



West Nowra Landfill Extension Modification 1

Removal of Fauna Bridges
State Significant Development Modification Assessment
(SSD-7187-Mod-1)

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Glossary

Abbreviation	Definition
AHD	Australian Height Datum
BAR	Biodiversity Assessment Report
CIV	Capital Investment Value
Consent	Development Consent
Council	Shoalhaven City Council
Department	Department of Planning, Industry and Environment
EES	Environment, Energy and Science (formerly Office of Environment and Heritage)
EIS	Environmental Impact Statement
EPA	Environment Protection Authority
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EP&A Regulation	Environmental Planning and Assessment Regulation 2000
EPBC Act	<i>Environment Protection and Biodiversity Conservation Act 1999</i>
EPI	Environmental Planning Instrument
EPL	Environment Protection Licence
ESD	Ecologically Sustainable Development
FBA	Framework for Biodiversity
Garden and Wood Waste	As defined in the <i>Protection of the Environment Operations Act 1997</i>
General solid waste (putrescible)	As defined in the <i>Protection of the Environment Operations Act 1997</i>
General solid waste (non-putrescible)	As defined in the <i>Protection of the Environment Operations Act, 1997</i>
LEP	Local Environmental Plan
LEMP	Landfill Environmental Management Plan
LP	Landfill Plan

Minister	Minister for Planning and Public Spaces
POEO Act	<i>Protection of the Environment Operations Act 1997</i>
RFS	Rural Fire Service
RRP	Resource Recovery Park
RtS	Response to Submissions
SEARs	Secretary's Environmental Assessment Requirements
Secretary	Secretary of the Department of Planning, Industry and Environment
SEPP	State Environmental Planning Policy
SRD SEPP	State Environmental Planning Policy (State and Regional Development) 2011
SSD	State Significant Development
TfNSW	Transport for New South Wales
VMP	Vegetation Management Plan
WNRWF	West Nowra Recycling and Waste Facility

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1 Introduction

This report provides the NSW Department of Planning, Industry and Environment's (the Department's) assessment of an application to modify the State significant development (SSD) consent for the West Nowra Landfill Extension (SSD-7187). This application seeks approval to remove the requirement for three rope fauna bridges across Flatrock Road and instead to provide alternative habitat connectivity measures for Squirrel Gliders and Eastern Pygmy Possums.

The modification application was lodged on 13 May 2021 by Shoalhaven City Council (the Applicant) pursuant to section 4.55(1A) of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

1.1 Background

The Applicant owns and operates the West Nowra Recycling and Waste Facility (WNRWF) on Flatrock Rd, Mundamia, in the Shoalhaven local government area. The WNRWF currently operates seven days a week receiving both recycling and landfill from transfer stations, kerbside contractors, private operators and members of the public. The WNRWF is the only licenced waste facility in the Shoalhaven LGA that can accept both putrescible and non-putrescible general solid waste.

Stages 1 and 2 of the landfill have already been filled and capped. The existing, active Stage 3 landfill currently receives approximately 65,000 tonnes per annum (tpa) of waste. SSD 7187 sought approval for the progressive construction, operation and rehabilitation of Stage 4 of the landfill (the Stage 4 Extension). The approved Stage 4 Extension has an area of approximately 18.6 hectares (ha) and includes a conservation area, biodiversity corridors, dams, leachate irrigation areas, fire trails, access tracks and internal infrastructure (see **Figure 1**).

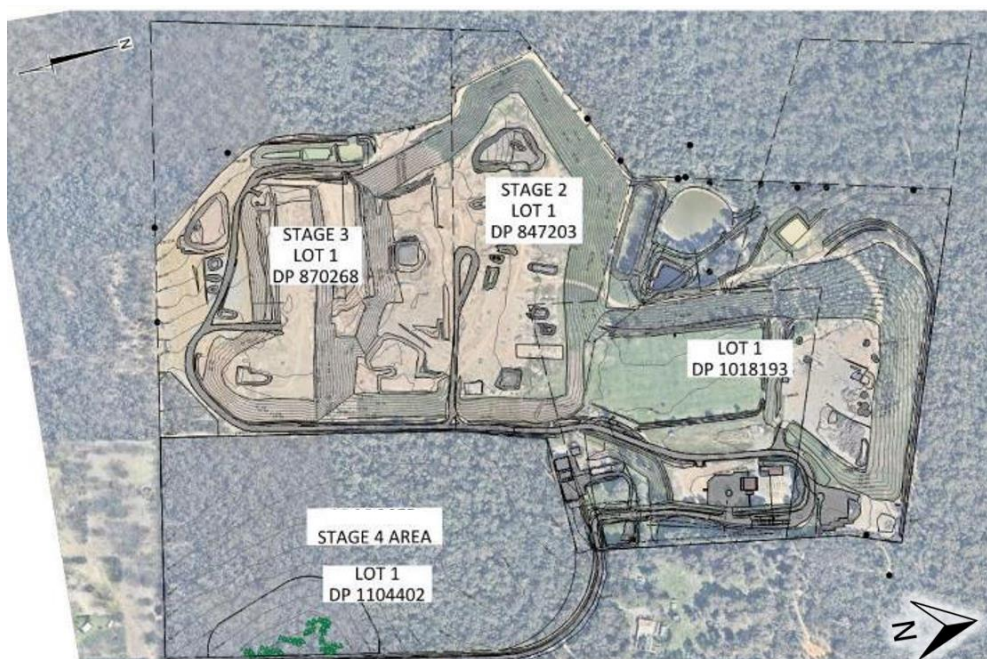


Figure 1 | WNRWF Masterplan Layout

The Stage 4 Extension area is mostly undeveloped native bushland predominately containing Red Bloodwood and Hard-leaved Scribbly Gum trees. During the assessment of SSD 7187 it was found the Eastern Pygmy possum and the Squirrel Glider would be directly affected by the development due to

the loss of 9.87 ha of habitat. While the development would maintain connectivity to another area of known habitat to the south west, in order to further aid habitat connectivity and reduce the risk of fauna strike, the Applicant proposed to install three fauna rope bridges across Flatrock Road prior to commencement of vegetation clearing.

Following the determination of SSD 7187, the Applicant found that installation of the fauna bridges would take at least six months due to design constraints caused by proximity to Essential Energy's power lines. This has the potential to delay the commencement of construction for the Stage 4 Landfill Extension until 2022 as the SSD 7187 consent only permits clearing works to be undertaken in the winter months following a program to capture and relocate resident fauna. To minimise the impact on the construction schedule, and meet the remaining conditions of consent, the Applicant has lodged a modification application to remove the requirement for fauna rope bridges and has provided alternative measures to increase the connectivity of both the biodiversity corridor and the conservation area.

1.2 Site Description

The WNRWF site comprises 73 ha of SP2 Infrastructure zoned land. The WNRWF currently includes a landfill (Stages 1 to 3), waste transfer station, garden and wood stockpile and processing area (including shredding and composting), small vehicles and community recycling area, weighbridge and offices (see **Figure 2**).

The WNRWF is surrounded by vegetation to the north, east and west. Bamarang Nature Reserve is located to the southwest with Crown Land to the south. The southern boundary is bordered by rural residential properties, with the closest residential receiver located less than 100 m from the boundary. Approximately 450 m further south is land zoned R1 General Residential. This land is earmarked for the future Cabbage Tree Urban Release Area under Council's Local Environmental Plan (LEP). Immediately to the northeast of the site is the National Parks and Wildlife Service (NPWS) Nowra Area Office and Depot.



Figure 2 | Local Context Map

1.3 Approval history

On 11 May 2020, development consent was granted by the Executive Director, Key Sites and Industry Assessments for the development of the West Nowra Landfill Extension (SSD 7187). The development consent permits the progressive excavation, landfilling and rehabilitation of six new landfill sub-cells under the Stage 4 Extension and the receipt of up to 1.38 million cubic metres of additional waste.

The development consent includes the following conditions relevant to the application:

- B33 to install three wildlife rope bridges with monitoring cameras to maintain habitat connectivity;
- B34 to establish and maintain the 4.68 ha conservation area; and
- B35 to prepare a Vegetation Management Plan (VMP) prior to any vegetation clearing.

2 Proposed modification

2.1 Proposed Modification

The Applicant has lodged a modification application under section 4.55(1A) of the EP&A Act to modify the development. The modification is described in full in the Statement of Environmental Effects (SEE) included in **Appendix A** and is illustrated in **Figure 3**.

Condition B33 required the installation of rope fauna crossings over Flatrock Road to enhance fauna movement between retained native vegetation within the Stage 4 Extension site and bushland to the east of the site, as well as to reduce the risk of fauna strike to wildlife crossing Flatrock Road.

The Applicant is now proposing alternative measures to achieve the habitat connectivity outcomes of the fauna rope bridges, including:

- early relocation of fencing in the southwest corner of the Stage 4 Extension area to increase connectivity between the conservation area, biodiversity corridor and existing Crown Land and Bamarang Nature Reserve (see **Figure 3**). This relocation is to occur prior to vegetation clearing rather than prior to operation.
- realignment of the fire trail in the southwest corner and reestablishment of the native vegetation along the current fire trail to assist with connectivity
- provision of wildlife friendly fencing along the southern boundary of the site to allow for movement of species.
- speed limit reduction on Flatrock Road, including;
 - permanent reduction of the speed limit on Flatrock Road to 60km/h along the Eastern boundary of the WNRWF
 - temporary reduction of the speed limit to 40km/h during clearing activities related to the Landfill Extension.
- increased monitoring of vehicle strike and proposed triggers for additional mitigation measures if required.

The Applicant is proposing to amend of Conditions B33, B34 and B48 of the consent and update the list of management and mitigation measures. Specifically, the condition amendments would remove references to the fauna bridges which are no longer proposed and incorporate the alternative measures outlined above.

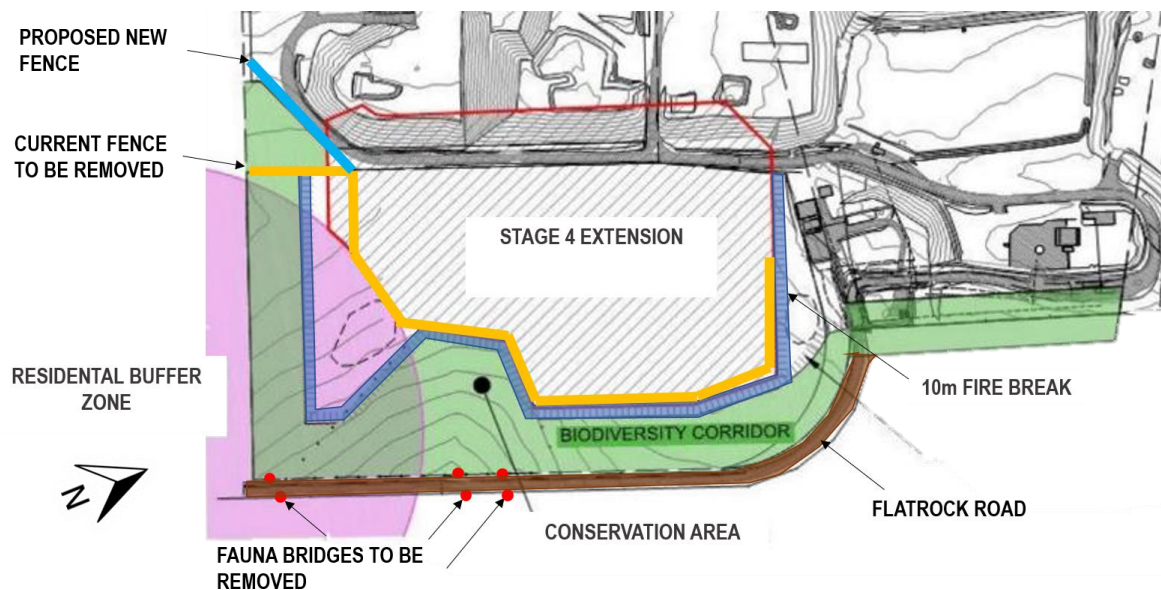


Figure 3 | Proposed Modification

2.2 Applicant's Justification for the Proposed Modification

Under the conditions of consent for SSD 7187 the Applicant is required to install three fauna rope bridges prior to the commencement of vegetation clearing. The fauna rope bridges were proposed by the Applicant in the Biodiversity Assessment Report (BAR) to improve habitat connectivity for the Eastern Pygmy possum and the Squirrel Glider.

During further consultation with the energy infrastructure provider (Essential Energy), it was found that detailed design of the bridges would take up to six months due to conflicts with existing energy infrastructure. The Applicant is required to undertake clearing works during winter months, therefore the delay in installing the fauna bridges would prevent clearing from commencing in 2021. This represents a significant delay to delivering the development which may impacts the Applicant being able to provide effective waste service for residents.

The Applicant is proposing alternative monitoring, and measures to ensure that connectivity with wider Eastern Pygmy possum and the Squirrel Glider habitat can be maintained, while clearing is undertaken and into the future. The Applicant has justified the approach by asserting the proposed alternative measures would have equivalent outcomes to the fauna bridges with regards to habitat connectivity and reduced risk of fauna strike.

3 Statutory context

3.1 Scope of Modifications

The Department has reviewed the scope of the modification application and considers that the application can be characterised as a modification involving minimal environmental impacts as:

- the modification would not significantly increase the environmental impacts of the project as approved
- the primary function and purpose of the approved development would not change as a result of the proposed modification
- any potential environmental impacts would be minimal and appropriately managed through the existing or modified conditions of consent
- the modification is of a scale that warrants the use of section 4.55(1A) of the EP&A Act
- is substantially the same development as originally approved.

Therefore, the Department is satisfied the proposed modification is within the scope of section 4.55(1A) of the EP&A Act and does not constitute a new development application. Accordingly, the Department considers that the application should be assessed and determined under section 4.55(1A) of the EP&A Act rather than requiring a new development application to be lodged.

3.2 Consent Authority

The Minister for Planning and Public Spaces (Minister) is the consent authority for the application under section 4.5(a) of the EP&A Act. Under the Minister's delegation of 26 April 2021, the Team Leader, Industry Assessments, may determine the application under delegation as:

- the Applicant has not disclosed a reportable political disclosure in connection with the application
- there are no public submissions in the nature of objections, and
- Council has not made a submission by way of objection.

3.3 Mandatory Matters for Consideration

The Department undertook a comprehensive assessment of the application against the mandatory matters for consideration as part of the original assessment of SSD 7187. This modification application does not result in significant changes that would alter the Department's consideration of the mandatory matters for consideration under section 4.15(1) of the EP&A Act and conclusions made as part of the original assessment.

3.4 Biodiversity Conservation Act 2016

Clause 30A(2)(c) of the Biodiversity Conservation (Savings and Transitional) Regulation 2017 specifies that if the determining authority is satisfied a modification will not increase the impact on biodiversity values, a biodiversity development assessment report (BDAR) is not required. As the proposed modified development is located within the development footprint already assessed and approved and the alternative habitat connectivity measures proposed provide an equivalent outcome, it is not considered there is an increase in impacts on biodiversity values and the Department concludes a BDAR is not required.

4 Engagement

4.1 Department's Engagement

Clause 117(3B) of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation) specifies that the notification requirements of the EP&A Regulation do not apply to section 4.55(1A) modifications with minimal environmental impact. Accordingly, the application was not notified or advertised. However, it was made publicly available on the Department's website on 13 May 2021 and was referred to Council, Biodiversity Conservation Division (BCD) and Transport for NSW (TfNSW) for comment.

4.2 Government Advice

Advice was received from Council and two State government authorities. A summary of this advice is provided below.

Council did not object to the modification and identified that the alternative mitigation measures were sufficient.

BCD did not object to the modification and requested that the additional area of vegetation identified be included within the VMP. BCD also requested the modified conditions require details of the proposed rehabilitation following landfill closure.

TfNSW did not object to the modification and recommended a formal request for the reduction in speed limit on Flatrock Road be submitted to TfNSW for consideration.

5 Assessment

The Department has assessed the merits of the proposed modification. During this assessment, the Department has considered the:

- the SEE provided to support the proposed modification (see **Appendix A**)
- the documentation and Department's assessment report for the original development application (see **Appendix A**)
- submissions from State government authorities and Council (**Appendix A**)
- relevant environmental planning instruments, policies and guidelines
- requirements of the EP&A Act, including the objects of the EP&A Act.

The Department considers the key assessment issue is biodiversity. The Department's assessment of other issues is provided in **Table 1**.

5.1 Biodiversity

The Applicant is proposing to remove three fauna bridges which were originally proposed across Flatrock Road to increase connectivity between the Stage 4 Extension area and intact bushland in the wider vicinity of the site. The Applicant is proposing alternative measures to provide this connectivity including changes to fencing, regeneration and revegetation of the southwest corner of the site and changes to the timing for these works, reduced traffic speeds to minimise risk of vehicle strike and ongoing monitoring. The biodiversity values detailed in Clause 1.4 of the Biodiversity Conservation (Saving and Transitional) Regulation 2017 (BC Regulation) 'habitat connectivity' and 'threatened species movement' are relevant to this assessment.

Habitat connectivity and species movement

Vegetation management

The proposed realignment of fencing and regeneration and revegetation of disturbed areas in the southwest corner of the site was previously proposed to be carried out prior to operation of the Stage 4 Extension. The Applicant now proposes to undertake these works prior to vegetation clearing and to include these measures in the VMP required by Condition B35.

The Applicant is also proposing additional mitigation by realigning the fire trail crossing this area and restoring native vegetation along the current fire trail. The Applicant would also provide wildlife friendly fencing along the southern boundary of the site to minimise the risk of fauna being trapped.

BCD was supportive of the modification and recommended the area in the southwest corner of the site, impacted by the current fence and now proposed for early regeneration, be included in the VMP.

The Department has considered the realignment of the fencing and the regeneration of areas in the southwest corner of the site and recognises these works would increase connectivity between the conservation area, biodiversity corridor, the Crown Land and Bamarang Nature Reserve. The proposed timing would ensure that connectivity is increased prior to clearing to reduce the impacts to fauna from clearing activities. By carrying out these works prior to clearing the Department considers it would offset the potential impacts of not proceeding with the previously proposed fauna bridges. Furthermore, the additional restoration works, and wildlife friendly fencing proposed would further enhance connectivity in the southwestern corner of the site with areas of intact bushland in the wider landscape.

The Department has also recommended additional changes to condition B35, requiring the VMP to include management measures for cleared areas to ensure the integrity of the conservation area is maintained.

Speed limit reduction

Currently, there are a limited number of road users along the stretch of Flatrock Road adjacent to the WNRWF. Road users include WNRWF traffic and offices for NPWS and Soil Conservation Service. These organisations operate within standard business hours, ensuring night-time traffic in the vicinity is minimal. The Applicant has noted the fauna crossings were targeted at Squirrel Gliders and Eastern Pygmy Possums which are nocturnal species. As vehicles from the WNRWF and the offices are unlikely to be travelling at times when nocturnal species are active, there is a minimal risk of vehicle strike.

Notwithstanding, the Applicant is seeking the permanent reduction of the Flatrock Road speed limit from 100km/h to 60km/h along the eastern boundary of the WNRWF to reduce the vehicle strike risk to fauna crossing the road. The Applicant has also proposed a further temporary reduction of the Flatrock Road speed limit to 40km/h adjacent to the WNRWF during clearing activities. This is to ensure that the risk of vehicle strike is minimised if any fauna are disturbed during vegetation clearing.

TfNSW did not raise any objection to the proposed measures and recommended the Applicant submit a formal request to reduce the speed limit.

The Department considers the risk of vehicle strike is low for nocturnal species, including all threatened species recorded within or near the subject site. Furthermore, the Department notes the reduction in speed limits would reduce the risk of vehicle strike through safer driving conditions.

Vehicle strike monitoring

Although the risk of vehicle strike is considered low, the Applicant is proposing additional ongoing monitoring and reporting of any threatened species injured by vehicle strike. The Applicant is proposing to carry out bi-monthly surveys and signage requesting any animals struck by vehicles be reported to Council's environment team.

The Applicant is proposing adaptive mitigation measures in response to vehicle strike triggers for threatened species. If vehicle strike occurs more frequently than anticipated the Applicant has identified the following additional measures could be implemented:

- additional signage
- additional traffic calming devices
- further investigation of changes to the current powerline arrangement to accommodate glider poles or rope crossing in the future.

The Department has considered the proposed vehicle strike monitoring and has recommended a new condition of consent requiring the Applicant to prepare a Wildlife Vehicle Strike Monitoring Program (WVSMP) to set out the timing and frequency of vehicle strike monitoring and triggers for the consideration of additional measures to support habitat connectivity. The Department has also requested that if additional measures are required to be implemented any works are carried out in consultation with the Planning Secretary.

Biodiversity Assessment Report (BAR)

The BAR for SSD 7187 assessed the credit obligation to offset impacts to biodiversity values from the project. The credit obligations are:

- 719 ecosystem credits
- 217 Squirrel Glider species credits and
- 197 Eastern Pygmy Possum Credits.

The Biodiversity Offset Strategy (BOS) provided with SSD 7187 details how Council will meet the credit obligation. Council has confirmed the obligation would be met prior to any vegetation clearing. The modification application does not propose any further vegetation clearing and would not affect vegetation integrity or habitat suitability. As such, the credit obligation required to offset impacts will not be affected.

Biodiversity Conservation (Saving and Transitional) Regulation 2017

Clause 30 of the BC Regulation states the *Biodiversity Conservation Act 2016* (BC Act) applies to the modification of a planning approval even if the planning approval was granted before the commencement of the new BC Act. However under clause 30A(2)(c) of the BC Regulation, “a biodiversity development assessment report is not required to be submitted if the authority or person determining the application for modification ... is satisfied that the modification will not increase the impact on biodiversity values”.

Given there are no changes to the credit obligation required to offset biodiversity impacts and the Applicant has proposed commensurate mitigation measures to address any impact on habitat connectivity and species movement, the Department considers removing the fauna bridges would not increase the impact on biodiversity values. BCD has not objected to the modification application.

Conclusion

The Department has considered the proposed changes to the habitat connectivity measures for biodiversity and the supporting information provided. The Applicant has committed to undertaking additional actions which provide biodiversity outcomes broadly equivalent to the three fauna bridges as the proposed measures would serve to improve habitat connectivity as well as reduce the risk of wildlife vehicle strike.

The Department concludes the proposed alternative approach would not result in additional biodiversity impacts and is satisfied the modification can be approved subject to amended conditions which reflect the proposed alternative measures. As such, fencing changes and vegetation restoration in the southwest corner of the site, reduction of speed limits on Flatrock Road and vehicle strike monitoring have been included in the modified conditions.

5.2 Other Issues

Table 1 | Assessment of Other Issues

Findings	Recommendations
Traffic	
- The temporary and permanent reduction in the speed limit along Flatrock Road adjacent to the site has the potential to impact on traffic. - The EIS for SSD 7187 included a quantitative Traffic Impact Assessment (TIA) and construction and operational traffic impacts were considered in the Department's assessment. - The only properties that use the section of Flatrock Road subject to the proposed speed reductions are WNWRF and the offices of NPWS and Soil Conservation Service, therefore the traffic on Flatrock Road is currently low (approximately 120 vehicles per day). - The Department considers there are unlikely to be additional impacts beyond those assessed in the TIA as a result of the change in speed limit on Flatrock Road. - TfNSW did not object to the proposed reduction in speed limit and had no comments on the impact on traffic on Flatrock Road. - The Department is satisfied the modification would not have an unacceptable impact on Flatrock Road and any traffic impacts would be minimal.	No additional conditions are required

6 Evaluation

The Department has assessed the proposed modification in accordance with the relevant requirements of the EP&A Act. The Department considers the proposed modification is appropriate on the basis that:

- it would result in minimal environmental impacts beyond the approved facility
- the removal of the fauna bridges would be compensated for by alternative habitat connectivity measures
- it would result in key infrastructure being delivered to facilitate an efficient waste management service in the Shoalhaven LGA.

The Department is satisfied that the modification should be approved, subject to conditions.

7 Recommendation

It is recommended that the Team Leader, Industry Assessments, as delegate of the Minister for Planning and Public Spaces:

- **considers** the findings and recommendations of this report
- **determines** that the modification application SSD 7187 MOD 1 falls within the scope of section 4.55(1A) of the EP&A Act
- **accepts and adopts** all of the findings and recommendations in this report as the reasons for making the decision to approve the modification
- **modifies** the consent SSD 7187
- **signs** the attached approval of the modification (**Appendix A**).

Recommended by:



4 June 2021

Katelyn Symington

Senior Environmental Assessment Officer
Industry Assessments

8 Determination

The recommendation is **Adopted** by:



7 June 2021

William Hodgkinson

Team Leader

Industry Assessments

as delegate of the Minister for Planning and Public Spaces

Appendices

Appendix A – Notice of Modification

<https://www.planningportal.nsw.gov.au/major-projects/project/41841>

Appendix B – Modification Application

<https://www.planningportal.nsw.gov.au/major-projects/project/41841>

Appendix C – Submissions

<https://www.planningportal.nsw.gov.au/major-projects/project/41841>