



Notification of approval

Bermagui Golf Club Proposed Subdivision, NSW (EPBC 2022/09242)

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

Proposed action

person to whom the approval is granted (approval holder)	Mundarra Pty Ltd
ACN of approval holder	ACN: 620 775 877
Action	To construct residential lots and associated infrastructure on the western side of the Bermagui township, NSW (See EPBC Act 2022/09242).

Approval decision

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

Controlling Provision	Decision
Listed threatened species and communities (section 18 and section 18A)	Approved

period for which the approval has effect This approval has effect until 1 January 2048.

conditions of approval The approval is subject to conditions under the EPBC Act as set out in Annexure A.

Person authorised to make decision

name and position Kate Gowland
Branch Head (A/g)
Environment Assessments (NSW and ACT) Branch

signature

date of decision 19 December 2022

Annexure A

Note: Words appearing in **bold** have the meaning assigned to them at PART C – DEFINITIONS.

<p>Conditions</p> <p>Part A – Conditions Specific to the Action</p> <ol style="list-style-type: none"> 1. The approval holder must not clear outside the development footprint. 2. The approval holder must not clear LGW within the retained areas on the development site. 3. Within the development footprint, the approval holder must not clear more than 10.46 hectares of LGW. The approval holder must not clear LGW in any part of the development footprint other than that represented by the polygon hatched with white lines, designated as BC and EPBC Listed TEC: Lowland Grassy Woodland in the South East Corner Bioregion in <u>Attachment C</u>.
<p>Action Management Plans</p> <ol style="list-style-type: none"> 4. To avoid additional impacts on protected matters, the approval holder must submit, prior to the commencement of the Action, a Construction Environmental Management Plan (CEMP) for the Minister's written approval. The approval holder must not commence the Action until the CEMP has been approved by the Minister in writing. By implementing the CEMP, the approval holder must achieve the following environmental outcomes: <ol style="list-style-type: none"> a. to ensure the action has no impacts on protected matters within the development footprint, other than the impacts that are conditioned for in this approval, and b. to ensure that the action has no impacts on protected matters outside the development footprint. 5. The CEMP must meet the expectations set out in the environmental management plan guidelines, and must include: <ol style="list-style-type: none"> a. A statement of, and commitment to, achieve the environmental outcomes. b. Specific and auditable mitigation, management and monitoring measures to avoid and minimise impacts and threats to protected matters from construction activities within the development footprint including: hygiene controls (including weed and pathogen mitigation measures), performance indicators, trigger levels, risk management, adaptive management strategies and corrective actions. c. Performance and completion criteria against which mitigation measures and achievement of the environmental outcomes can be assessed. d. Interim milestones that set targets at regular intervals for mitigation measures and environmental objectives towards achieving the performance and completion criteria. e. A detailed assessment of the risks to achieving the environmental outcomes and measure to be implemented to address these risks. f. The governance structure, including roles and responsibilities for the implementation of the CEMP.

6. The approval holder must commence implementing the CEMP, as approved by the **Minister**, no later than at the **commencement of the Action** and continue to implement it until at least the completion of **construction**.
7. To avoid additional impacts on **protected matters**, the approval holder must submit to the **department**, prior to the **commencement of Stage 6**, a Vegetation Management Plan (VMP) for the **Minister's** written approval. The approval holder must not **commence Stage 6** until the VMP has been approved by the **Minister** in writing. By implementing the VMP, the approval holder must achieve the following environmental outcomes:
 - a. Ensure that the action has no impacts on **protected matters** outside the **development footprint**.
 - b. Ensure the ongoing management of **LGW** within the **retained area**.
8. The VMP must meet the expectations set out in the **environmental management plan guidelines**, and must include:
 - a. Specific and auditable mitigation, management and monitoring measures to avoid and minimise impacts and threats to **protected matters** post **construction**, including: hygiene controls (including weed and pathogen mitigation measures), performance indicators, trigger levels, risk management, adaptive management strategies and corrective actions.
 - b. A detailed assessment of the risks to achieving the environmental outcome and measures to be implemented to address these risks.
9. The approval holder must commence implementing the VMP, as approved by the **Minister**, prior to **commencing Stage 6** and continue to implement the VMP until at least the end date of the period of effect of the approval. If the development **stages** are not completed in numerical order, the approval holder must not commence more than two **stages** unless the VMP has been approved by the **Minister** in writing.

Note: provided the **stages** are undertaken in numerical order the VMP can be submitted while **construction** for **Stages 3-5** is being undertaken.

Revision of Action Management Plans

10. The approval holder may, at any time, apply to the **Minister** for a variation to an action management plan approved by the **Minister** or as subsequently revised in accordance with these conditions, by submitting an application in accordance with the requirements of section 143A of the **EPBC Act**. If the **Minister** approves a revised action management plan (RAMP) then, from the date specified, the approval holder must implement the RAMP in place of the previous Action management plan.
11. The approval holder may choose to revise an action management plan approved by the **Minister** under conditions 4 and 7 or as subsequently revised in accordance with these conditions, without submitting it for approval under section 143A of the **EPBC Act**, if the taking of the Action in accordance with the RAMP would not be likely to have a **new or increased impact**.
12. If the approval holder makes the choice under condition 11 to revise an action management plan without submitting it for approval, the approval holder must:
 - a. Notify the **department** electronically within 10 **business days** that the approved action management plan has been revised and provide the **department** with:

- i. An electronic copy of the RAMP.
- ii. An electronic copy of the RAMP marked up with track changes to show the differences between the approved action management plan and the RAMP.
- iii. An explanation of the differences between the approved action management plan and the RAMP.
- iv. The reasons the approval holder considers that taking the Action in accordance with the RAMP is or would not be likely to have a **new or increased impact**.
- v. Written notice of the date on which the approval holder will implement the RAMP (RAMP implementation date), being at least **20 business days** after the date of providing notice of the revision of the Action management plan, or a date agreed to in writing by the **Minister**.

Note: the proponent is not required to provide a RAMP when the changes are minor and administrative, and do not relate to **protected matters**.

- b. Subject to condition 14, implement the RAMP from the RAMP implementation date.

13. The approval holder may revoke its choice to implement a RAMP under condition 11 at any time by giving written notice to the **department**. If the approval holder revokes the choice under condition 11, the approval holder must implement the action management plan in force immediately prior to the revision undertaken under condition 11.

14. If the **Minister** gives notice to the approval holder that the **Minister** is satisfied that the taking of the Action in accordance with the RAMP is likely to have a **new or increased impact**, then:

- a. Condition 11 does not apply, or ceases to apply, in relation to the RAMP.
- b. The approval holder must implement the action management plan specified by the **Minister** in the notice.

15. At the time of giving the notice under condition 14, the **Minister** may also notify that for a specified period of time, condition 11 does not apply for one or more specified Action management **plans**.

Note: Conditions 10, 11, 12, 13, 14 and 15 are not intended to limit the operation of section 143A of the **EPBC Act** which allows the approval holder to submit a revised Action management plan, at any time, to the **Minister** for approval.

Submission and Publication of Plans

16. The approval holder must submit all **plans** required by these conditions electronically to the **department**.

17. Unless otherwise agreed to in writing by the **Minister**, the approval holder must publish each **plan** on the **website** within **15 business days** of the date:

- a. of this approval, if the version of the plan to be implemented is specified in these conditions; or
- b. the plan is approved by the **Minister** in writing, if the plan requires the approval of the **Minister**; or

- c. the plan is submitted to the **department** in accordance with a requirement of these conditions, if the plan does not require the approval of the **Minister**; or
 - d. the plan is approved by a state government official as required under a state government condition which must be complied with in accordance with these **EPBC Act** conditions.
18. The approval holder must keep all published **plans** required by these conditions on the **website** until the expiry date of this approval.
19. The approval holder must exclude or redact **sensitive ecological data** from **plans** published on the **website** or otherwise provided to a member of the public.
20. If **sensitive ecological data** is excluded or redacted from a **plan** in accordance with condition 19, the approval holder must notify the **department** in writing what exclusions and redactions have been made in the version published on the **website**.

Compensation Measures

21. To compensate for the **clearance** of 10.46 hectares of **LGW**, the approval holder must, prior to the **commencement of the Action**, provide the **department** with written evidence that 138 **credits** have been **retired**.

Part B – Standard administrative conditions

Notification of Date of Commencement of the Action

22. The approval holder must notify the **department** electronically of the date of **commencement of the Action**, within 5 **business days** of **commencement of the Action**.
23. If the **commencement of the Action** does not occur within 5 years from the date of this approval, then the approval holder must not **commence the Action** without the prior written agreement of the **Minister**.

Compliance Records

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

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

26. The approval holder must ensure that any **monitoring data** (including **sensitive ecological data**), surveys, maps, and other spatial and metadata required under the conditions of this approval are prepared in accordance with the **department's Guidelines for biological survey and mapped data (2018)**, or any subsequent official version or as otherwise specified by the **Minister** in writing.
27. The approval holder must ensure that any **monitoring data** (including **sensitive ecological data**), surveys, maps, and other spatial and metadata required under the conditions of this approval are prepared in accordance with the **department's**

Guide to providing maps and boundary data for EPBC Act projects (2021), or any subsequent official version or as otherwise specified by the **Minister** in writing.

28. The approval holder must submit all **monitoring data** (including **sensitive ecological data**), surveys, maps, other spatial and metadata and all species occurrence record data (sightings and evidence of presence) electronically to the **department** within 12 months of the approval and henceforth annually, for the life of the approval.

Annual Compliance Reporting

29. The approval holder must prepare a **compliance report** for each 12-month period following the date of this approval, or as otherwise agreed to in writing by the **Minister**.
30. Each **compliance report** must be consistent with the **department's Annual Compliance Report Guidelines** (2014), or any subsequent official version.
31. Each **compliance report** must include:
- Accurate and complete details of compliance and any non-compliance with the conditions and the **plans**, and any **incidents**.
 - One or more **shapefiles** showing all **clearing** of any **protected matters**, and/or their habitat, undertaken within the 12-month period at the end of which that **compliance report** is prepared.
 - A schedule of all **plans** in existence in relation to these conditions and accurate and complete details of how each **plan** is being implemented.
32. The approval holder must:
- Publish each **compliance report** on the **website** within 60 **business days** following the end of the 12-month period for which that **compliance report** is required.
 - Notify the **department** electronically, within 5 **business days** of the date of publication that a **compliance report** has been published on the **website**.
 - Provide the weblink for the **compliance report** in the notification to the **department**.
 - Keep all published **compliance reports** required by these conditions on the **website** until the expiry date of this approval.
 - Exclude or redact **sensitive ecological data** from **compliance reports** published on the **website** or otherwise provided to a member of the public.
 - If **sensitive ecological data** is excluded or redacted from the published version, submit the full **compliance report** to the **department** within 5 **business days** of its publication on the **website** and notify the **department** in writing what exclusions and redactions have been made in the version published on the **website**.

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

Reporting Non-Compliance

33. The approval holder must notify the **department** electronically, within 2 **business days** of becoming aware of any **incident** and/or potential non-compliance and/or actual non-compliance with the conditions or commitments made in a **plan**.
34. The approval holder must specify in the notification:

- a. Any condition or commitment made in a **plan** which has been or may have been breached.
- b. A short description of the **incident** and/or potential non-compliance and/or actual non-compliance.
- c. The location (including co-ordinates), date, and time of the **incident** and/or potential non-compliance and/or actual non-compliance.

Note: If the exact information cannot be provided, the approval holder must provide the best information available.

35. The approval holder must provide to the **department** in writing, within 10 **business days** of becoming aware of any **incident** and/or potential non-compliance and/or actual non-compliance, the details of that **incident** and/or potential non-compliance and/or actual non-compliance with the conditions or commitments made in a **plan**.

The approval holder must specify:

- a. Any corrective action or investigation which the approval holder has already taken.
- b. The potential impacts of the **incident** and/or non-compliance.
- c. The method and timing of any corrective action that will be undertaken by the approval holder.

Independent Audit

36. The approval holder must ensure that an **independent audit** of compliance with the conditions is conducted for every five-year period following the **commencement of the Action** until this approval expires, unless otherwise specified in writing by the **Minister**.

37. For each **independent audit**, the approval holder must:

- a. Provide the name and qualifications of the nominated **independent** auditor, the draft audit criteria, and proposed timeframe for submitting the **audit report** to the **department** prior to commencing the **independent audit**.
- b. Only commence the **independent audit** once the nominated **independent** auditor, audit criteria and timeframe for submitting the **audit report** have been approved in writing by the **department**.
- c. Submit the **audit report** to the **department** for approval within the timeframe specified and approved in writing by the **department**.
- d. Publish each **audit report** on the **website** within 15 **business days** of the date of the **department's** approval of the **audit report**.
- e. Keep every **audit report** published on the **website** until this approval expires.

38. Each **audit report** must report for the five-year period preceding that **audit report**.

39. Each **audit report** must be completed to the satisfaction of the **Minister** and be consistent with the **department's** *Environment Protection and Biodiversity Conservation Act 1999 Independent Audit and Audit Report Guidelines (2019)*, or any subsequent official version.

Completion of the Action

40. The approval holder must notify the **department** electronically 60 **business days** prior to the expiry date of this approval, that the approval is due to expire.

41. Within 20 **business days** after the **completion of the Action**, and, in any event, before this approval expires, the approval holder must notify the **department** electronically of the date of **completion of the Action** and provide **completion data**.

Part C - Definitions

In these conditions any bolded use of a word or term refers to the below definition of that word or term:

Audit report means a written report of compliance and fulfilment of the conditions attached to this approval, objectively evaluated against the audit criteria approved by the **Minister**.

Business day(s) means a day that is not a Saturday, a Sunday or a public holiday in the state or territory of the Action.

Clear, cleared, clearing or clearance means the cutting down, felling, thinning, logging, removing, killing, destroying, poisoning, ringbarking, uprooting, or burning of vegetation, but does not include control of **weeds** (including Weeds of National Significance and **weeds** listed under the NSW *Biodiversity Conservation Act 2016*).

Commence the Action or Commencement of the Action means the date on which the first instance of any activity associated with the Action (including **clearing** and **construction**) is undertaken. **Commencement of the Action** does not include minor physical disturbance necessary to:

- a. Undertake pre-clearance surveys or monitoring programs.
- b. Install signage and /or temporary fencing to prevent unapproved use of the project area.
- c. Protect environmental and property assets from fire, **weeds**, pathogens and feral animals, including use of existing surface access tracks.
- d. Install temporary site facilities for persons undertaking pre-commencement activities so long as these are located where they have no impact on any **protected matter**.

Commence or commenced in respect of **commencing a stage** means to undertake any **construction** within the area designated for the undertaking of that **stage**.

Commence Stage 6 / Commencement of Stage 6 means to undertake any **clearing** or **construction** in the area represented in Attachment B by all polygons enclosed by a pink dotted line that contain 6 in pink lettering.

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

Completion of the Action means the date on which all activities associated with this approval have permanently ceased and/or been completed.

Compliance records means all documentation or other material in whatever form required to demonstrate compliance with the conditions of approval in the approval holder's possession, or that are within the approval holder's power to obtain lawfully.

Compliance report means a written report of compliance with, and in fulfilment of, the conditions attached to the approval.

Construction means the erection of a building or structure that is, or is to be, fixed to the ground and wholly or partially fabricated on-site; the alteration, maintenance, repair or demolition of any building or structure; any work which involves breaking of the ground (including pile driving) or bulk earthworks; the laying of pipes and other prefabricated materials in the ground, and any associated excavation work; but excluding the installation of temporary fences and signage.

Credits means credits under the *Biodiversity Conservation Act 2016 (NSW)*.

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

Development footprint means the 16.76 hectare area represented in Attachment A by the zone hatched with red lines and enclosed by the red line, designated as 'Development Footprint'.

Development site means the area 19.78 hectare area represented by in Attachment C by the zone enclosed by the broken black line, designated as 'Development Site'.

Environmental management plan guidelines means the [*Environmental Management Plan Guidelines*](#), Commonwealth of Australia, 2014, and subsequent iterations.

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

Incident(s) means any event which has the potential to, or does, impact on any **protected matter**.

Independent means a person or firm who does not have any individual, financial*, employment* or family affiliation or any conflicting interests with the project, the approval holder or the approval holder's staff, representatives or associated persons.

*Other than for the purpose of undertaking the role for which an independent person is required

Independent audit means an audit conducted by an **independent** and **suitably qualified person** as detailed in the *Environment Protection and Biodiversity Conservation Act 1999 Independent Audit and Audit Report Guidelines* (2019), or any subsequent official version.

LGW means the Lowland Grassy Woodland in the South East Corner Bioregion threatened ecological community listed under the **EPBC Act**. Within the **Development Footprint**, **LGW** is represented in Attachment by the polygons designated as "PCT 834 EEC" (both "Derived Grassland Low" and "Woodland Moderate").

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

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

New or increased impact means any direct or indirect increase in the impacts of an Action, an increase to the likelihood of an impact occurring, a reduction to the monitoring or mitigation measures for a **protected matter**, and/or a change to the nature or management of an environmental offset as outlined in the *Guidance on 'new or increased impact' relating to changes to approved management plans under EPBC Act environmental approvals* (2017), or any subsequent official version.

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

Protected matter(s) means a matter protected under a controlling provision in Part 3 of the **EPBC Act** for which this approval has effect, including **LGW**.

Retained area means the 0.39 ha of **LGW** represented in Attachment C by the as PCT 834 (EEC) Derived Grassland Low, located outside the **development footprint**.

Retired means retirement of **credits** under the *Biodiversity Conservation Act 2016* (NSW), such that the **credits** can no longer be bought or sold.

Sensitive ecological data means data as defined in the Australian Government Department of the Environment *Sensitive Ecological Data – Access and Management Policy V1.0* (2016), or any subsequent official version.

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

Stage(s) means each of the components of the action as distinguished by the numbered areas of the **development footprint** in which they will be undertaken as represented in Attachment B by the areas enclosed by pink dashed lines each of which contain a pink number, as follows: Stage 3 (which is the first stage of this action, comprising 3A and 3B), Stage 4 (comprising 4A and 4B), Stage 5, Stage 6, Stage 7 and Stage 8.

Suitably qualified person means a person who has professional qualifications, training, skills and/or experience related to the nominated subject matter and can give authoritative independent assessment, advice and analysis on performance relative to the subject matter using the relevant protocols, standards, methods and/or literature.

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

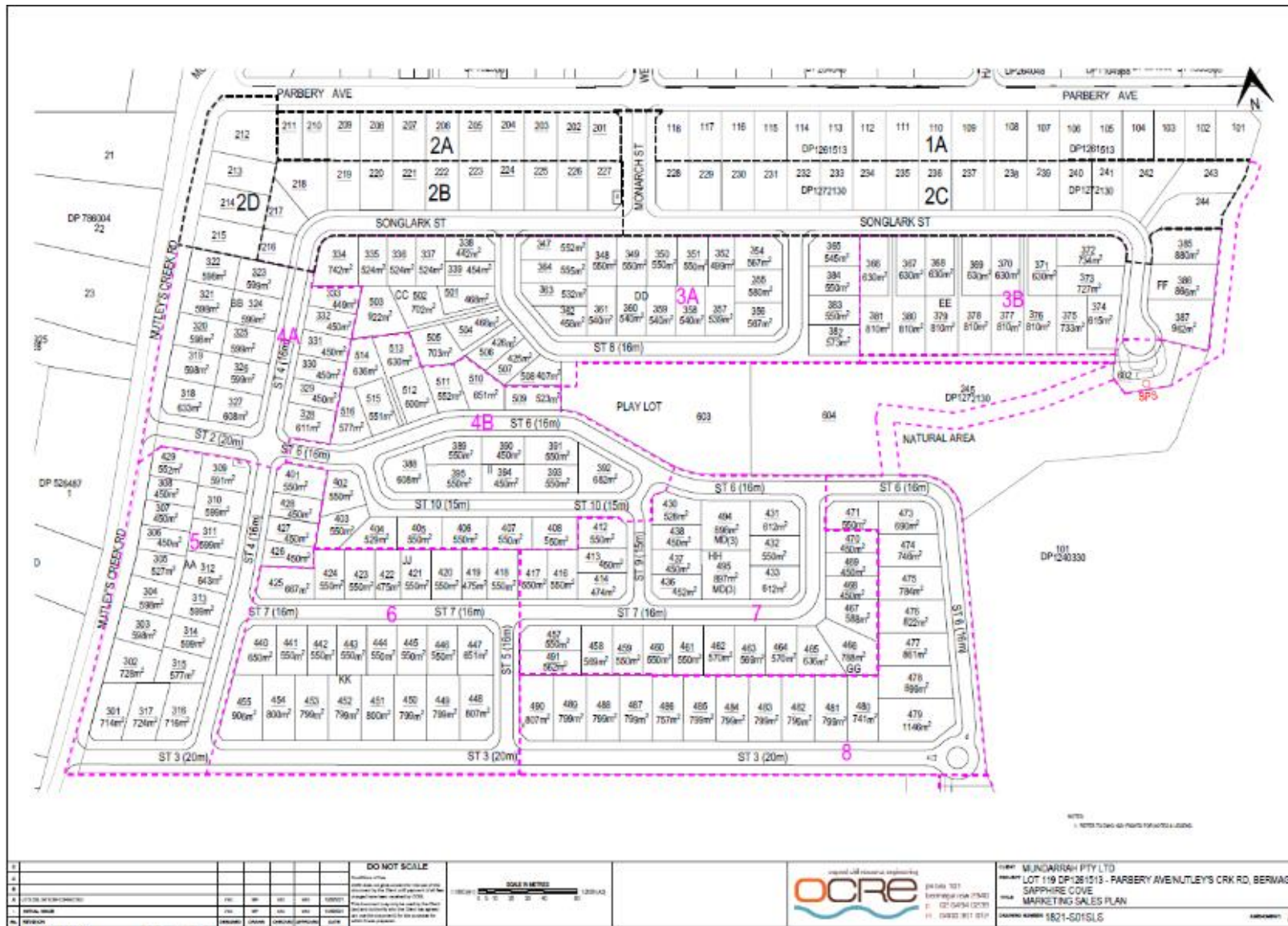
Weed/weeds means any 'weeds' as defined in the *Australian Weeds Strategy 2017 to 2027*, Commonwealth of Australia 2017.

Attachments

Attachment A Development Footprint



Attachment B Proposed Staging Plan



Attachment C Vegetation distribution across the development site

