement](#) took effect on 24 March 2020. There is no [approval](#) bilateral agreement currently in place. A Notice of Intention to develop an approval bilateral agreement was Gazetted on 7 August 2020.

Impact level

- Each impact should be categorised as having a negligible, low, medium or high adverse impact or positive impact. The below Table 1 may be useful in estimating the impact of each of the items listed in the first column. For example, impacts should be ranked as having high adverse impact if they affect a large area or relatively significant numbers of individuals or species over a long period of time. An impact level should only be categorized as low if a low or minimal adverse impact is assessed for all items in column 1 of Table 1.
- Impacts of activities that adversely affect threatened species or environmentally significant areas should also be ranked having a high adverse impact.
- The impacts of the activity should be considered at all phases of the project cycle, including construction, routine operation, start-up operations, rehabilitation, and decommissioning if relevant.

Table 1 – Categorising impacts (DECCW Proponents Guidelines for Review of Environmental Factors)

Analysis of impact	Low adverse Minimal	High adverse Significant
Size	Small scale size/volume	Large scale/volume
Scope	Localised	Extensive
Intensity	Small impact dispersed over a long period	Large impact over a short or long period
Duration	Short term	Long term
Level of confidence in predicting impacts	High confidence/knowledge and past experience	Low confidence, numerous uncertainties and unknowns
Level of reversibility of impacts	Impacts are reversible and rehabilitation likely to be successful	Reversibility impossible or unlikely due to cost or other factors
Ability to manage or mitigate the impacts	Effective mitigation measures available	Mitigation measures untested or unavailable
Ability of the impacts to comply with standards, plans or policies	Total compliance	Uncertain or part compliance
Level of public interest	Low interest and predictable impacts on community	High interest and uncertain impacts on community
Requirement for further information on the impacts of the activity or mitigation	High level of understanding and information on the impact	Low level of information on and understanding of key issues

Note: An impact level should only be categorized as low if a low or minimal adverse impact is assessed for all items in column 1 of Table 1.

Safeguards / Mitigation Measures

- In this column, state the mitigation measures and management options proposed to:
 - prevent, control, abate or mitigate identified environmental impacts associated with the activity;
 - reduce risks to human health; and
 - prevent the degradation of the environment.
- The effectiveness and reliability of the measures and residual impacts after the measures are implemented should be included in the assessment of impacts.

Evaluating the likely environmental significance of the impacts

- Council must decide whether or not there is 'likely' to be a 'significant effect' on the environment and thus whether an environmental impact statement must be prepared.¹² The courts have interpreted the word 'likely' to mean 'a real or not remote chance'; not 'more probable than not' (see eg, *Jarassius v Forestry Commission of NSW* (1988) 71 LGRA 79; *Drummoyne Municipal Council v Roads and Traffic Authority of NSW* (1989) 67 LGRA 155).
- The word 'significant' means 'important', 'notable', 'weighty' or 'more than ordinary' (see eg *Drummoyne Municipal Council v Maritime Services Board* (1991) 72 LGRA 186; *Oshlack v Richmond River Council* (1993) 82 LGRA 222).
- The definition of 'environment' is not limited to the natural environment; it includes the built and social environment. Impacts can thus include social impacts on people, changes to infrastructure, impact on future use of developed land.
- When considering the likely environmental significance of the impacts associated with the proposed activity, the following should be considered:
 - How extensive are the impacts?
 - How adverse are the impacts on environmentally sensitive areas?
 - How acceptable are the impacts considering the nature of the impacts?
- The following extract from DECCW Proponents Guidelines for Review of Environmental Factors provides useful guidance:

Extensive impacts – in deciding if the impacts of an activity are likely to significantly affect the environment, the type, degree and range of each impact must be considered on its merits. If an impact is extensive in terms of spatial or time dimensions and intensity or severity, there is potentially a high risk to the environment.

Impacts which adversely impact on environmentally sensitive areas are likely to be significant – the impacts of activities undertaken in environmentally sensitive areas are more likely to be

¹² Note that under s.7.8 of the *Biodiversity Conservation Act 2016*, if the **only** significant effect is on threatened species, Council may dispense with an EIS and require only an SIS or BDAR. The equivalent provision under s.221ZX of the *Fisheries Management Act 1994* requires only an SIS. The procedures requiring publication and referral of an EIS to the Planning Secretary under s.5.8 of the EP& A Act apply equally to an SIS or BDAR.

significant than similar activities proposed in other locations. Relatively small activities carried out in environmentally sensitive areas can result in substantial impacts on the environment. A precautionary approach should be adopted for activities proposed in environmentally sensitive areas, including careful investigation of alternatives and mitigation strategies. Activities that are likely to indirectly affect environmentally sensitive areas may also be considered to significantly affect the environment. Environmentally sensitive areas can be defined in section [1.5](#) of the *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*. Relevant examples in Wingecarribee LGA include: World heritage areas, areas of high Aboriginal cultural significance or high biodiversity significance, land reserved under the *National Parks and Wildlife Act 1974* and land reserved or dedicated under the *Crown Land Management Act 2016* for the preservation of flora, fauna, geological formations or for other environmental protection purposes.

Impacts with a low level of acceptability because of the nature of the impacts are likely to be significant – when considering the impacts of an activity, the extent of the potential impacts is only one factor to be considered. Impacts that are not very extensive may still significantly affect the environment.

Any impact that results in a threat to the health or safety of individuals or the community has a low acceptability level. In considering the risks to the community, particular attention should be given to the welfare of children, the aged or any disadvantaged group. Any impact that threatens biodiversity also has a low level of acceptability and has the potential to significantly affect the environment.

Activities that will adversely affect a community's amenity, or unacceptably change or transform a locality, or place at risk items, buildings or localities that are particularly valued by the community will be considered significant. It can also be expected that the community will have a low acceptance of impacts that threaten property values or decrease the options for a secure livelihood of individuals or the community generally.

Consultation & Concurrence

- Public consultation in the assessment of an activity under Part 5 of the EP&A Act is required only where an EIS and/or SIS or BDAR is required. However, it is necessary to check whether consultation or concurrence is required under other legislation or the relevant EPI under which the activity is proposed. For example, [clauses 13 – 17](#) of SEPP Infrastructure 2007 provide for mandatory consultation in some circumstances.
- Further, as Council has a commitment to keep the community and ratepayers informed, community consultation and/or public notification of activities under Part 5 is encouraged to be undertaken in some form for all but the most minor proposed activities. You should consider informing Councillors via the weekly circular or Councillor briefing session process. It should be noted that weekly circulars are also available to the public.

REVIEW OF ENVIRONMENTAL FACTORS

- For each row in the below table – if select 'Yes', then complete the 'Impact Level', 'Reasons' and 'Safeguards/Mitigation Measures' columns for the row; if select 'No', write 'N/A' in the 'Impact Level' and 'Reasons' columns for the row.
- For guidance on 'Impact level' see points 6, 7 and 8 at beginning of Part B.
- For guidance on 'Safeguards/Mitigation Measures' see points 9 and 10 at beginning of Part B.

Physical and chemical impacts during construction and operation				
	Is this applicable? * Write Yes or No	Impact level low, medium or high adverse or positive or N/A	Reasons Justify impact level. Describe the type, nature and extent of impact, taking into account the receiving environment & any proposed safeguards which will limit the impact. If you determine the impacts are not medium or high adverse in areas with Environmentally Sensitive features, strong justification must be provided.	Safeguards/Mitigation Measures
SOIL QUALITY & LAND STABILITY				
P1. Is the proposal likely to impact on soil quality or land stability? Include impacts such as erosion, soil and contamination. Consider geotechnical/engineering reports.	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Low adverse	The proposed activity will involve some soil disturbance to allow for installation of batters, guard rails and surface rehabilitation works. Disturbance will be short term (during construction only), and all disturbed areas will be rehabilitated immediately following construction.	Site management will incorporate best management erosion and sediment control practices such as those found in the Department of Housing's "Blue Book" (4th Edition) on erosion and sediment control. All erosion and silt control devices will be visually inspected weekly as well as after each rainfall event. Stockpiles will be designed, established, operated and decommissioned in accordance with the RMS Stockpile Site Management Guidelines 2015. The rehabilitation of disturbed areas will be carried out progressively as construction stages are completed, and in accordance with: * Landcom's "Blue Book" (4th Edition) on sediment and erosion control * RMS Landscape Guidelines

Physical and chemical impacts during construction and operation

	Is this applicable? * Write Yes or No	Impact level low, medium or high adverse or positive or N/A	Reasons Justify impact level. Describe the type, nature and extent of impact, taking into account the receiving environment & any proposed safeguards which will limit the impact. If you determine the impacts are not medium or high adverse in areas with Environmentally Sensitive features, strong justification must be provided.	Safeguards/Mitigation Measures
WATER QUALITY				
P2. Is the activity likely to affect a waterbody, watercourse, wetland or natural drainage system? Consider types of impact on water – redirection of flow, changes to the area, volume or flow of a waterbody, & actual or likely pollution of waters. Refer to s.120 and dictionary of <i>Protection of the Environment Operations Act 1997</i> for definition of water pollution	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Low adverse	<p>Four (4) drainage lines dissect the study area, which flow generally in a north to northeast direction joining the Chain of Ponds Creek, eventually flowing into the Nepean River as, mapped in the 1:25,000 NSW Topographic Map.</p> <p>The management of these drainage lines as part of the proposed works is illustrated in the following maps included in this REF, and on detailed plans provided by Maker Engineering:</p> <ul style="list-style-type: none"> • Map 7: Proposed stormwater infrastructure item P8/A – propose to use existing culvert; • Map 11 – Proposed stormwater infrastructure item P11/A – propose to construct an Inquik to reduce potential impacts to the waterway and aquatic habitat; • Map 13 - Proposed stormwater infrastructure item P12/A – propose to use existing culvert to reduce potential impact to EEC. • Map 19 – Drainage line at Aylmerton Road – no stormwater management measures proposed. <p>Other stormwater management measures have been proposed to manage additional drainage not</p>	<p>Water quality control measures are to be used to prevent any materials (eg. concrete, grout, sediment, etc) entering drain inlets or waterways.</p> <p>Prevent sediment moving off-site and sediment laden water entering any water course, drainage lines, or drain inlets.</p> <p>Store fuels, chemical and hazardous materials in secure, bunded areas within temporary construction ancillary facilities, and at least 40m from all waterways.</p>

Physical and chemical impacts during construction and operation

	Is this applicable? * Write Yes or No	Impact level low, medium or high adverse or positive or N/A	Reasons Justify impact level. Describe the type, nature and extent of impact, taking into account the receiving environment & any proposed safeguards which will limit the impact. If you determine the impacts are not medium or high adverse in areas with Environmentally Sensitive features, strong justification must be provided.	Safeguards/Mitigation Measures
			<p>identified and mapped in the NSW 1:125,000 topographic maps, as well as subsurface drainage.</p> <p>There is the potential for erosion and subsequent sedimentation of receiving waters.</p> <p>There is also a small risk of pollution of receiving water environments in the case of a spill of any fuels, chemicals or hazardous materials from the site.</p> <p>This risk is considered low due to the use of mitigation measures to contain all potential pollutants within the site of the proposed works.</p>	
P3. Is the activity likely to have a neutral or beneficial effect on water quality? Refer to NorBE assessment (Appendix B).	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Neutral	The proposal will have a neutral impact on water quality- see NorBE Assessment	See NorBE Assessment
P4. Is the activity likely to change flood or tidal regimes, or be affected by flooding? Consultation with State Emergency Service for impacts on flood liable land (see s15AA SEPP Infrastructure 2007)	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	N/A	The proposed activity will not have any impact on flood or tidal regimes.	N/A

CHEMICAL & HAZARDOUS SUBSTANCES

Physical and chemical impacts during construction and operation

	Is this applicable? * Write Yes or No	Impact level low, medium or high adverse or positive or N/A	Reasons Justify impact level. Describe the type, nature and extent of impact, taking into account the receiving environment & any proposed safeguards which will limit the impact. If you determine the impacts are not medium or high adverse in areas with Environmentally Sensitive features, strong justification must be provided.	Safeguards/Mitigation Measures
P5. Does the activity involve the use, storage, or transport of hazardous substances or the use or generation of chemicals, which may build up residues in the environment? Consider the level of information/degree of confidence regarding the potential impact on the environment of the hazardous substances & degree of community interest/concern with respect to transport, use or generation of the substances.	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Low - adverse	<p>The proposed activity requires the use of fuels and oils in machinery and equipment used to undertake road upgrade works.</p> <p>The potential impact is considered low because of the safeguards and mitigation measures that will be implemented to contain all potential contaminants within the project site.</p>	<p>Store fuels, chemical and hazardous materials in secure, bunded areas within temporary construction ancillary facilities, and at least 40m from all waterways.</p> <p>Capture and dispose of spill and contaminated materials from temporary construction ancillary facilities at a licensed facility.</p> <p>Provide spill kits around temporary construction ancillary facilities.</p>
WASTE, NOISE, VIBRATION & AIR QUALITY				
P6. Does the activity involve the generation or disposal of gaseous, liquid or solid wastes or emissions?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Low - adverse	<p>The proposed activity is not expected to generate wastes; however a Waste Management Plan should be prepared for handling of any unanticipated wastes generated during construction.</p> <p>The potential impact is low because the safeguards and mitigation measures will present these waste materials from leaving the site</p>	A Waste Management Plan will be prepared as part of the CEMP which will detail capture, storage, treatment and disposal of any waste that may be generated during the construction process (see above).
P7. Will the activity involve the emission of dust,	Yes <input checked="" type="checkbox"/>	Low -	The proposed activity has the potential to create emissions of dust, odour and noise during	<u>Air/ dust/ odour:</u>

Physical and chemical impacts during construction and operation

	Is this applicable? * Write Yes or No	Impact level low, medium or high adverse or positive or N/A	Reasons Justify impact level. Describe the type, nature and extent of impact, taking into account the receiving environment & any proposed safeguards which will limit the impact. If you determine the impacts are not medium or high adverse in areas with Environmentally Sensitive features, strong justification must be provided.	Safeguards/Mitigation Measures
odours, noise, vibration or radiation in the proximity of residential or urban areas or other sensitive locations?	No <input type="checkbox"/>	adverse	<p>construction.</p> <p>Potential impacts are considered low because of safeguards and mitigation measures that will be implemented.</p>	<ul style="list-style-type: none"> Measures to minimise or prevent air pollution or dust are to be used including watering or covering exposed areas. Works are not to be carried out during strong winds or in weather conditions where high levels of dust or air borne particulates are likely Vehicles and vessels transporting waste or other materials that may produce odours or dust are to be covered during transportation Vehicles and equipment are to be maintained in good working order and not left idling. Monitor work areas and stockpiles for dust generation and seed/cover/spray to suppress if necessary. <p><u>Noise:</u></p> <ul style="list-style-type: none"> All sensitive receivers (eg local residents) likely to be affected will be notified at least five working days prior to the start of any works associated with the activity that may have an adverse noise or vibration impact. Works to be carried out during normal work hours (i.e. 7am to 6pm Monday to Friday; 8am to 1pm Saturdays). Any work that is performed outside normal work hours or on Sundays or public holidays may not be permitted and, if permitted, works are to minimise noise impacts.



Community impacts during construction and operation

	Is this applicable? Write Yes or No	Impact level low, medium or high adverse or positive or N/A	Reasons Justify impact level. Describe the type, nature and extent of impact, taking into account the receiving environment & any proposed safeguards which will limit the impact. If you determine the impacts are not medium or high adverse in Areas with Environmentally Sensitive Features, strong justification must be provided.	Safeguards/Mitigation Measures
C1. Is the activity likely to affect community services or infrastructure? (infrastructure includes roads, bus route, power, water, drainage, waste management, educational, medical or social services)	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Low - adverse	<p>The proposed activity will cause some disruption to road users and residents along the affected road during the construction phase.</p> <p>It is not anticipated that there will be any disruption to power supply, drainage, waste management, bus routes, educational, medical or social services.</p>	<p>Property access will be maintained during the works. Old South Road will be closed to traffic in section with detours in place.</p> <p>Traffic disturbance is unavoidable, a Traffic Management Plan (TMP) will be prepared.</p> <p>Comply with Council requirements regarding traffic control, access and road/ pedestrian access.</p> <p>Erect signs regarding proposed works, temporary road closures, diversions, etc.</p>
C2. Does the activity affect sites of importance to local or broader community for their recreational or other values or access to these sites? (including places of conservation, heritage or cultural significance)	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>		<p>The following places may be of importance to the local community:</p> <ul style="list-style-type: none"> • Monument / lookout (Map 2) • Marist Brothers Cemetery (Map 5) • Mittagong airport (Maps 9 to 11) <p>Local heritage items occur along the alignment of the proposed road works:</p> <ul style="list-style-type: none"> • I102 The Old South Road; • I169 Marist Brothers Centre; • I193 Willow Run wells, barn and outbuildings; • I195 and I196- Cutter's Inn; and • I275 and I276 Rowe Cottage. 	<p>Access to each of these places of interest and heritage items will be maintained during construction work and following construction. Any potential impacts would be minor and short term in nature (ie during road upgrade works)</p> <p>The Old South Road will be impacted by the proposed road upgrade. No other heritage items will be impacted.</p>

Community impacts during construction and operation

	Is this applicable? Write Yes or No	Impact level low, medium or high adverse or positive or N/A	Reasons Justify impact level. Describe the type, nature and extent of impact, taking into account the receiving environment & any proposed safeguards which will limit the impact. If you determine the impacts are not medium or high adverse in Areas with Environmentally Sensitive Features, strong justification must be provided.	Safeguards/Mitigation Measures
C3. Is the activity likely to affect economic factors, including employment, industry and property value?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	N/A	It is not anticipated that road upgrade works will have any impact on economic factors for the local community	Nil
C4. Is the activity likely to have an impact on the safety of the community? Consider applicable: Australian Standards ¹³ , Building Code of Australia, geotechnical/engineering reports, or safe systems of work.	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	N/A	All works will be undertaken by suitably qualified contractors who work to Australian Standards to ensure that there is no impact on the safety of the community.	Nil
C5. Is the activity to be carried out on land that is in a bushfire prone area?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Low Adverse	The subject road traverses land that has been mapped by RFS as bushfire prone land. The proposed activity is not anticipated to have any impact on bushfire prone land. All safeguards and mitigation measures to prevent potential spark or other cause of bushfire will be implemented.	Traffic management to maintain access routes for any bushfire management activities during construction works.
C6. Will the activity affect the visual or scenic landscape?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Low Adverse	The proposed activity will have a temporary impact on the visual amenity of the landscape in the immediate vicinity of the subject road, during	Contain all work within the boundaries designated on the site plan.

¹³ Contact Administration Officer (Assets and Project Delivery) for access to Australian Standards

Community impacts during construction and operation

	Is this applicable? Write Yes or No	Impact level low, medium or high adverse or positive or N/A	Reasons Justify impact level. Describe the type, nature and extent of impact, taking into account the receiving environment & any proposed safeguards which will limit the impact. If you determine the impacts are not medium or high adverse in Areas with Environmentally Sensitive Features, strong justification must be provided.	Safeguards/Mitigation Measures
			construction works. At completion of the construction phase, the site will be rehabilitated and returned to its original condition.	Restore work sites to as close to their original condition as possible.
C7. Is the activity likely to cause noise, pollution, visual impacts, loss of privacy, glare or overshadowing to members of the community, particularly adjoining landowners?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Low Adverse	The following impacts are anticipated during construction: <ul style="list-style-type: none"> noise impacts for landowners and residents in the immediate vicinity; visual impacts for road users. 	All sensitive receivers (eg local residents) likely to be affected will be notified at least five working days prior to the start of any works associated with the activity that may have an adverse noise or vibration impact. - Works to be carried out during normal work hours (i.e. 7am to 6pm Monday to Friday; 8am to 1pm Saturdays). Any work that is performed outside normal work hours or on Sundays or public holidays may not be permitted and, if permitted, works are to minimise noise impacts. Construction works will be conducted in stages and site rehabilitation will occur immediately following construction, in an effort to reduce visual impacts.
C8. Is the activity likely to affect the use of, or the community's ability to use, natural resources? <i>A natural resource includes our land, soil, water, plants, animals, minerals and air and also includes</i>	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	N/A	The proposed activity will not have any impact on the community's ability to use natural resources.	Nil

Community impacts during construction and operation

	Is this applicable? Write Yes or No	Impact level low, medium or high adverse or positive or N/A	Reasons Justify impact level. Describe the type, nature and extent of impact, taking into account the receiving environment & any proposed safeguards which will limit the impact. If you determine the impacts are not medium or high adverse in Areas with Environmentally Sensitive Features, strong justification must be provided.	Safeguards/Mitigation Measures
<i>timber or a mineral deposit, that occurs in a natural state and has economic value, or is necessary/useful to humans</i>				
C9. Is the activity likely to affect traffic around the site? (including number and type of construction vehicles, number of heavy vehicle trips made to and from the site, disruption to traffic flow, partial or complete road closures)	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Low Adverse	<p>The proposed activity will cause some disruption to road users and residents along the subject road during the construction phase. Road closures will be in place during construction. It is anticipated that the level of disruption will be lowered due to the requirement for implementation of a suitable Traffic Management Plan.</p> <p>Number of heavy vehicle movements to and from the site each day would be maximum of 10, allowing for 2 x trucks per day for delivery, 3 x trucks for machinery and 5 x trucks for haulage and backfill.</p>	<p>Where possible, current traffic movements and property access are to be maintained during the works. Any disturbance is to be minimised to prevent unnecessary traffic delays.</p> <p>If traffic disturbance is unavoidable, a Traffic Management Plan (TMP) will be prepared.</p> <p>Comply with Council requirements regarding traffic control, access and road/ pedestrian access.</p> <p>Erect signs regarding proposed works, temporary road closures, diversions, etc.</p>

Natural resource impacts during construction and operation

	Is this applicable? Write Yes or No	Impact level low, medium or high adverse or positive or N/A	Reasons Justify impact level. Describe the type, nature and extent of impact, taking into account the receiving environment & any proposed safeguards which will limit the impact. If you determine the impacts are not medium or high adverse in Areas with Environmentally Sensitive Features, strong justification must be provided.	Safeguards/Mitigation Measures
N1. Is the activity likely to involve the use, wastage, destruction or depletion of natural resources including water, fuels, and timber or extractive materials?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Low Adverse	The proposed activity will require the use of fuels and oil to operate machinery. The anticipated volume is very minor, and there will be no wastage of any natural resources.	Plan for equipment and machinery that will be required to construct the road, and allow volume of fuels and oils required for construction phase. Such planning will minimize any wastage
N2. Does the activity incorporate measures for the sustainable and efficient use of water and energy?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Low Adverse	The proposed activity will be conducted in a staged fashion and incorporate measures for sustainable and efficient use of water and energy	Incorporate measures for sustainable and efficient use of water and energy to all works

Aboriginal cultural heritage impacts during construction and operation

Addressing Qs 1-5 will assist in complying with the DECCW's *Due Diligence Code of Practice for the Protection of Aboriginal Objects in NSW*. The Code is to assist people to exercise due diligence when carrying out activities that may harm Aboriginal objects and to determine whether an Aboriginal Heritage Impact Permit (AHIP) is required. A person who exercises due diligence in determining that their actions will not harm Aboriginal objects has a defence against prosecution for the strict liability offence if they later unknowingly harm an object without an AHIP (s80 of *National Parks and Wildlife Act 1974*).

	Is this applicable? Write Yes or No	Impact level low, medium or high adverse or positive or N/A	Reasons Justify impact level. Describe the type, nature and extent of impact, taking into account the receiving environment & any proposed safeguards which will limit the impact. If you determine the impacts are not medium or high adverse in Areas with Environmentally Sensitive Features, strong justification must be provided.	Safeguards/Mitigation Measures
A1. Will the activity disturb the ground surface or any culturally modified trees^? NB. If answer is no, the Code provides an AHIP will not be necessary. <i>^a tree that has been scarred, carved or modified by an Aboriginal person by the deliberate removal, by traditional methods of bark or wood from the tree, or the deliberate modification, by traditional methods, of the wood of the tree</i>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Low Adverse	The ground will be disturbed to allow for road upgrade works. An Aboriginal Objects Due Diligence has been conducted and found: <ul style="list-style-type: none"> - The proposed road resurfacing works are defined as a 'Low Impact Activity' under section 58 of the Regulation; - The activity associated with vegetation clearance is not a low impact activity as defined under section 58 of the Regulation. - The trees proposed to be removed are not culturally modified trees or registered as Local or State Heritage Items. - No Aboriginal cultural heritage constraints were identified in the Activity Area. 	No further assessment is required. An AHIP is not required. The Due Diligence report recommends mitigation measures for unanticipated finds – see below.
A2. Does the activity affect known Aboriginal objects or Aboriginal places? Include all known sources of information on likely presence of Aboriginal	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Low Adverse	An Aboriginal Objects Due Diligence has been conducted and found there are no known Aboriginal objects or Aboriginal places within the vicinity of the proposed activity.	Mitigation Measures from Due Diligence report: <ul style="list-style-type: none"> - All site workers and contractors should be inducted to the area and informed of their obligations under the <i>National Parks and Wildlife Act 1974</i>; - In the unlikely event that an Aboriginal object is found. Temporary fencing must be placed around the

Aboriginal cultural heritage impacts during construction and operation

Addressing Qs 1-5 will assist in complying with the DECCW's *Due Diligence Code of Practice for the Protection of Aboriginal Objects in NSW*. The Code is to assist people to exercise due diligence when carrying out activities that may harm Aboriginal objects and to determine whether an Aboriginal Heritage Impact Permit (AHIP) is required. A person who exercises due diligence in determining that their actions will not harm Aboriginal objects has a defence against prosecution for the strict liability offence if they later unknowingly harm an object without an AHIP (s80 of *National Parks and Wildlife Act 1974*).

	Is this applicable? Write Yes or No	Impact level low, medium or high adverse or positive or N/A	Reasons Justify impact level. Describe the type, nature and extent of impact, taking into account the receiving environment & any proposed safeguards which will limit the impact. If you determine the impacts are not medium or high adverse in Areas with Environmentally Sensitive Features, strong justification must be provided.	Safeguards/Mitigation Measures
objects or places, including AHIMS search results				<p>object with a buffer of at least 10 meters. An appropriately qualified archaeologist should be engaged to assess the finding, should the object be determined to be an Aboriginal object Heritage NSW should be informed. Works should not proceed until advice is received from Heritage NSW.</p> <p>- In the unlikely event that suspected human remains are encountered during construction, all works should cease immediately and:</p> <ul style="list-style-type: none"> ○ The location, including a 10 m buffer should be secured using a barrier to avoid further disturbance; ○ The NSW Police should be contacted immediately; ○ No further action is to be undertaken until the NSW Police provide advice that it is safe to do so; ○ If skeletal remains are identified as being Aboriginal, the proponent or their agent must contact Heritage NSW via the Environment Line on 131 555, and representatives of the Local Aboriginal Land Council, and; ○ No works are to continue until Heritage NSW provides notification to Wingecarribee Shire Council or their agent.

Aboriginal cultural heritage impacts during construction and operation

Addressing Qs 1-5 will assist in complying with the DECCW's *Due Diligence Code of Practice for the Protection of Aboriginal Objects in NSW*. The Code is to assist people to exercise due diligence when carrying out activities that may harm Aboriginal objects and to determine whether an Aboriginal Heritage Impact Permit (AHIP) is required. A person who exercises due diligence in determining that their actions will not harm Aboriginal objects has a defence against prosecution for the strict liability offence if they later unknowingly harm an object without an AHIP (s80 of *National Parks and Wildlife Act 1974*).

	Is this applicable? Write Yes or No	Impact level low, medium or high adverse or positive or N/A	Reasons Justify impact level. Describe the type, nature and extent of impact, taking into account the receiving environment & any proposed safeguards which will limit the impact. If you determine the impacts are not medium or high adverse in Areas with Environmentally Sensitive Features, strong justification must be provided.	Safeguards/Mitigation Measures
A3. Is the activity located within, or will it affect, areas containing the following landscape features AND is located on land that is not "disturbed land" as defined in the Due diligence Code of Practice definition? Landscape features include: <ul style="list-style-type: none"> • within 200m of waters*; • within a sand dune system*; • on a ridge top, ridge line or headland; • within 200m below or above a cliff face; or • within 20m of or in a cave, rock shelter or a cave mouth. *see Due Diligence Code of	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Low Adverse	The site: <ul style="list-style-type: none"> - is within 200m of waters; - is not within a sand dune system; - is not on a ridge top or headland; - is not within 200m below or above a cliff face; - is not within 20m of a rock shelter, cave or cave mouth; AND <ul style="list-style-type: none"> - is located on land that is disturbed land as defined in the Due Diligence Code of Practice. 	The Due Diligence has found that No. There are no landscape features as identified within the DECCW (2010) <i>Due Diligence Code of Practice for the Protection of Aboriginal Objects in New South Wales</i> within the proposed Activity Area

Aboriginal cultural heritage impacts during construction and operation

Addressing Qs 1-5 will assist in complying with the DECCW's *Due Diligence Code of Practice for the Protection of Aboriginal Objects in NSW*. The Code is to assist people to exercise due diligence when carrying out activities that may harm Aboriginal objects and to determine whether an Aboriginal Heritage Impact Permit (AHIP) is required. A person who exercises due diligence in determining that their actions will not harm Aboriginal objects has a defence against prosecution for the strict liability offence if they later unknowingly harm an object without an AHIP (s80 of *National Parks and Wildlife Act 1974*).

	Is this applicable? Write Yes or No	Impact level low, medium or high adverse or positive or N/A	Reasons Justify impact level. Describe the type, nature and extent of impact, taking into account the receiving environment & any proposed safeguards which will limit the impact. If you determine the impacts are not medium or high adverse in Areas with Environmentally Sensitive Features, strong justification must be provided.	Safeguards/Mitigation Measures
Practice for requirements.				
A4. If Aboriginal objects or landscape features are present, can impacts be avoided?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	NA	NA	Nil
A5. Does the activity affect areas subject to Native Title claims? If on Crown Land check with Council's Native Title Manager.	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	N/A	The proposed activity is not on land subject to Native Title claims.	Nil

Biological impacts during construction and operation (excluding Matters of National Environmental Significance)

Reference may be made to the NSW *Threatened species test of significance guidelines* and *Threatened species guidelines* for assistance.

	Is this applicable? Write Yes or No	Impact level low, medium or high adverse or positive or N/A	Reasons Justify impact level. Describe the type, nature and extent of impact, taking into account the receiving environment & any proposed safeguards which will limit the impact. If you determine the impacts are not medium or high adverse in Areas with Environmentally Sensitive Features, strong justification must be provided.	Safeguards/Mitigation Measures
B1. Is any vegetation (dead or alive) to be cleared or modified? Provide specific details on impacts to: <ul style="list-style-type: none"> • Mapped threatened ecological communities, flora threatened species, threatened species habitat; • Vegetation within heritage items or heritage conservation areas; • Trees with a trunk diameter greater than 500mm (measured at 1.4m above ground); • Hollow bearing trees¹⁴ • Encroachments: >10% in tree protection zone; or within structural root zone (see Australian Standard 	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Low Adverse	<p>The project design for Stage 2 works has been revised significantly to reduce vegetation clearing, and in particular impacts to EEC.</p> <p>The area of <i>Sydney Peppermint - White Stringybark moist shrubby forest on elevated ridges, Sydney Basin Bioregion</i> EEC to be cleared has been reduced from 2.28 ha in the original proposed design, to 0.60 ha in the revised design which is being assessed by this REF.</p> <p>According to the Arborists' report (Moore Trees 2022) 105 trees are proposed to be removed, which is a significant reduction to the 1,003 trees originally proposed to be cleared. The design has also avoided hollow bearing trees and habitat trees. Most of the trees to be removed are due to the works impacting 40% or more of the TPZ areas of those trees.</p>	<p>Mitigation measures and safeguards are as follows are to be documented in a Vegetation Management Plan (VMP) to be prepared by a qualified ecologist prior to any works commencing.</p> <p>The VMP will detail at a minimum:</p> <p><u>1. Pre-Clearing Survey:</u></p> <ul style="list-style-type: none"> * pre-clearing survey to identify: <ul style="list-style-type: none"> - the area of the EEC; - hollow bearing trees; - trees with a trunk diameter of greater than 500mm, and - tree roots within structural root zone of trees. * Relocation of native fauna <p><u>2. Mark out Exclusion Zones</u></p> <ul style="list-style-type: none"> - Mark out exclusion areas. In these areas, all measures will be taken to avoid vegetation clearing and disturbance. - Training provided to all staff and contractors. <p><u>3. Minimise Vegetation removal:</u></p>

¹⁴ Hollow bearing trees includes living or dead trees with a diameter at breast height (DBH) of greater than 500mm; and/or where hollow entrances can be seen and are greater than 20mm; and the hollow appears to have depth. Trees must be examined from all angles. Note: Council has a draft procedure for managing impacts to hollow bearing trees.

Biological impacts during construction and operation (excluding Matters of National Environmental Significance)

Reference may be made to the NSW *Threatened species test of significance guidelines* and *Threatened species guidelines* for assistance.

	Is this applicable? Write Yes or No	Impact level low, medium or high adverse or positive or N/A	Reasons Justify impact level. Describe the type, nature and extent of impact, taking into account the receiving environment & any proposed safeguards which will limit the impact. If you determine the impacts are not medium or high adverse in Areas with Environmentally Sensitive Features, strong justification must be provided.	Safeguards/Mitigation Measures
4970-2009 ¹⁵).				<p>- Remove the minimum required vegetation and minimise disturbance to remaining vegetation.</p> <p>4. Hollow Bearing Trees Where reasonable and feasible, retain mature and hollow bearing habitat trees, including dead stags. If hollow bearing trees are being removed, the ecologist is to survey the hollows, take measures to relocate any native fauna and ensure they are safe, and provide nest boxes to mitigate impacts.</p> <p>5. Weed Management Strategies There are a number of high threat exotic weed species and other weed species spread throughout (refer Section). To avoid the further spread of weed seeds, propagules and pathogens, the following mitigation measures are recommended:</p> <ul style="list-style-type: none"> • Plant, equipment and stockpiles should be placed in lay down areas avoiding areas of native vegetation. • All exotic biomass cleared within the impact area should be removed from the

¹⁵ Contact Administration Officer (Assets and Project Delivery) for access to Australian Standards

Biological impacts during construction and operation (excluding Matters of National Environmental Significance)

Reference may be made to the NSW [Threatened species test of significance guidelines](#) and [Threatened species guidelines](#) for assistance.

	Is this applicable? Write Yes or No	Impact level low, medium or high adverse or positive or N/A	Reasons Justify impact level. Describe the type, nature and extent of impact, taking into account the receiving environment & any proposed safeguards which will limit the impact. If you determine the impacts are not medium or high adverse in Areas with Environmentally Sensitive Features, strong justification must be provided.	Safeguards/Mitigation Measures
				<p>study area and disposed of at an approved facility.</p> <ul style="list-style-type: none"> All equipment and plant brought into the impact area is to be washed/cleaned so that it is free of soil, mud debris or vegetation which may inadvertently introduce weeds and/or other pathogens into the study area. Measures should be taken to prevent tracking of soils/sediments from the work sites to other roadways as a result of work vehicle/machinery movement. <p>6. Site Restoration: Following construction, and return of the site to its original condition, weed-free topsoil should be used in landscaping and any disturbed sites revegetated with locally indigenous species.</p>
B2. Is the activity likely to have a significant effect on threatened species, ecological communities or their habitats listed (schedule 1 or 2) in the Biodiversity Conservation Act 2016? Refer to	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Low Adverse	<p>The project design for Stage 2 works has been revised significantly to reduce vegetation clearing, and in particular impacts to EEC.</p> <p>The area of <i>Sydney Peppermint - White Stringybark moist shrubby forest on elevated ridges, Sydney Basin Bioregion</i> EEC to be cleared has been reduced from 2.28 ha in the original proposed design, to 0.60</p>	See above- mitigation measures and environmental safeguards to be documented in a Vegetation Management Plan to be prepared by a qualified ecologist.

Biological impacts during construction and operation (excluding Matters of National Environmental Significance)

Reference may be made to the NSW *Threatened species test of significance guidelines* and *Threatened species guidelines* for assistance.

	Is this applicable? Write Yes or No	Impact level low, medium or high adverse or positive or N/A	Reasons Justify impact level. Describe the type, nature and extent of impact, taking into account the receiving environment & any proposed safeguards which will limit the impact. If you determine the impacts are not medium or high adverse in Areas with Environmentally Sensitive Features, strong justification must be provided.	Safeguards/Mitigation Measures
Appendix C.			<p>ha in the revised design which is being assessed by this REF.</p> <p>The Flora and Fauna Assessment undertaken by Eco Planning (2021) found that the following threatened fauna species have a moderate likelihood of occurrence in the study area:</p> <ul style="list-style-type: none"> <i>Phascolarctos cinereus</i> (Koala), which is “Vulnerable” under both the <i>BC Act</i> and <i>EPBC Act</i>. <i>Pteropus poliocephalus</i> (Grey-headed Flying-fox) which is “Vulnerable” under both the <i>BC Act</i> and <i>EPBC Act</i>. <p>A “moderate” likelihood of occurrence indicates that there is suitable habitat for a species in the study area and a relatively high number of recent records are in the locality, but no evidence of the species was detected during field survey.</p> <p>A revised threatened species test of significance was conducted for each of these species, based on the revised design and project footprint. These tests found that the proposed activity will NOT significantly affect these species.</p>	
B3. Is the activity likely to have a significant effect on threatened species,	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Low Adverse	“Key Fish Habitat” areas have been mapped by DPI in some watercourses within the project area.	Standard environmental safeguards to prevent erosion and sedimentation of waterways during road

Biological impacts during construction and operation (excluding Matters of National Environmental Significance)

Reference may be made to the NSW *Threatened species test of significance guidelines* and *Threatened species guidelines* for assistance.

	Is this applicable? Write Yes or No	Impact level low, medium or high adverse or positive or N/A	Reasons Justify impact level. Describe the type, nature and extent of impact, taking into account the receiving environment & any proposed safeguards which will limit the impact. If you determine the impacts are not medium or high adverse in Areas with Environmentally Sensitive Features, strong justification must be provided.	Safeguards/Mitigation Measures
populations, or their habitats listed (schedule 4, 4A or 5) in the Fisheries Management Act 1994 ? Refer to Appendix C .			<p>As addressed by Ecoplanning's Flora and Fauna Assessment (2020), a field survey and assessment by a qualified ecologist deemed all subject areas to be degraded and therefore were not considered to constitute "Key Fish Habitat". See photos of subject watercourses in Appendix E of this REF. However, as a Controlled Activity Approval is not required (Councils are exempt for Part 5 activities), and the works to be undertaken fall in parts of the subject watercourses that are below top of bank, consultation with NSW Fisheries has been undertaken, and determined that a Section 200 permit is required, and an application has been prepared and accompanies this REF.</p> <p>Any potential impacts would be due to construction of proposed stormwater structures, would be temporary in nature, and managed by standard environmental safeguards.</p>	<p>upgrade works.</p> <p>Mitigation measures required by DPI Fisheries as follows:</p> <ul style="list-style-type: none"> Structures have been designed and will be constructed with regard to the <i>Policy and Guidelines for Fish Habitat Conservation and Management</i> (NSWDPI 2013) and <i>Why do Fish Need to Cross the Road- Fish Passage Requirements for Waterway Crossings</i> (Fairfull and Witheridge 2003). Environmental safeguards are to be used during the works to ensure that there is no escape of turbid plumes into the adjacent aquatic environment. Any material removed from the waterway that is to be temporarily deposited or stockpiled on land is to be located well away from the waterway and to be contained by appropriate sediment control devices. DPI Fisheries (1800 043 536) and the Environment Protection Authority (131 555) is to be notified immediately if any fish kills occur in the vicinity of the works. In such cases, all works other than emergency response procedures are to cease until the issue is rectified and approval is given by DPI Fisheries and/or EPA for works to proceed.

Biological impacts during construction and operation (excluding Matters of National Environmental Significance)

Reference may be made to the NSW [Threatened species test of significance guidelines](#) and [Threatened species guidelines](#) for assistance.

	Is this applicable? Write Yes or No	Impact level low, medium or high adverse or positive or N/A	Reasons Justify impact level. Describe the type, nature and extent of impact, taking into account the receiving environment & any proposed safeguards which will limit the impact. If you determine the impacts are not medium or high adverse in Areas with Environmentally Sensitive Features, strong justification must be provided.	Safeguards/Mitigation Measures
B4. Is the activity likely to have an effect on areas of outstanding biodiversity values listed in the Biodiversity Conservation Act 2016? Refer to Appendix C.	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Nil	There are no areas of outstanding biodiversity value in the vicinity of the proposed activity.	Nil
B5. Is the activity likely to have an effect on critical habitat listed in the Fisheries Management Act 1994? Refer to Appendix C.	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	N/A	The proposed activity is not in an area of critical habitat listed in the <i>Fisheries Management Act 1994</i> .	Nil
B6. Does the activity have the potential to endanger, displace or disturb any protected fauna or protected native plants within the meaning (schedule 5 or 6) of the Biodiversity Conservation Act 2016?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Low Adverse	There is the potential for protected fauna and flora species to be impacted by the proposed activity due to habitat loss and disturbances during construction.	Safeguards and mitigation measures as per the Vegetation Management Plan
B7. Is the activity likely to cause a threat to the biological diversity or ecological integrity of an ecological community?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Low Adverse	There is the potential for some minor threats to biological diversity and ecological integrity of the EEC vegetation to be cleared due to the patchy nature of extant native vegetation in the locality.	Safeguards and mitigation measures as per the Vegetation Management Plan will help to address this, particularly site restoration and rehabilitation measures aimed to establish native vegetation at the site following construction

Biological impacts during construction and operation (excluding Matters of National Environmental Significance)

Reference may be made to the NSW [Threatened species test of significance guidelines](#) and [Threatened species guidelines](#) for assistance.

	Is this applicable? Write Yes or No	Impact level low, medium or high adverse or positive or N/A	Reasons Justify impact level. Describe the type, nature and extent of impact, taking into account the receiving environment & any proposed safeguards which will limit the impact. If you determine the impacts are not medium or high adverse in Areas with Environmentally Sensitive Features, strong justification must be provided.	Safeguards/Mitigation Measures
B8. Is the activity likely to introduce or create favourable conditions for biosecurity threats (e.g. pest, diseases or weeds as defined in Biosecurity Act 2015) into an area?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	N/A	Safeguards and Mitigation Measures will prevent the introduction of biosecurity threats	The Vegetation Management Plan will address measures to reduce spread of weeds during construction. For example: Construction machinery should be washed prior to entering and leaving site to ensure weed propagules are not transported. Use weed-free topsoil in landscaping and revegetate disturbed sites with locally indigenous species.
B9. Is the activity likely to affect any wilderness area within the meaning of the Wilderness Act 1987? E.g. North Ettrema or Nattai. Check Environmental Impact Assessment Map set	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	N/A	The proposed activity is not within a Wilderness Area	Nil
B10. Is the activity consistent with any conservation agreements and plans of management adopted under the National Parks and Wildlife Act 1974?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	(N/A if work is confined to Council land)	The proposed activity is confined to the road reserve.	Nil

Biological impacts during construction and operation (excluding Matters of National Environmental Significance)

Reference may be made to the NSW [Threatened species test of significance guidelines](#) and [Threatened species guidelines](#) for assistance.

	Is this applicable? Write Yes or No	Impact level low, medium or high adverse or positive or N/A	Reasons Justify impact level. Describe the type, nature and extent of impact, taking into account the receiving environment & any proposed safeguards which will limit the impact. If you determine the impacts are not medium or high adverse in Areas with Environmentally Sensitive Features, strong justification must be provided.	Safeguards/Mitigation Measures
B11. Is the activity likely to affect any joint management agreements under the <i>Threatened Species Conservation Act 1995</i> or <i>Biodiversity Conservation Act 2016</i>?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	N/A	The activity is not likely to affect any joint management agreements under the <i>Biodiversity Conservation Act 2016</i>	Nil
B12. Is the activity likely to affect any biobanking agreement entered into under Part 7A of <i>Threatened Species Conservation Act 1995</i> or biodiversity stewardship agreement under the <i>Biodiversity Conservation Act 2016</i> that applies to the land? Check BioBanking Register	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	N/A	The activity is not likely to affect any biobanking agreements under the <i>Biodiversity Conservation Act 2016</i>	Nil

Matters of national environmental significance (MNES) under the *Environment Protection and Biodiversity Conservation Act 1999* (Cth)

Refer to EPBC Act, 'Significant Impact Guidelines 1.1: Matters of National Environmental Significance', December 2009 produced by the Commonwealth Department of the Environment, Water, Heritage and the Arts. <http://www.environment.gov.au/epbc/publications/nes-guidelines.html>

This assessment can only be used within Wingecarribee LGA as other MNES occur outside the LGA.

<p>M1. Are there any matters of national environmental significance located in the area of the proposed action?</p> <p>Note: Refer to Biological Impact section generated during the REF process.</p>	<p>Results of EPBC Protected Matters Search:</p> <p>World Heritage properties: None</p> <p>National Heritage places: None</p> <p>Wetlands of International Importance: None</p> <p>Commonwealth listed threatened species or ecological communities: 6 listed TECs and 53 listed threatened species within 5.0km search (Note one TEC validated by field survey within road alignment).</p> <p>Commonwealth listed migratory species: 15 listed migratory species within 5.0km search</p> <p>Nuclear actions: None</p>
<p>M2. Considering the proposed action at its broadest scope, is there potential for impacts on matters of national environmental significance?</p>	<p>The proposed works includes clearing of 0.55 ha of <i>Southern Highlands Shale Forest and Woodland endangered ecological community in the Sydney Basin Bioregion</i> under the EPBC Act. The project has the potential to impact two threatened species listed as "Vulnerable" under the EPBC Act- <i>Phascolarctos cinereus</i> (Koala) and <i>Pteropus poliocephalus</i> (Grey-headed Flying-Fox) however these have been assessed as NOT significant due to mitigation measures proposed in this REF and the VMP.</p>
<p>M3. Are there any proposed measures to avoid or reduce impacts on matters of national environmental significance?</p>	<p>As per the safeguards and mitigation measures outlined in this REF for avoiding impacts to all threatened species and ecological communities.</p>
<p>M4. Are any impacts of the proposed action on matters of national environmental significance likely to be significant impacts?</p> <p>If 'yes' is answered in Question M4, the matter needs to be referred to the Environment & Health Systems Coordinator for additional Government requirements and notification process.</p>	<p>See Significant Impact Guidelines significant impact criteria for relevant matters of national environmental significance.</p> <p>NO – see Tests of Significance attached.</p>



Considerations of cumulative environmental impacts & effects

- (a) Consider the cumulative impacts of the activity for each category. In addition to medium and high impacts, it is necessary to consider the overall effects of the low impacts. Although impacts may be of only low to medium concern when considered individually, the cumulative effect of the impacts could be substantial.

Category of Impact	Significance of impacts		
	Describe the extent of impact as negligible, low, medium or high adverse or positive or N/A	Describe the nature of impact	List any environmentally sensitive features
Physical and Chemical	N/A	N/A	Nil
Community	Low Adverse	Noise, visual impacts during construction	Nil
Natural Resources	N/A	N/A	Nil
Cultural Heritage	Low Adverse	Aboriginal Due Diligence Assessment has not identified any places, objects or culturally modified trees in the vicinity of the proposed activity	Nil
Biological	Low Adverse	Vegetation clearing, including up to 0.60ha of a TEC listed under both the NSW BC Act and the EPBC Act. Potential impacts to threatened fauna through loss of potential habitat.	EEC vegetation Other native vegetation Fauna habitat
Matters of National Environmental Significance	Low Adverse	Clearing of EEC vegetation, potential impacts to Grey-headed Flying-Fox and Koala.	Commonwealth listed Critically Endangered Ecological Community and two fauna species listed as "Vulnerable"

- (b) Consider any cumulative environmental effect the activity will have with other existing or likely future activities. Cumulative effect is the compound effect of the proposed activity on the environment in addition to existing activities and proposed activities. These activities are not restricted to Council's proposals. For example:

- [NSW Major Projects](#)

- [NSW Planning Portal](#)
- [Wingecaribee Shire Council – current works](#)
- [Wingecaribee Shire Council – major infrastructure projects](#)

There are no other known proposed activities in this location. Cumulative impacts are anticipated to be minimal.

PART B DETERMINATION

See points 2 to 5 and 11 to 15 at beginning of Part B for guidance on evaluating the likely environmental significance of the impacts.

	Tick Yes or No	Yes	No
1. The cumulative impact of the activity as a whole is of a low level. The activity is not likely to have a significant effect on the environment.		✓	
2. The cumulative impact of the activity as a whole is of a medium or high level of impact.			✓
1. It is concluded that the activity is likely to have a significant effect on the environment. An Environmental Impact Statement (EIS) is required.			✓
2. It is concluded that the activity is likely to have a significant effect on threatened species, populations, ecological communities or their habitats. A Species Impact Statement (SIS) or BDAR is required.			✓
3. The activity is in respect of land that is, or is part of, critical habitat or areas of outstanding biodiversity value. A Species Impact Statement (SIS) or BDAR is required.			✓
NOTE: If a SIS/BDAR or EIS is required please consult with Environment & Health Systems Coordinator for additional State Government requirements and notification process.			

Provide reasons and attach any supporting documents for reaching the above determination.

For example:

- Reference of the EPI and clause that allows this proposal to be 'permitted without consent';
- Statement about all environmental impacts associated with a proposed activity have been addressed in accordance with the requirements of section 5.5 of the EP&A Act and Clause 228 of the EP&A Regulation (i.e. through using this form);
- Determine if the proposal can proceed without EIS or SIS (or BDAR) – see PART B DETERMINATION;
- Identify other licences, permits or approvals required – see the A4 checklist; and
- Identify that safeguards/mitigation measures will be implemented (e.g. by project manager/construction staff/ as identified in CEMP) to manage the impacts.

See Appendices C and D – Results of 10km search of NSW Bionet Atlas and Protected Matters Search Tool, an assessment of the likelihood of occurrence based on number of records within 5km of the subject site, Tests of Significance, Flora and Fauna Assessment.

As the determining authority, Council has a legal duty under the EP&A Act to examine to the fullest extent possible all matters that affect or are likely to affect the environment by reason of the proposed activity.

We declare that the information contained in this form is neither false nor misleading.

Prepared by (1):

Signature



Date __29__ / __09__ / __2022__

Name


Dr Emma McIntyre

Title

Director and Environmental Scientist,
EMAP Consulting

Prepared by (2):

Signature



Date 15/12/22

Name

James Knight

Title

WSC Project Manager

Delegated Authority Sign-Off

- PART B can only be approved (signed) by staff with delegated authority under Part 5 of the *Environmental Planning and Assessment Act 1979* for Council works not subject to the lodgment and determination of a development application under part 4 of the Act.
- Staff positions with this delegation are identified in Council's Delegation Manual.
- The approving delegate must check that the form has been completed, with all sections addressed (including the appendices). The approving delegate must be confident that the **PART B DETERMINATION** has been made by staff with the training and/or experience to do so.
- The Environmental Assessment process is not complete until the signed form is registered in ECM (use quick add profile 'Environmental Assessment'). This must be done prior to works commencing.

Delegated Authority Approval: _



Date 15/12/22

Appendix A – Waste Treatment Planning

All projects must complete Appendix A if waste is to be generated. **Step 1** - Identify and tick all types of waste likely to be generated. **Step 2** - Indicate the waste volume likely to be generated for each waste. **Step 3** - Indicate how this waste will be treated. **Step 4** - If sending to an EPA licensed facility or other facility that can lawfully accept it; or treating as per a resource recovery order and/or exemption; please identify the facility or resource recovery order or exemption.

STEP 1 Identify and select (✓) all types of waste likely to be generated		STEP 2 Indicate the waste volume (tonnes or cubic metres whichever is larger)	STEP 3 Please indicate (✓) how each identified waste type will be treated		
For definitions see Waste Classification Guidelines Part 1: Classifying Waste (December 2009)			Send to an EPA licensed facility or other facility that can lawfully accept it ²	Treat as per a resource recovery order & exemption ³	Obtain an EPA licence ⁴
Special waste (e.g. clinical & related waste, asbestos waste, waste tyres) If yes, please list:					
Liquid waste If yes, please list:					
Hazardous waste If yes, please list:					
Restricted solid waste If yes, please list:					
General solid waste (putrescible) If yes, please list:					
General solid waste (non-putrescible) If yes, please list. Some predicted non-putrescible wastes have been included below;					
<ul style="list-style-type: none"> Asphalt 	To be avoided, use as select fill			X	

• Building and demolition waste (e.g. Concrete and brick)	Yes	5 tonnes	X		
• Containers, previously containing dangerous goods, from which residues have been removed by washing or vacuuming					
• Empty paint tins					
• Green waste – including noxious weeds ¹					
• Green waste – not included as above					
• Metal	Yes	5 tonnes	X		
• Oil containers and lead acid batteries					
• Packaging materials	Yes	3 cubic metres			
• Paper and cardboard	Yes	3 cubic metres			
• Plastics (recycle nos. 1, 2, 3, 4, 5, 6, 7)	Yes	3 cubic metres			
• Road millings, shoulder waste, trench waste	To be avoided, use as select fill or reuse on site			X	
• Stormwater grit, sediment, litter and gross pollutants (excluding free liquids)					
• Street sweepings					
• Virgin extracted natural material	Yes	10,000 – 15,000 tonnes	X	X (more likely than sending to waste facility)	
• Water reticulation plant grit and screenings					
• Wood waste					
• Please identify other non-putrescible waste not included in this list:					

STEP 4

If sending to an EPA licensed facility or recycling business, please identify the facility: Resource Recovery Centre, Moss Vale. Bowral Waste Centre OTY LTD, Bowral.

If treating as per a [resource recovery order & exemption](#), please list the specific exemption and location where the resource is to be used:

The excavated natural material order 2014.

- Contractor must allow to coordinate the location for the resource to be reused (site with fill excess requirement).

The excavated public road material exemption 2014.

¹ Noxious weeds can be brought to the Moss Vale Resource Recovery Centre, but it is important they are not dropped off in the garden organics pile. Please advise the gatehouse operator if you are disposing of noxious weeds. See [list of noxious weeds in the Wingecarribee LGA](#).

² See [list of activities licensed by the Environment Protection Authority](#) (EPA) under Schedule 1 of the *Protection of the Environment Operations Act 1997*. Also consider other recycling businesses using the [PlanetArk Business Recycling search tool](#).

³ In some cases, a [resource recovery order & exemption](#) may require testing. For example, the *Excavated Natural Material Order 2014* outlines the testing regime including NATA or equivalent laboratory results. Allow enough time and resources to comply with the relevant order and/or exemption requirements.

⁴ If you intend to obtain an EPA licence, check if development consent is required.

Appendix B – NorBE Assessment

NorBE Assessment for proposed activities by public authorities that will be assessed under Part 5 of the EP&A Act, 1979, as specified in Cl 12 of [State Environmental Planning Policy \(Sydney Drinking Water Catchment\) 2011](#)

The State Environmental Planning Policy Sydney Drinking Water Catchment 2011 applies to activities undertaken within the boundary of the Sydney Drinking Water catchment. Under this SEPP public authorities are to consider whether a proposed activity to which Part 5 of the EP&A Act applies would have a neutral or beneficial effect on water quality. Public authorities are to use the [Neutral or Beneficial Effect on Water Quality Assessment Tool](#) (NorBE Tool) but are not required to obtain concurrence.

NorBE assessment – will there be a neutral or beneficial effect on water quality? <i>(Assessment must consider surface & ground waters and must consider construction & operational stages.)</i>	
<p>Are there any identifiable potential impacts on water quality?</p> <p>What pollutants are likely?</p> <p><i>Major potential pollutants are sediments (fine & coarse), nitrogen, phosphorus, pathogens and hazardous chemicals and contaminants such as oil/fuel.</i></p> <p>During construction and/or post construction?</p>	<p>Potential impacts are:</p> <p>Sediments, hazardous chemicals from use of horizontal directional drilling equipment, and fuels and oil.</p> <p>Impacts are during construction only, as all materials and equipment will be removed from site following construction, and any disturbed areas will be remediated</p>
<p>For each pollutant list the safeguards needed to prevent or mitigate potential impacts on water quality (<i>these may be SCA endorsed current recommended practices (CRPs) and/or equally effective other practices</i>)?</p>	<p>1. Sediments:</p> <ul style="list-style-type: none"> - Site management will incorporate best management erosion and sediment control practices such as those found in Landcom's "Blue Book" on erosion and sediment control, which is SCA CRP. - Linear silt fencing to be installed down slope of all affected areas and stockpiles. Silt fencing will be installed before excavation begins. - Sandbags, hay bales wrapped in geotextile fabric etc. will be used to slow water flow and trap sediment. No straw bales are to be used. - All erosion and silt control devices will be visually inspected weekly to ensure effectiveness as well as after each rainfall event. - The rehabilitation of disturbed areas will be carried out progressively as construction stages are completed, and in accordance with Landcom's "Blue Book" on sediment and erosion control. <p>2. Fuels, oils, chemicals and hazardous materials:</p> <ul style="list-style-type: none"> - Store fuels, chemical and hazardous materials in secure, bunded areas within temporary construction ancillary facilities, and at least 40m from all waterways. - Capture and dispose of spill and contaminated materials from temporary construction ancillary facilities at a licensed facility. <p>Visual monitoring of local water quality (ie turbidity, hydrocarbon spills/slicks) is to be undertaken on a regular basis to identify any potential spills or deficient erosion and sediment controls.</p>

NorBE assessment – will there be a neutral or beneficial effect on water quality? <i>(Assessment must consider surface & ground waters and must consider construction & operational stages.)</i>	
Will the safeguards be adequate for the time required? How will they need to be maintained?	Construction phase controls will be designed for the duration of the proposed activity, and will be maintained as per Blue Book (Landcom 2004) guidelines
Will all impacts on water quality be effectively contained on the site by the identified safeguards (above) and not reach any watercourse, waterbody or drainage depression? Or will impacts on water quality be transferred outside the site for treatment? How? Why?	All potential impacts on water quality will be contained on site by the safeguards listed above. The identified pollutants will not reach any watercourse, waterbody or drainage depression. No impacts on water quality are to be transferred off site for treatment.
Is it likely that a neutral or beneficial effect on water quality will occur? Why?	The proposed activity is likely to have a neutral effect on water quality. The activity is not anticipated to provide any improvement in water quality in the local area, but it will not adversely effect water quality in the local area.
PREPARED BY/ DATE:	Dr Emma McIntyre EMAP Consulting 11 th August 2022

Appendix C – Threatened Species Assessment of Significance

The threatened species assessment of significance is used to decide whether the activity is likely to have a significant effect on threatened species, populations, ecological communities or their habitats [Biodiversity Conservation Act 2016](#) and [Fisheries Management Act 1994](#).

The following guidelines must be taken into account:

- Biodiversity Conservation Act 2016 [Threatened species test of significance guidelines](#)
- Fisheries Management Act 1994 [Threatened species guidelines](#).

When you have completed the assessment of significance, include the findings in the Biological Impacts section.

If it is found that a significant effect is likely the preparation of a Species Impact Statement (SIS) or a Biodiversity Development Assessment Report (BDAR) will be required.

List the species, populations and ecological communities, or their habitats which are likely to be affected by activity. Refer to any list of species, populations, ecological communities, or their habitats which are likely to be affected by the activity as generated during the REF process.

- Endangered Ecological Communities:
 - Southern Highlands Shale Woodlands in the Sydney Basin Bioregion
- Threatened Flora:
 - *Eucalyptus macarthurii* (Paddys River Box, Camden Woollybutt)
- Threatened Fauna:
 - *Phascolarctos cinereus* (Koala)
 - *Pteropus poliocephalus* (Grey-headed Flying-fox).

<p>▪ in the case of a threatened species, whether the proposed development or activity is likely to have an adverse effect on the life cycle of the species such that a viable local population of the species is likely to be placed at risk of extinction</p> <p>Threatened flora species (<i>Eucalyptus macarthurii</i> (Paddys River Box, Camden Woollybutt) and threatened fauna species (<i>Phascolarctos cinereus</i> (Koala), <i>Pteropus poliocephalus</i> (Grey-headed Flying-fox) are unlikely to be placed at risk of extinction as a result of the proposed activity.</p>
<p>▪ in the case of an endangered ecological community or critically endangered ecological community, whether the proposed development or activity:</p> <p>i. is likely to have an adverse effect on the extent of the ecological community such that its local occurrence is likely to be placed at risk of extinction, or</p> <p>The <i>Southern Highlands Shale Woodlands in the Sydney Basin Bioregion</i> EEC is unlikely to be placed at risk of extinction as a result of the proposed activity.</p>
<p>ii. is likely to substantially and adversely modify the composition of the ecological community such that its local occurrence is likely to be placed at risk of extinction,</p> <p>The proposed works will result in clearing of 0.55 ha of Southern Highlands Shale Woodlands in the Sydney Basin Bioregion EEC. The EEC is unlikely to have its local occurrence placed at risk of extinction as a result of the</p>

proposed activity. There is ~1267 ha of Southern Highlands Shale Woodland mapped in the SE LLS vegetation mapping (2015) within a 5km radius of the road alignment.

- **in relation to the habitat of a threatened species or ecological community:**
 - **the extent to which habitat is likely to be removed or modified as a result of the proposed development or activity, and**

A total of 1.38ha of field validated vegetation (0.55 ha of Southern Highlands Shale Woodland and 0.83ha of other vegetation including horticultural plantings and other exotics) is to be cleared to accommodate road upgrade works. This includes 105 trees according to the Arborist report (Moore Trees, 2022), of which NONE are hollow bearing trees or habitat trees. The vegetation to be removed may provide some habitat value to *Phascolarctos cinereus* (Koala); *Pteropus poliocephalus* (Grey-headed Flying-fox) as well as other fauna, however other large tracts of more suitable habitat is in the nearby vicinity and away from the road.

- **whether an area of habitat is likely to become fragmented or isolated from other areas of habitat as a result of the proposed development or activity, and**

The Flora and Fauna Assessment report states that the vegetation in the study area provides a landscape link enabling fauna movement within the locality and removal of vegetation in the study area may diminish fauna movement. Therefore habitat available to threatened fauna may be reduced, and opportunities for movement are also reduced during construction. However, the construction will be carried out in stages, other more suitable habitat is available nearby, and the VMP outlines remediation and rehabilitation measures that include objectives for improving fauna habitat.

- **the importance of the habitat to be removed, modified, fragmented or isolated to the long-term survival of the species or ecological community in the locality**

It is difficult to determine the importance of the habitat in the study area to the long term survival of the threatened species or EEC in the locality, due to the lack of information regarding fauna movement corridors and importance of the habitat for species and communities in the study area. However, given that the vegetation clearing is minimal and is to be conducted in stages, and that more suitable habitat away from roadsides is available in the vicinity of the proposed activity, and remediation and rehabilitation measures will be put in place, it is not considered that the vegetation to be removed is critical to the long term survival of threatened fauna species (*Phascolarctos cinereus* (Koala); *Pteropus poliocephalus* (Grey-headed Flying-fox)).

- **whether the proposed development or activity is likely to have an adverse effect on any declared area of outstanding biodiversity value or critical habitat (either directly or indirectly)**

At date of issue of this form, there are no areas of outstanding biodiversity value under the [Biodiversity Conservation Act 2016](#) or critical habitat under the [Fisheries Management Act 1994](#) listed within the Wingecarribee LGA.

- **whether the proposed development or activity is or is part of a key threatening process or is likely to increase the impact of a key threatening process.**

The proposed activity constitutes 1 key threatening process: Clearing of native vegetation.

Additional assessment for Fisheries Management Act 1994

in the case of an endangered population, whether the proposed development or activity is likely to have an adverse effect on the life cycle of the species that constitutes the endangered population such that a viable local population of the species is likely to be placed at risk of extinction

At date of issue of this form, there are no endangered population within the Wingecarribee LGA listed under part 2 of schedule 4 of the Fisheries Management Act 1994.

whether the proposed development or activity is consistent with a [Priorities Action Statement](#)

The NSW DPI Priorities Action Statement (PAS) is a statutory, non-regulatory document addressing each threatened species, population, ecological community and key threatening process (KTP) listed on the schedules of the Fisheries Management Act 1994. This does not apply to the proposed activity

Summary and conclusions

The proposed activity will result in clearing of 1.38 ha of vegetation, of which 0.55 comprises the Southern Highlands Shale Woodland EEC.

There are also potential impacts to two threatened fauna species - *Phascolarctos cinereus* (Koala); *Pteropus poliocephalus* (Grey-headed Flying-fox) through loss of habitat.

However, there are other areas of more suitable habitat in close proximity to the proposed activity, and away from roadsides.

A Vegetation Management Plan is being prepared, with objectives to facilitate effective rehabilitation and remediation of the site, including appropriate vegetation establishment following construction works.

Therefore, it is concluded that the proposed activity does not constitute a significant impact, and therefore a SIS or BDAR is NOT required.

Appendix D – Identification of candidate species and ecological communities for impact assessment

Scientific Name (Common Name)	Legal Status	No. of records	Closest record and date	Most recent and proximity	Likelihood of occurrence	
					Before (survey)	After (survey)
KINGDOM: Animalia; CLASS: Amphibia						
<i>Pseudophryne australis</i> (Red-crowned Toadlet)	BC Act = V	1	(30/03/2016) 4.5 km	4.5 km (30/03/2016)	Low	Low
KINGDOM: Animalia; CLASS: Aves						
<i>Artamus cyanopterus</i> <i>cyanopterus</i> (Dusky Woodswallow)	BC Act = V,P	2	(15/01/2020) 0.2 km	0.2 km (15/01/2020)	Low	Low
<i>Callocephalon fimbriatum</i> (Gang-gang Cockatoo)	BC Act = V,P	32	(17/08/2016) 1.4 km	4.6 km (18/03/2020)	Moderate	Low
<i>Calyptorhynchus lathami</i> (Glossy Black-Cockatoo)	BC Act = V,P	15	(09/08/2012) 1 km	4.3 km (16/09/2020)	Moderate	Low
<i>Daphoenositta chrysoptera</i> (Varied Sittella)	BC Act = V,P	8	(23/06/2015) 1 km	3.4 km (26/06/2015)	Moderate	Low
<i>Hieraaetus morphnoides</i> (Little Eagle)	BC Act = V,P	2	(13/02/2018) 0.8 km	3.6 km (05/08/2018)	Moderate	Low
<i>Ninox connivens</i> (Barking Owl)	BC Act = V,P	1	(19/01/2014) 2.4 km	2.4 km (19/01/2014)	Low	Low
<i>Ninox strenua</i> (Powerful Owl)	BC Act = V,P	7	(23/06/2015) 1 km	2.9 km (17/06/2020)	Moderate	Low
<i>Oxyura australis</i> (Blue-billed Duck)	BC Act = V,P	1	(23/09/2004) 3.1 km	3.1 km (23/09/2004)	Low	Low
<i>Petroica boodang</i> (Scarlet Robin)	BC Act = V,P	12	(28/02/2012) 3.1 km	4.8 km (19/12/2018)	Moderate	Low
<i>Petroica phoenicea</i> (Flame Robin)	BC Act = V,P	1	(10/10/2019) 4.4 km	4.4 km (10/10/2019)	Low	Low
KINGDOM: Animalia; CLASS: Mammalia						
<i>Cercartetus nanus</i> (Eastern Pygmy-possum)	BC Act = V,P	1	(15/07/2013) 0.7 km	0.7 km (15/07/2013)	Low	Low
<i>Dasyurus maculatus</i> (Spotted-tailed Quoll)	BC Act = V,P EPBC Act = E	2	(08/07/2018) 0.7 km	0.7 km (08/07/2018)	Low	Low
<i>Falsistrellus tasmaniensis</i> (Eastern False Pipistrelle)	BC Act = V,P	5	(18/12/2012) 1.5 km	1.8 km (15/03/2018)	Low	Low
<i>Miniopterus orianae</i> <i>oceanensis</i> (Large Bent- winged Bat)	BC Act = V,P	7	(15/11/2012) 1.4 km	1.8 km (15/03/2018)	Moderate	Low

Scientific Name (Common Name)	Legal Status	No. of records	Closest record and date	Most recent and proximity	Likelihood of occurrence	
					Before (survey)	After (survey)
<i>Petauroides volans</i> (Greater Glider population in the Mount Gibraltar Reserve area)	BC Act = E2,P EPBC Act = V	18	(23/06/2015) 1 km	1.6 km (02/09/2020)	Low	Low
<i>Petauroides volans</i> (Greater Glider)	BC Act = P EPBC Act = V	39	(07/08/2013) 0.7 km	1.6 km (02/09/2020)	Moderate	Low
<i>Petaurus norfolcensis</i> (Squirrel Glider)	BC Act = V,P	2	(04/12/2018) 1.7 km	1.7 km (04/12/2018)	Low	Low
<i>Phascolarctos cinereus</i> (Koala)	BC Act = V,P EPBC Act = V	172	(13/10/2017) 0.1 km	1.9 km (19/08/2020)	Moderate	Moderate
<i>Pteropus poliocephalus</i> (Grey-headed Flying-fox)	BC Act = V,P EPBC Act = V	44	(11/01/2018) 0 km	0.7 km (13/03/2019)	Moderate	Moderate
<i>Scoteanax rueppellii</i> (Greater Broad-nosed Bat)	BC Act = V,P	5	(16/11/2012) 1.4 km	3.2 km (22/01/2014)	Low	Low
FLORA						
<i>Acacia pubescens</i> (Downy Wattle)	BC Act = V EPBC Act = V	3	(01/08/2006) 4.2 km	4.3 km (03/02/2016)	Low	Not present
<i>Eucalyptus macarthurii</i> (Paddys River Box, Camden Woollybutt)	BC Act = E1 EPBC Act = E	306	(22/12/2017) 0.4 km	4.9 km (01/09/2020)	Moderate	Moderate
<i>Grevillea raybrownii</i>	BC Act = V	1	(31/10/2002) 4.8 km	4.8 km (31/10/2002)	Low	Not present
<i>Helichrysum calvertianum</i>	BC Act = V	39	(01/11/2004) 2.1 km	3.8 km (31/07/2020)	Low	Not present
<i>Persoonia glaucescens</i> (Mittagong Geebung)	BC Act = E1,P EPBC Act = V	69	(29/03/2007) 3.8 km	4.8 km (16/09/2020)	Low	Not present
<i>Persoonia mollis</i> subsp. <i>revoluta</i>	BC Act = V,P	2	(18/09/2000) 4 km	4.6 km (09/03/2016)	Low	Not present
<i>Pomaderris brunnea</i> (Brown Pomaderris)	BC Act = E1 EPBC Act = V	6	(01/05/2011) 3.1 km	3.2 km (06/02/2014)	Low	Not present
<i>Pterostylis ventricosa</i>	BC Act = E4A,P,2	1	(01/04/2017) 2.6 km	2.6 km (01/04/2017)	Low	Not present

Appendix E – Subject watercourses

Crossing 1 (see Map 7):



Crossing 2 (see Map 11):





Crossing 3 (see Map 14):



Crossing 4 (see Map 16):



Crossing 5 (see Map 19):



Appendix F – Email correspondence with NSW Office of Water

(Email sent 18/8/22, follow up phone calls made on 18th August and 2nd September.)

29/09/2022, 19:59

Mail - Emma McIntyre - Outlook

Draft REF - Proposed Road Upgrade of Old South Road, Mittagong

Emma McIntyre <emma@emapconsulting.com.au>

Thu 18-Aug-22 9:55 AM

To: nrar.enquiries@nrar.nsw.gov.au <nrar.enquiries@nrar.nsw.gov.au>

Cc: Patrick McCann <Patrick.McCann@makereng.com.au>

Good morning

I am preparing a Draft Review of Environmental Factors on behalf of Wingecarribee Council for a proposed road upgrade of Old South Road, from Range Road to Aylmerton Road in Mittagong. The road upgrade works comprise pavement reconstruction along the existing road, some minor shoulder widening where constraints (including environmental constraints) permit, and some stormwater management structures including an Inquik bridge.

There are 5 watercourse crossings within the REF study area, according to the NSW 1:25,000 topo mapping. Some of these watercourses are also identified by DPI Fisheries as Key Fish Habitat, however a field assessment by qualified ecologists have determined that these watercourses do not represent fish habitat due to very poor condition and weed infestation, and in some cases the watercourse itself is not well defined.

Our understanding is that a Controlled Activity Approval is not required due to this being a Council project, however in the effort to ensure that relevant government agencies are consulted regarding this project, I would like to engage with the relevant contact person at Office of Water / NRAR.

I attach a link to the current Draft REF (80% design stage) for your reference, which provides:

- A project description;
- Maps of the proposed activity, including watercourse crossings and location of stormwater structures;
- An environmental impact assessment under Part 5 of the EP&A Act in Council's template;
- Photos of the 5 watercourse crossings located at Appendix E.

I am seeking initial feedback from a suitable contact person from Office of Water/NRAR regarding the proposed activity, prior to the formal REF consultation process.

Thank you and kind regards,

Dr Emma McIntyre

Environmental Scientist | GIS Specialist | BEnvSc, PhD (GIS)

EMAP Consulting

emma@emapconsulting.com.au | 0428 599 391





8th June 2022

Ms Emma McIntyre
Environmental Scientist/ GIS Specialist
EMAP Consulting
Via email: emma@emapconsulting.com.au

Dear Emma,

Re: Old South Road- Aboriginal Objects Due Diligence Assessment (Ref #1005)

Regal Heritage Pty Ltd (Regal Heritage) were engaged by EMAP Consulting on behalf of Wingecarribee Shire Council to conduct an Aboriginal Objects Due Diligence Assessment (DD), as part of a Review of Environmental Factors (REF) for the proposed road resurfacing and vegetation clearance works along Old South Road, Mittagong NSW (here after referred to as the 'Activity Area,' Figure 1). The attached DD has been authored by me, Renée Regal BA (Hons) Heritage Consultant in accordance with the DECCW (2010) *Due Diligence Code of Practice for the Protection of Aboriginal Objects in New South Wales*.

The DD has considered the high degree of modification and ground surface due to the development of Old South Road, as well as the planting of non-native tree species within sections of the easement. It is considered that the ground surface and subsurface has been disrupted meaning that the possibility of in-situ Aboriginal objects or culturally modified trees is nil. As a result, the following recommendations have been made:

Wingecarribee Shire Council can proceed with their proposed activities with the following recommendation:

- All site workers and contractors should be inducted to the area and informed of their obligations under the *National Parks and Wildlife Act 1974*
- In the unlikely event that an Aboriginal object is found. Temporary fencing must be placed around the object with a buffer of at least 10 meters. An appropriately qualified archaeologist should be engaged to assess the finding, should the object be determined to be an Aboriginal object Heritage NSW should be informed. Works should not proceed until advice is received from Heritage NSW.
- In the unlikely event that suspected human remains are encountered during construction, all works should cease immediately and:
 - The location, including a 10 m buffer should be secured using a barrier to avoid further disturbance;
 - The NSW Police should be contacted immediately;
 - No further action is to be undertaken until the NSW Police provide advice that it is safe to do so;

- If skeletal remains are identified as being Aboriginal, the proponent or their agent must contact Heritage NSW via the Environment Line on 131 555, and representatives of the Local Aboriginal Land Council, and;
- No works are to continue until Heritage NSW provides notification to Wingecarribee Shire Council or their agent.

Please do not hesitate to contact me should you wish to clarify any of the details presented in the below assessment.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'R. Regal', with a stylized flourish at the end.

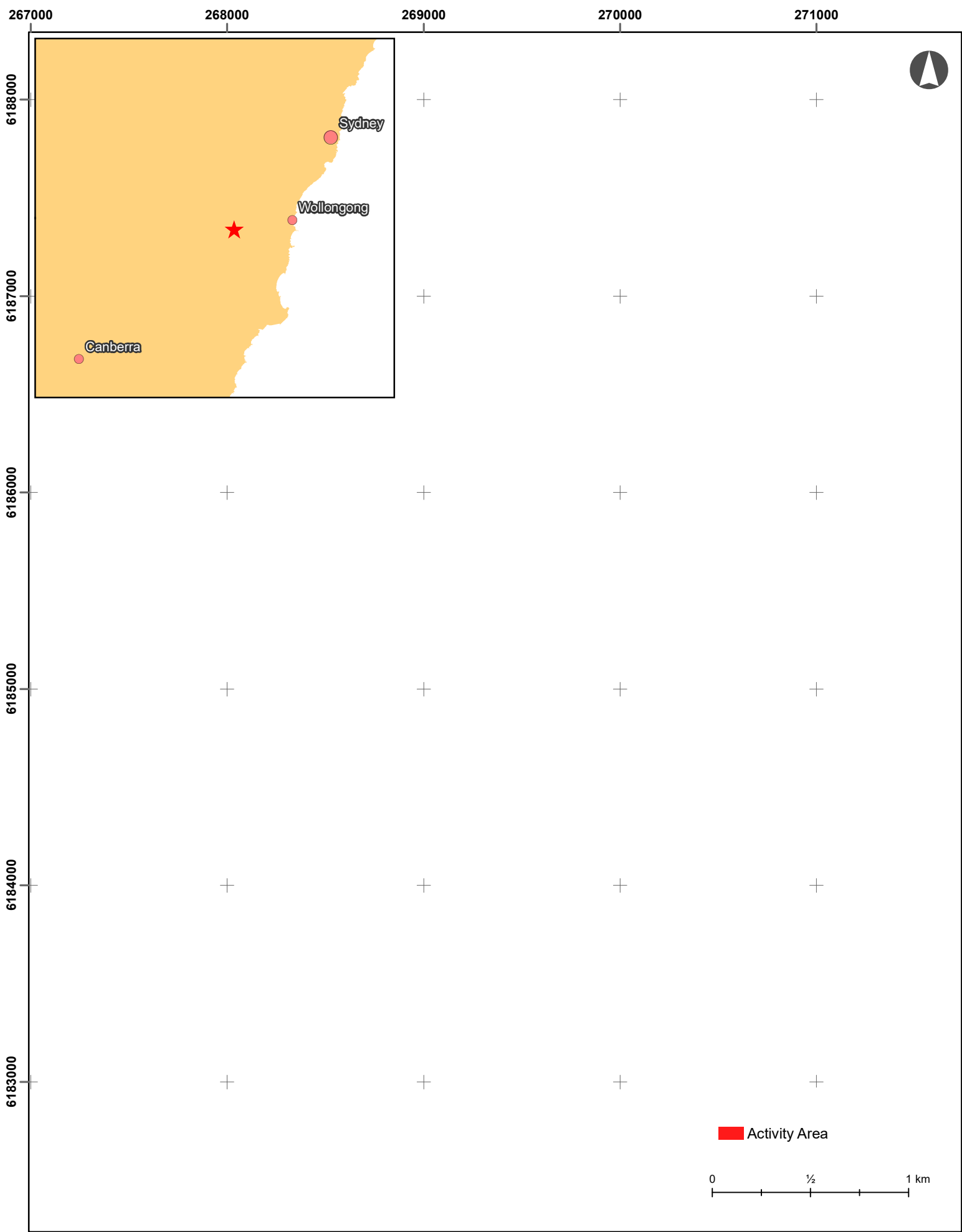
Renée Regal
Heritage Consultant/ Director
Regal Heritage PTY LTD

Location and Proposed Works

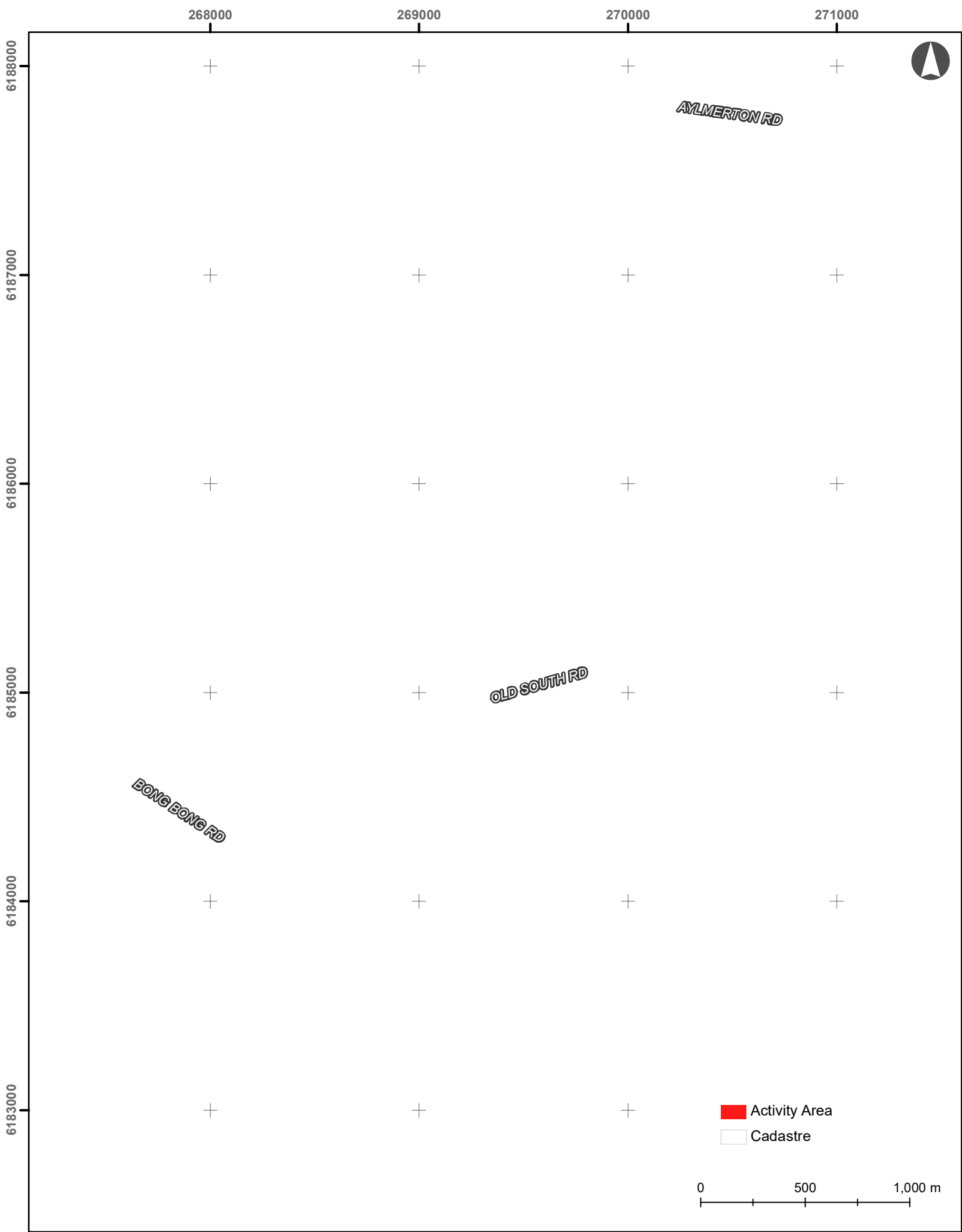
Regal Heritage Pty Ltd (Regal Heritage) were engaged by EMAP Consulting on behalf of Wingecarribee Shire Council to conduct an Aboriginal Objects Due Diligence Assessment (DD), as part of a Review of Environmental Factors (REF) for the proposed road resurfacing and vegetation clearance works at Old South Road, Mittagong NSW (here after referred to as the 'Activity Area,' Figure 1).

- Pavement reconstruction along the existing road, with existing base material to remain in-situ.
- Vertical road alignments by cut and fill, to remove unnecessary hazards, undulations and blind spots.
- Minor shoulder widening where constraints permit
- Placement of safety signage
- Cut and fill batters and guard rail installation
- Some tree removal and vegetation modification is required to accommodate the new road design.
- Stormwater management structures including an inquit to improve drainage while minimizing impacts to aquatic species and habitats.
- Access to private properties will be maintained at all times. Some access ways will be re-constructed to align with the new road surface.
- Relocation of existing power poles and other services is required to accommodate the new road design, unless other safety measures are proposed; and
- Appropriate revegetation and site rehabilitation measures will be implemented following road construction.

Maps 1 through to 19 of EMAP Consulting (2022) Old South Road Proposed rehabilitation works- Stage 2: Review of Environmental Factors (here on referred to as the 'REF') outlines the specific impact locations. This DD was prepared to investigate whether the proposed development would harm Aboriginal objects and/ or culturally modified trees that may exist within the Activity Area and inform the proposed works of any Aboriginal cultural heritage constraints. This assessment follows the steps of the DECCW (2010) *Due Diligence Code of Practice for the Protection of Aboriginal Objects in New South Wales*.



Location Map
REF for Old South Road, Mittagong NSW
FIGURE 1



Activity Area
REF for Old South Road, Mittagong NSW

FIGURE 2

Is the Activity exempt under the legislation?

No.

The proposed activities associated with the road surfacing and vegetation clearance are not exempt under the *National Parks and Wildlife Act 1974* (NPW Act).

Is the Activity subject to assessments or approval under the EP&A Act?

No.

Is the Activity a 'Low Impact Activity', as defined by the National Parks and Wildlife Regulation 2019 (here on referred to as 'The Regulation')?

Partially.

The works associated with the road resurfacing are defined as a 'Low impact activity' under section 58 of the Regulation as it involves:

- Maintenance of existing roads

The activity associated with the vegetation clearance is not a low impact activity as defined under section 58 of the Regulation as it:

- Involves vegetation clearance.

Step 1: Will the activity disturb the ground surface?

Yes.

The proposed works within the Activity Area will involve the following activities:

- Pavement reconstruction along the existing road, with existing base material to remain in-situ.
- Vertical road alignments by cut and fill, to remove unnecessary hazards, undulations and blind spots.
- Minor shoulder widening where constraints permit
- Placement of safety signage
- Cut and fill batters and guard rail installation
- Some tree removal and vegetation modification is required to accommodate the new road design.
- Stormwater management structures including an inquit to improve drainage while minimizing impacts to aquatic species and habitats.
- Access to private properties will be maintained at all times. Some access ways will be re-constructed to align with the new road surface.
- Relocation of existing power poles and other services is required to accommodate the new road design, unless other safety measures are proposed; and
- Appropriate revegetation and site rehabilitation measures will be implemented following road construction.

Maps 1 through to 19 of the REF outlines the specific impact locations, due to the detail within these figures they have not been duplicated for inclusion in this DD document. Figure 2 of this assessment outlines the Activity Area.

Step 2a: Search the AHIMS database and use any other source of information of which you are already aware

An extensive Aboriginal Heritage Information Management System (AHIMS) search was completed on the 28 March 2022 (Client ID# 678127) which covered the Activity Area and surrounds. This AHIMS search identified 23 Aboriginal cultural heritage sites within the 2 KM² search area (Appendix 1). One of these sites is 300 m to the north of the Activity Area (Figure 3, Table 1).

Table 1: AHIMS records within close proximity to the Activity Area

AHIMS ID	Site Name	Site Type	AHIMS Status	Potential to be impacted by the Project
52-1-0044	Mittagong, Great Southern Road	Burial/ Modified Tree	Valid	No

An AHIMS search provides a general single point location and often does not reflect the size and extent of a specific Aboriginal cultural heritage site. Further to this care should be taken when using AHIMS data to reach a conclusion about Aboriginal cultural heritage site distribution and size. Many of the sites located within the search comprise of low-density artefact scatters (Open Camp Sites or Isolated Artefacts). Aboriginal sites are located across all landforms, but their frequency in built up areas is often misrepresented due to the number of archaeological assessments carried out in recent years relating to development and infrastructure projects. The distribution of Aboriginal cultural heritage sites within a search area does not reflect patterns of past occupation by Aboriginal people but can be often indicative of the survey coverage and conditions within the region.

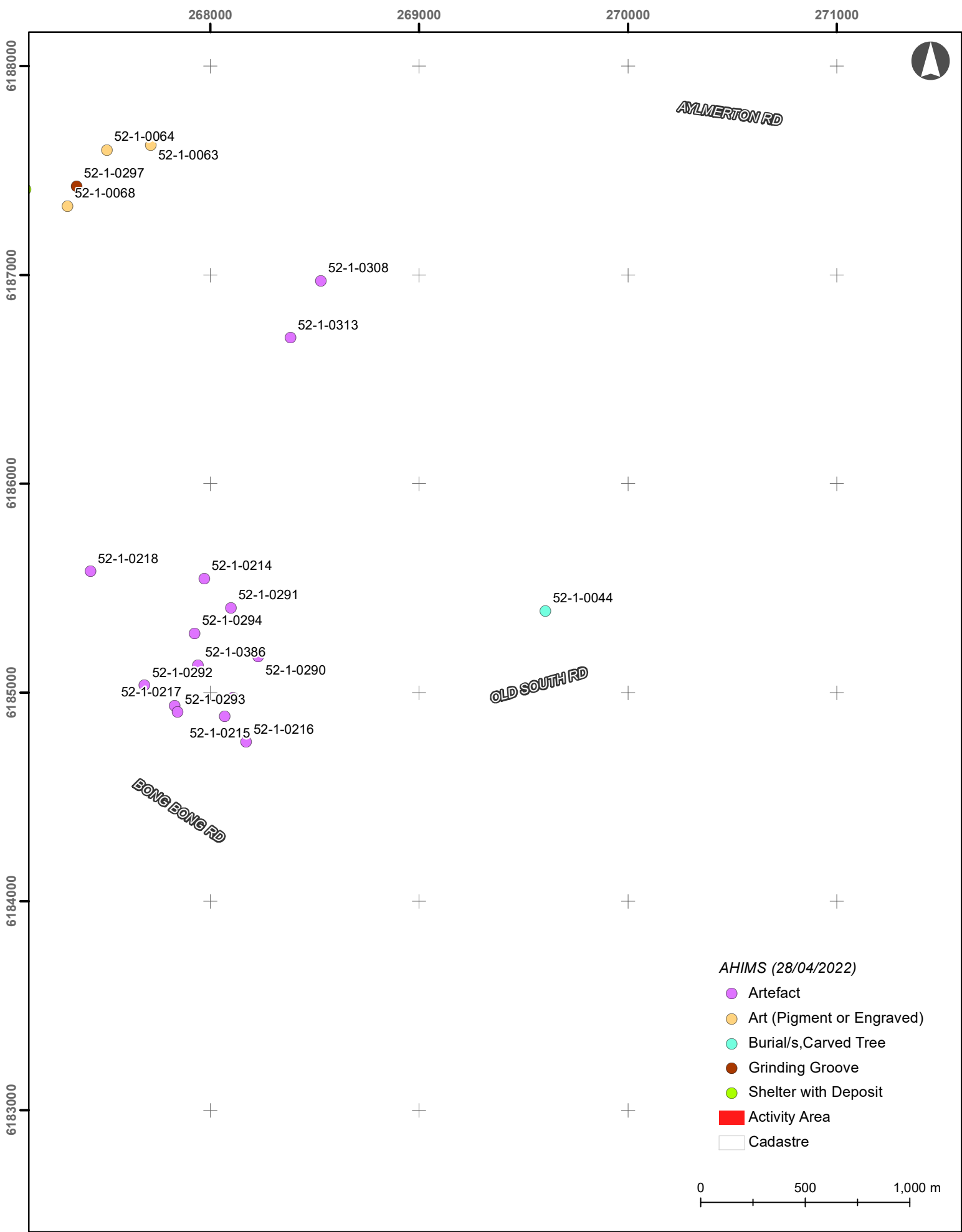
Other Sources of Information

A search of the following government plans and heritage registers were completed on the 8 June 2022, the results of which are outlined in Table 2. No additional heritage constraints were identified during these searches.

Table 2: Other sources of additional information

Government Plan or Register Details	Results of search
Wingecarribee Shire Council Local Environment Plan 2010 Schedule 5 (WLEP)	Mittagong Cutter's Inn (former Hassal and Jefferis Cottages) Old South Road- Lot 16, DP 879494, State Listing (ID 195 and 196) This item is not within on in the vicinity the Activity Area.
	Marist Brothers Centre, Old South Road, Lots 1–4, DP 804746, Local Listing (ID 169)
Mittagong Township Development Control Plan 2021	As outlined in Section 14 of the document the proposed Activity Area is outside the Commercial Core Heritage Precinct.

Government Plan or Register Details	Results of search
NSW State Heritage Register (SHR)	Mittagong Cutter's Inn (former Hassal and Jefferis Cottages) Old South Road- Lot 16, DP 879494, State Listing (ID 195 and 196) This item is not within on in the vicinity the Activity Area.
State Government Agency Conservation (Section 170) Registers	No items within or in the vicinity of the Activity Area were identified on the Section 170 Register.
Australian Heritage Database	No items within or in the vicinity of the Activity Area were identified on the Australian Heritage Database.



AHIMS sites in the Vicinity of the Activity Area
REF for Old South Road, Mittagong NSW

FIGURE 3

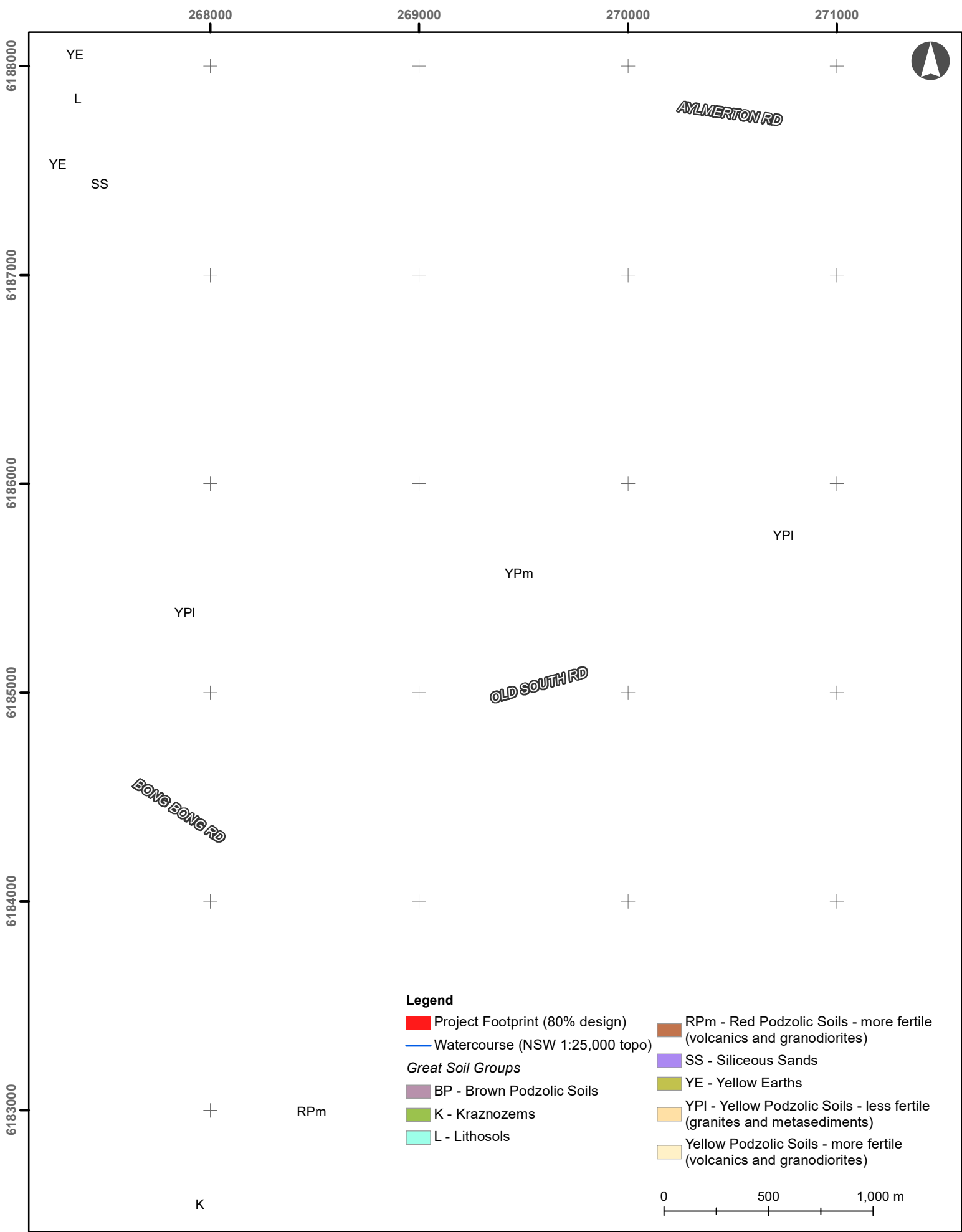


Step 2b: Activities in areas where landscape features indicate the presence of Aboriginal objects

No. There are no landscape features as identified within the DECCW (2010) *Due Diligence Code of Practice for the Protection of Aboriginal Objects in New South Wales* within the proposed Activity Area.

Step 3: Can you avoid harm to the object or disturbance of the landscape feature?

This step is not applicable for this assessment.



Soils and Hydrology
REF for Old South Road, Mittagong NSW
FIGURE 4

Step 4: Desktop assessment and visual inspection

The desktop assessment concluded that culturally modified trees may be likely to occur within the Activity Area, due to one being located approximately 300 m to the north of the proposed works (Figure 3). A visual inspection of the site completed by Renée Regal (Heritage Consultant) Regal Heritage Pty Ltd on the 3rd March 2022 confirmed that the road verge had been previously heavily disturbed and that the majority of the trees for removal or trimming were not culturally modified native species or introduced species that were not registered as either Local or State Heritage Items. The following plates demonstrate examples of the types of vegetation that will be cleared within the Activity Area as part of the project works (Plate 1, Plate 2 and Plate 3). Plate 4 is an example of a tree that has suffered a natural branch tear and is not culturally modified.



Plate 1: General photograph of an example of a tree that will be cleared as part of the proposed works, at the southern end of the Activity Area.



Plate 2: General photograph of the vegetation clearance in at the southern end of the Activity Area.



Plate 3: General photograph of an example of the introduced species being removed as part of the



Plate 4: General photograph of a scar on a tree at the southern end of the Activity Area that is due to a branch tear and is not culturally modified.

Will the activity disturb any Culturally Modified Trees?

No. There were no culturally modified trees identified in either the AHIMS search results or during the site inspection.

Step 5: Further investigations and impact assessment

No Aboriginal cultural heritage constraints were identified within the Activity Area.

Wingecarribee Shire Council can proceed with their proposed activities with the following recommendation:

- All site workers and contractors should be inducted to the area and informed of their obligations under the *National Parks and Wildlife Act 1974*
- In the unlikely event that an Aboriginal object is found. Temporary fencing must be placed around the object with a buffer of at least 10 meters. An appropriately qualified archaeologist should be engaged to assess the finding, should the object be determined to be an Aboriginal object Heritage NSW should be informed. Works should not proceed until advice is received from Heritage NSW.
- In the unlikely event that suspected human remains are encountered during construction, all works should cease immediately and:
 - The location, including a 10 m buffer should be secured using a barrier to avoid further disturbance;
 - The NSW Police should be contacted immediately;
 - No further action is to be undertaken until the NSW Police provide advice that it is safe to do so;
 - If skeletal remains are identified as being Aboriginal, the proponent or their agent must contact Heritage NSW via the Environment Line on 131 555, and representatives of the Local Aboriginal Land Council, and;
 - No works are to continue until Heritage NSW provides notification to Wingecarribee Shire Council or their agent.

References

DECCW 2010. *Due Diligence Code of Practice for the Protection of Aboriginal Objects in New South Wales*. Sydney

EMAP Consulting 2022. *Old South Road Proposed rehabilitation works- Stage 2: Review of Environmental Factors*. An unpublished report for Wingecarribee Shire Council

Appendix 1- AHIMS Search results

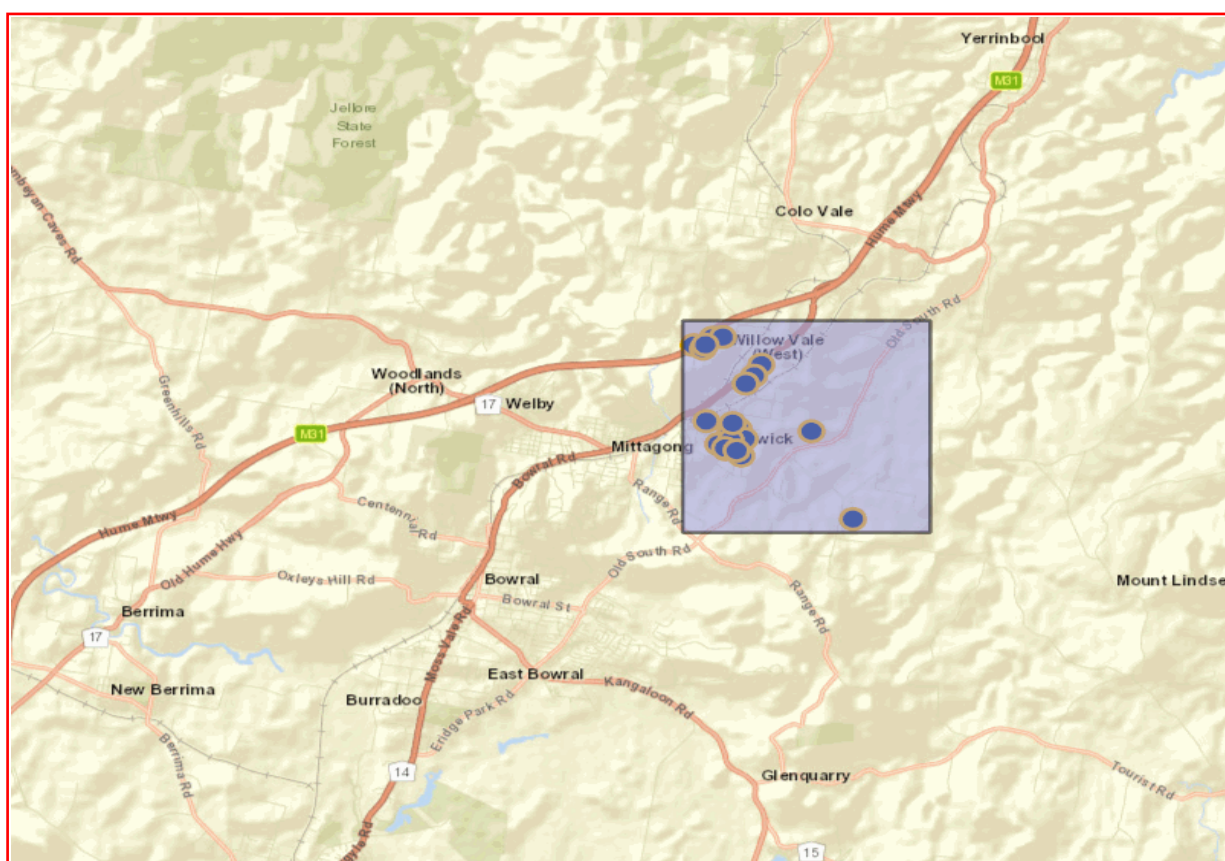
Regal Heritage Pty Ltd
25 Mount Keira Road
West Wollongong New South Wales 2500
Attention: Renee Regal
Email: renee@regalheritage.com.au

Date: 28 April 2022

Dear Sir or Madam:

AHIMS Web Service search for the following area at Datum :GDA, Zone : 56, Eastings : 267000.0 - 272000.0, Northings : 6183000.0 - 6188000.0 with a Buffer of 0 meters, conducted by Renee Regal on 28 April 2022.

The context area of your search is shown in the map below. Please note that the map does not accurately display the exact boundaries of the search as defined in the paragraph above. The map is to be used for general reference purposes only.



A search of Heritage NSW AHIMS Web Services (Aboriginal Heritage Information Management System) has shown that:

24	Aboriginal sites are recorded in or near the above location.
0	Aboriginal places have been declared in or near the above location. *

If your search shows Aboriginal sites or places what should you do?

- You must do an extensive search if AHIMS has shown that there are Aboriginal sites or places recorded in the search area.
- If you are checking AHIMS as a part of your due diligence, refer to the next steps of the Due Diligence Code of practice.
- You can get further information about Aboriginal places by looking at the gazettal notice that declared it. Aboriginal places gazetted after 2001 are available on the [NSW Government Gazette \(https://www.legislation.nsw.gov.au/gazette\)](https://www.legislation.nsw.gov.au/gazette) website. Gazettal notices published prior to 2001 can be obtained from Heritage NSW upon request

Important information about your AHIMS search

- The information derived from the AHIMS search is only to be used for the purpose for which it was requested. It is not to be made available to the public.
- AHIMS records information about Aboriginal sites that have been provided to Heritage NSW and Aboriginal places that have been declared by the Minister;
- Information recorded on AHIMS may vary in its accuracy and may not be up to date. Location details are recorded as grid references and it is important to note that there may be errors or omissions in these recordings,
- Some parts of New South Wales have not been investigated in detail and there may be fewer records of Aboriginal sites in those areas. These areas may contain Aboriginal sites which are not recorded on AHIMS.
- Aboriginal objects are protected under the National Parks and Wildlife Act 1974 even if they are not recorded as a site on AHIMS.
- This search can form part of your due diligence and remains valid for 12 months.

SiteID	SiteName	Datum	Zone	Easting	Northing	Context	Site Status **	SiteFeatures	SiteTypes	Reports
52-2-2204	DIAMOND FIELDS	AGD	56	270410	6183100	Open site	Valid	Artefact : -		
	Contact	Recorders		Petra Schell				Permits		
52-1-0044	Mittagong, Great Southern Road	AGD	56	269500	6185200	Open site	Valid	Burial : -, Modified Tree (Carved or Scarred) : -	Burial/s,Carved Tree	
	Contact	Recorders		David Bell,R Etheridge,J Chalker,Tom Waite				Permits		
52-1-0061	Braemar, HCA18	AGD	56	267010	6187220	Closed site	Valid	Artefact : -	Shelter with Deposit	498
	Contact	Recorders		Margrit Koettig				Permits		
52-1-0063	Braemar, HCA20	AGD	56	267610	6187430	Closed site	Valid	Artefact : -, Art (Pigment or Engraved) : -	Shelter with Art,Shelter with Deposit	498
	Contact	Recorders		Rex Silcox				Permits		
52-1-0064	Braemar, HCA21	AGD	56	267400	6187410	Closed site	Valid	Artefact : -, Art (Pigment or Engraved) : -	Shelter with Art,Shelter with Deposit	498
	Contact	Recorders		Rex Silcox				Permits		
52-1-0068	Braemar, HCA25	AGD	56	267210	6187140	Closed site	Valid	Artefact : -, Art (Pigment or Engraved) : -	Shelter with Art,Shelter with Deposit	498
	Contact	Recorders		Margrit Koettig				Permits		
52-1-0214	Renwick 1	GDA	56	267971	6185546	Open site	Destroyed	Artefact : 5		98579
	Contact	Recorders		Doctor.Julie Dibden,Kelleher Nightingale Consulting Pty Ltd,Ms.Cristany Milicich				Permits	2492,3982	
52-1-0215	Renwick 2	GDA	56	268069	6184886	Open site	Destroyed	Artefact : 80		98579,103967, 103968
	Contact	Recorders		Doctor.Julie Dibden,Kelleher Nightingale Consulting Pty Ltd,Ms.Cristany Milicich,M				Permits	2492,4328	
52-1-0216	Renwick 3	GDA	56	268171	6184762	Open site	Destroyed	Artefact : 6		98579,103967, 103968
	Contact	Recorders		Doctor.Julie Dibden,Mr.Matthew Kelleher,Kelleher Nightingale Consulting Pty Ltd (Permits	2492,4328	
52-1-0217	Renwick 4	GDA	56	267829	6184939	Open site	Partially Destroyed	Artefact : 1		98579,103967, 103968
	Contact	Recorders		Doctor.Julie Dibden,Mr.Matthew Kelleher,Kelleher Nightingale Consulting Pty Ltd (Permits	2492,4328	
52-1-0218	Renwick 5	AGD	56	267321	6185390	Open site	Valid	Artefact : 2		98579
	Contact	Recorders		Doctor.Julie Dibden				Permits	2492	
52-1-0289	TA(1) Mittagong	GDA	56	268109	6184975	Open site	Destroyed	Artefact : 1		
	Contact	Recorders		Kelleher Nightingale Consulting Pty Ltd,Kelleher Nightingale Consulting Pty Ltd,Mi				Permits	3982	
52-1-0290	TA(2) Mittagong	GDA	56	268229	6185171	Open site	Destroyed	Artefact : 1		
	Contact	Recorders		Kelleher Nightingale Consulting Pty Ltd,Kelleher Nightingale Consulting Pty Ltd,Mi				Permits	3982	
52-1-0291	TA (3) Mittagong	GDA	56	268098	6185405	Open site	Partially Destroyed	Artefact : 1		103967,10396 8
	Contact	Recorders		Kelleher Nightingale Consulting Pty Ltd,Kelleher Nightingale Consulting Pty Ltd,Ke				Permits	3982,4328	

SiteID	SiteName	Datum	Zone	Easting	Northing	Context	Site Status **	SiteFeatures	SiteTypes	Reports
52-1-0292	TA(4) Mittagong	GDA	56	267685	6185034	Open site	Destroyed	Artefact : 1		
	<u>Contact</u> Gundungurra Tribal Council	<u>Recorders</u>	Kelleher Nightingale Consulting Pty Ltd,Kelleher Nightingale Consulting Pty Ltd,Mi <u>Permits</u>							
52-1-0293	TA (5) Mittagong	GDA	56	267843	6184906	Open site	Partially Destroyed	Artefact : 1		103967,103968
	<u>Contact</u> Gundungurra Tribal Council	<u>Recorders</u>	Kelleher Nightingale Consulting Pty Ltd,Kelleher Nightingale Consulting Pty Ltd,Mi <u>Permits</u>							
52-1-0294	TA (6) Mittagong	GDA	56	267925	6185285	Open site	Destroyed	Artefact : 1		103967,103968
	<u>Contact</u> Gundungurra Tribal Council	<u>Recorders</u>	Kelleher Nightingale Consulting Pty Ltd,Kelleher Nightingale Consulting Pty Ltd,Ke <u>Permits</u>							
52-1-0297	Willow Vale VCL_GDG01	GDA	56	267360	6187426	Open site	Valid	Grinding Groove : 8		
	<u>Contact</u>	<u>Recorders</u>	Mr.Mark Simon <u>Permits</u>							
52-1-0313	BIF1 (BRAEMAR ISOLATED FIND 1) 11 duplicate of 52-1-0311	GDA	56	268383	6186700	Open site	Destroyed	Artefact : 1, Potential Archaeological Deposit (PAD) : 1		103006
	<u>Contact</u>	<u>Recorders</u>	Kayandel Archaeological Services,Kayandel Archaeological Services <u>Permits</u>							
48-1-0638	Restriction applied. Please contact ahims@environment.nsw.gov.au.					Open site	Valid			
	<u>Contact</u>	<u>Recorders</u>	Kayandel Archaeological Services <u>Permits</u>							
52-1-0311	Restriction applied. Please contact ahims@environment.nsw.gov.au.					Open site	Destroyed			
	<u>Contact</u>	<u>Recorders</u>	Kayandel Archaeological Services,Mr.Lance Syme <u>Permits</u>							
52-1-0312	Restriction applied. Please contact ahims@environment.nsw.gov.au.					Open site	Destroyed			103006
	<u>Contact</u>	<u>Recorders</u>	Kayandel Archaeological Services,Mr.Lance Syme <u>Permits</u>							
52-1-0308	Braemar Garden World 1	GDA	56	268529	6186972	Open site	Valid	Artefact : 1		
	<u>Contact</u>	<u>Recorders</u>	Kayandel Archaeological Services,Kayandel Archaeological Services <u>Permits</u>							
52-1-0386	TA (7) Mittagong	GDA	56	267940	6185132	Open site	Destroyed	Artefact : -		103967,103968
	<u>Contact</u>	<u>Recorders</u>	Kelleher Nightingale Consulting Pty Ltd,Ms.Cristany Milicich,Mr.Matthew Kelleher, <u>Permits</u>							

** Site Status

Valid - The site has been recorded and accepted onto the system as valid

Destroyed - The site has been completely impacted or harmed usually as consequence of permit activity but sometimes also after natural events. There is nothing left of the site on the ground but proponents should proceed with caution.

Partially Destroyed - The site has been only partially impacted or harmed usually as consequence of permit activity but sometimes also after natural events. There might be parts or sections of the original site still present on the ground

Not a site - The site has been originally entered and accepted onto AHIMS as a valid site but after further investigations it was decided it is NOT an aboriginal site. Impact of this type of site does not require permit but Heritage NSW should be notified

General Manager
Wingecarribbee Shire Council
Civic Centre, Elizabeth Street
MOSS VALE NSW 2577

Attn: James Knight

Re: Fisheries Permit PN22/447 – Dredging and reclamation – bridge construction works – Old South Road, Mittagong

Dear Mr Knight,

I refer to your application dated 11 October 2022 for a permit under Part 7 of the *Fisheries Management Act 1994* (FM Act). DPI Fisheries, a division of NSW Department of Primary Industries, assesses applications for dredging and reclamation in accordance with Part 7 of the FM Act, Part 14 of the *Fisheries Management (General) Regulation 2019* and the *Policy and Guidelines for Fish Habitat Conservation and Management (2013)*.

This application attracts a minimum fee of \$358.00. The fee comprises \$179.00 application fee plus \$179.00 for the first three hours of assessment. An invoice of \$358.00 has been raised and will be emailed separately.

The environmental assessment has been completed and it has been determined that a permit can be issued. The permit is attached and takes effect on receipt of payment.

Please note that the attached permit providing authorisation under the *Fisheries Management Act 1994*, to undertake dredging and/or reclamation (s.200 or s.201), does not provide authorisation under any Act or planning instrument. It is the applicant's responsibility to ensure they have all appropriate approvals and landowner consents before the works occur. This may include, but is not restricted to, development consent under the *Environmental Planning & Assessment Act*, landowners' consent and/or a licence under the *Crown Lands Management Act 2016*, and a controlled activity approval under the *Water Management Act 2000*.

Please carefully read and note the conditions included in the permit. **If you agree that all the conditions are reasonable, appropriate, and achievable, you must sign and date the attached form (Acceptance of Conditions) and return it to the Departmental Contact Officer as soon as possible. If you believe that you cannot comply with all the Conditions, then you must not commence work.** Instead, you should contact the Departmental Contact Officer listed on the first page of the permit so that your concerns can be considered.

If you intend to have the work undertaken by a contractor, please ensure that the contractor receives a full copy of the permit and understands the importance of abiding by the conditions. As the permit holder, you are responsible for ensuring compliance with all conditions therein and with any other legislative obligations. **Breaching a condition of a permit can incur an on-the-spot penalty notice of \$500 of up to \$11,000 through the courts in accordance with clause 225 of the *Fisheries Management (General) Regulation 2019*.**

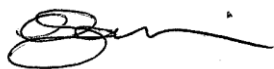
The extent of work is to be restricted to that outlined in the application and plans submitted to the Department. **If for any reason, other works are required, or the works need to be extended to other areas, you must seek specific approval beforehand.** DPI Fisheries will require a justification for these variations and may charge additional assessment fees as outlined in the permit application. Similarly, **please note the expiry date** on the permit. If the works are not completed by the expiry date you will need to obtain an extension. **Requests for an extension after the expiry date will incur the \$179.00 permit application fee. Requests for an extension before the expiry date will not incur an application fee.**

DPI Fisheries, places particular importance upon the need to minimise the harm to the natural environment both at the work site and in downstream/adjacent waters. The Department expects implementation of Best Management Practice with respect to erosion and sediment control as outlined in the publication "Managing Urban Stormwater: Soils and Construction" (4th Edition Landcom, 2004), commonly referred to as "The Blue Book" (see <https://www.environment.nsw.gov.au/research-and-publications/managing-urban-stormwater-soils-and-construction-volume-1-4th-edition>).

The extent and magnitude of works is such that I have included a condition requiring the preparation of a Construction Environmental Management Plan (CEMP) to be submitted to and approved by DPI Fisheries prior to the commencement of works. The CEMP is to incorporate erosion and sediment control measures to be used at the site, dewatering procedures, and site rehabilitation / revegetation provisions.

If you have any queries regarding this permit, please contact Carla Ganassin on 4222 8342.

Sincerely



Carla Ganassin

Senior Fisheries Manager, Coastal Systems

DPI Fisheries

Authorised delegate of the Minister of Primary Industries

Permit under Part 7 of the *FISHERIES MANAGEMENT ACT 1994*

Permit	Permit Number	PN22/447
	Expiry Date	Unless cancelled or suspended sooner, this permit shall remain in force until 2 November 2024
Permit Holder:		Wingecarribbee Shire Council Civic centre, Elizabeth St, Moss Vale NSW 2577 Contact person: James Knight Phone: 4868 0888 Email: james.knight@wsc.nsw.gov.au
Permit Area:		Unnamed 3 rd order stream intersecting with Old South Road, Mittagong (North of Mittagong Airport) (near Lot 78 DP 751282, Lot 841 DP 1253894, Lot 11 DP 1226788) (Refer to Attachment 1)
Permit Activity:		Dredging & reclamation in association with or in relation to bridge construction works
Departmental Contact Officer:		Carla Ganassin Ph: 4222 8342 Email: carla.ganassin@dpi.nsw.gov.au
District Fisheries Officer:		Daniel Minter Email: daniel.minter@dpi.nsw.gov.au

This permit is subject to the following Conditions:

ADMINISTRATIVE CONDITIONS

- 1) The **Acceptance of Conditions** form (attached) must be completed and returned to ahp.central@dpi.nsw.gov.au and fisheries.compliance@dpi.nsw.gov.au before commencing any works authorised by this permit.

Reason – To remove any doubt that the Permit Holder understands and accepts the Conditions before work commences.

- 2) The **Commence Works Notification** form (attached) must be completed and sent to ahp.central@dpi.nsw.gov.au and fisheries.compliance@dpi.nsw.gov.au at least three to five (3-5) days BEFORE the commencement of works authorised by this permit.

Reason - To ensure that local DPI Fisheries staff are aware that the works authorised by this permit are about to commence.

- 3) The **Active Works Notification** form (attached) must be completed and sent to ahp.central@dpi.nsw.gov.au and fisheries.compliance@dpi.nsw.gov.au at least three to five (3-5) days BEFORE works are complete or machinery is removed from the site. Several colour photographs showing the work site and works completed to date must be included.

Reason – To provide an opportunity for local DPI Fisheries staff to inspect the site whilst machinery is still on site and available to do any remedial work that may be necessary.

- 4) This permit (or a true copy) and a copy of the finalised Construction and Environmental Management Plan (CEMP) must be carried by the permit holder or sub-contractor operating on-site at all times during works activity in the permit area.

Reason – DPI Fisheries staff may wish to check compliance of works with imposed conditions.

NATURE AND EXTENT OF WORKS

- 5) The permit holder must ensure that all works authorised by this permit are restricted to the permit area and are undertaken in a manner consistent with those described in the: permit application dated 11 October 2022; plans for the works (Maker Eng, ISC00340-15-C2002 Rev A, 26/7/2022), and Review of Environmental Factors for the works (Wingecarribbee Shire Council. FRM-ALL-001). Other works, which have not been described, excepting those activities required by this permit, are not to be undertaken.

Reason – This permit has been granted following an assessment of the potential impacts of the described works upon the aquatic and neighbouring environments. Other works, which were not described in the application have not been assessed and may have significant adverse impacts.

CONSTRUCTION ENVIRONMENTAL MANAGEMENT PLAN & OTHER PLANS

- 6) A Construction Environmental Management Plan (CEMP) detailing provisions relating to the items listed in this section below, is to be prepared **and submitted to the Contact Officer above for approval two weeks prior to any works taking place.** The CEMP should consist of simple statements and diagrams of how each factor will be managed on site to achieve the stated aim.

- a) Site delineation and marking of “no go” areas (with the aim of keeping the impacted area to a minimum),
- b) Sediment and erosion control plan (with the aim of achieving an outcome of “no visible turbid plumes reaching the waterway”, for any rainfall event up to a 1 in 2 year Annual Recurrence Interval (ARI) event),
- c) Material storage and stockpiling (with the aim of keeping the impacted area to a minimum),
- d) Site restoration and clean up (with the aim of ensuring that the impacted area recovers as soon as possible),
- e) Site rehabilitation and revegetation of the disturbed areas (with the aim of ensuring that there are no long-term impacts after works are completed).

All works undertaken are to be consistent with this statement.

Reason – To ensure that appropriate strategies for preventing sediment input to downstream waterways and rehabilitation of aquatic habitats and the riparian zone are proposed and carried out.

SEDIMENT AND EROSION CONTROL

- 7) Erosion and sediment mitigation devices are to be erected in a manner consistent with currently accepted Best Management Practice (i.e., *Managing Urban Stormwater: Soils and Construction* 4th Edition, Landcom, 2004) to prevent the entry of sediment into the waterway **prior to any earthworks being undertaken. These are to be maintained in good working order for the duration of the bridge construction works and subsequently until the site has been stabilised and the risk of erosion and sediment movement from the site is minimal.**

Reason – To ensure that sediment generated by the exposure of soil is not transported into the main water body.

DEWATERING

- 8) The site shall not be dewatered unless a Dewatering Management Plan is prepared and approved by the contact officer. Any Dewatering Management Plan shall specifically consider any potential off-site impacts as a result of the dewatering operations and contain mitigation controls to effectively treat any discharge water to prevent off site pollution of any receiving waters.

Reason – Dewatering poses a significant risk to aquatic animals and needs to be carefully managed.

WORK IN WATERS

- 9) Machinery is not to enter or work from the waterway unless in accordance with works proposed in your application for the permit and the requirements of this permit.

Reason – To ensure minimal risk of water pollution from oil or petroleum products and to minimise disturbance to the streambed substrate.

- 10) Only clean rock (no fines) is to be used in construction of works authorised by this permit.

Reason – To avoid fines, clay, and other sediment un-necessarily entering the waterway and potentially impacting on aquatic habitats.

- 11) Prior to use at the site and / or entry into the waterway, machinery is to be appropriately cleaned, degreased, and serviced. Spill kits are to be always available on-site during works.

Reason – To reduce the threat of an unintended pollution incident impacting upon the aquatic environment.

AVOIDING HARM TO SNAGS AND RIPARIAN VEGETATION

- 12) When working near riparian vegetation or water land these areas need to be identified and appropriately delineated as “No Go” areas (with the aim of avoiding harm to these areas). Harm to riparian vegetation or water land outside the work footprint approved under the authority of this permit is not permitted and any harm caused is to be documented and reported to the contact officer. Any harm caused is to be restored in accordance with directions provided by the contact officer.

Reason – To ensure that impacts on aquatic habitat and the riparian zone are minimised.

- 13) Material storage and stockpiling is not to be undertaken on water land or riparian vegetation. Stockpiling must be undertaken in a manner to avoid harm to these types of vegetation or water land. Stockpiles should also be located 20 metres away from adjacent water land. Stockpiles and/or dewatering areas should be appropriately controlled by sediment fencing or other materials prescribed in the “Blue Book” to ensure sediments do not enter the waterway.

Reason – To ensure that impacts on aquatic habitats and the riparian zone are minimised. “Degradation of native riparian vegetation along NSW water courses” (excluding estuarine and marine waters) is listed as a Key Threatening Process (KTP) under the provisions of the FM Act.

- 14) No snags or large woody debris from trees and shrubs are to be removed, realigned, or relocated without first obtaining the written authority of the Contact Officer.

Reason – “Removal of large woody debris from NSW rivers and streams” is listed as a KTP under the provisions of the FM Act. This approval has been granted on the basis that snags are not to be removed.

- 15) On completion of the works the site is to be rehabilitated and stabilised including:

- a) Surplus construction materials and temporary structures (other than silt fences and other erosion and sediment control devices) installed during the course of the works are to be removed.
- b) Additional to replanting the disturbed area with native endemic riparian vegetation planting of *Lomandra* sp. along the toe and top of the bank of the waterway for 5 metres either side of the work footprint (10 metres in total for either bank). Appropriate maintenance of erosion and sediment control devices is to be undertaken until the vegetation has successfully established and the site has stabilised.

Reason – To ensure that habitats are restored as quickly as possible, public safety is not compromised, aesthetic values are not degraded and sediment inputs into the waterway are reduced.

FISH KILL CONTINGENCY

- 16) A visual inspection of the waterway for dead or distressed fish (indicated by fish gasping at the water surface, fish crowding in pools or at the creek’s banks) is to be undertaken daily during the works. **Observations of dead or distressed fish are to be immediately reported to the Contact Officer by the Permit Holder.** In such a case all works are to cease until the issue is rectified and approval is given to proceed. If requested, the Permit Holder is to commit resources to the satisfaction of the Contact Officer for an effective fish rescue, if in the view of that officer, a fish kill event is imminent and likely to occur within or adjacent to the works area due to conditions associated with weather, water quality and other parameters.

Reason – DPI Fisheries needs to be aware of fish kills so that it can assess the cause and mitigate further incidents in consultation with relevant authorities. They are also potentially contentious incidents from the public perspective. Work practices may need to be modified to reduce the impacts upon the aquatic environment.

IMPORTANT NOTE:

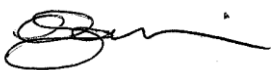
In the event of any inconsistency between the conditions of this approval and:

- the drawings / documents referred to above, the conditions of this approval prevail to the extent of the inconsistency.
- any Government publication referred to in this permit, the most recent document shall prevail to the extent of the inconsistency; and
- the proponent's mitigation measures outlined in the application; the conditions of this approval prevail to the extent of the inconsistency.

STOP WORK ORDERS

A Fisheries Officer or other appropriate delegate, who has reasonable cause to suspect that the conditions of this permit have not been complied with, **may order the work to stop immediately**. The order may be given to the permit holder or any person who informs the officer that they are acting in any capacity on behalf of the permit holder. Any damage caused to the habitat outside the specified permit area, or the carrying out of works not in accordance with the conditions specified in this permit and/or the application and that were accepted by the permit holder, could result in a breach of the *Fisheries Management Act 1994* or *Regulations*, and penalties of up to \$220,000 may apply. Orders may also be made requiring work to rectify any damage caused by unauthorised works. **Breaching a condition of a permit can incur an on-the-spot penalty notice of \$500 or up to \$11,000 through the courts pursuant to clause 225 of the *Fisheries Management (General) Regulation 2019*.**

Sincerely



Carla Ganassin

Senior Fisheries Manager, Coastal Systems

DPI Fisheries

Authorised delegate of the Minister of Primary Industries

2 November 2022

Attachment 1 – Location diagram of works authorised under PN22/447



**Permit No. PN22/447 issued under Part 7 of the
*Fisheries Management Act 1994***

PLEASE COMPLETE THIS PAGE AND RETURN TO DPI FISHERIES

In reference to Permit No. PN22/447 associated with bridge construction works to be undertaken at unnamed waterway Old South Road, Mittagong (near 78/751282, 841/1253894, 11/1226788):

Acceptance of Conditions Form

I the undersigned, acknowledge that I have read and understood and agree to comply with the conditions specified. I understand that penalties can be imposed for non-compliance with conditions.

Permit Holder's name: _____

Permit Holder's signature: _____

Date: _____

Please ensure you have SIGNED this page and RETAINED a copy for your records before you email it to:

ahp.central@dpi.nsw.gov.au

fisheries.compliance@dpi.nsw.gov.au

**Permit No. PN22/447 issued under Part 7 of the
*Fisheries Management Act 1994***

PLEASE COMPLETE THIS PAGE AND RETURN TO DPI FISHERIES

In reference to Permit No. PN22/447 associated with bridge construction works to be undertaken at unnamed waterway Old South Road, Mittagong (near 78/751282, 841/1253894, 11/1226788):

Commence Works Notification Form

(Note: to be completed and returned 3 – 5 working days before commencement of works)

Permit Holder's name: _____

Expected commencement date: _____

Permit Holder's signature: _____

Date: _____

Comments:

Please ensure you have SIGNED this page and RETAINED a copy for your records before you email it to:

ahp.central@dpi.nsw.gov.au

fisheries.compliance@dpi.nsw.gov.au

**Permit No. PN22/447 issued under Part 7 of the
*Fisheries Management Act 1994***

PLEASE COMPLETE THIS PAGE AND RETURN TO DPI FISHERIES

In reference to Permit No. PN22/447 associated with bridge construction works to be undertaken at unnamed waterway Old South Road, Mittagong (near 78/751282, 841/1253894, 11/1226788):

Active Works Notification Form

(Note: to be completed and returned 3 – 5 working days before completion of works or before machinery is removed from the site)

Permit Holder's name: _____

Anticipated completion date: _____

Permit Holder's signature: _____

Date: _____

Comments:

Please ensure you have SIGNED this page and RETAINED a copy for your records before you email it to:

ahp.central@dpi.nsw.gov.au

fisheries.compliance@dpi.nsw.gov.au