



Notification of approval

Coonara Residential Development, West Pennant Hills, NSW (EPBC ref 2023/09508)

This decision is made under section 130(1) and 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.

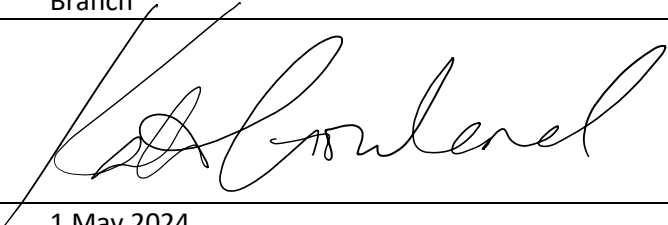
Approved Action

person to whom the approval is granted (approval holder)	Mirvac Projects Pty Ltd ACN 001 069 245
Action	To develop parts of the property located at 55 Coonara Avenue, West Pennant Hills, NSW, including demolition of existing buildings, removal and modification of existing infrastructure, construction of up to 165 community-titled dwellings and up to 252 apartments, communal facilities and open space. See EPBC Act referral 2023/09508, subject to the variation of the proposed Action accepted by the Minister under section 156B on 16 November 2023

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 May 2034.	
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, Environment Assessments (NSW & ACT) Branch
signature	
date of decision	1 May 2024

Annexure A

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

Part A – Avoidance, mitigation, and compensation conditions

CLEARING LIMITS

- 1) The approval holder must not:
 - a) **clear** outside of the **Action area**
 - b) **construct** outside of the **Action area**.
- 2) The approval holder must not **clear** more than 0.31 hectares (ha) of **Blue Gum High Forest**.

ACTION MANAGEMENT PLANS

Concept Vegetation Management Plan

- 3) To avoid and mitigate **harm** as a result of the Action on **protected matters**, the approval holder must commence implementing the **Concept Vegetation Management Plan** within three months of the **commencement of the Action** and continue to implement the **Concept Vegetation Management Plan**.
- 4) By implementing the **Concept Vegetation Management Plan**, the approval holder must achieve the following environmental outcomes:
 - a) Protecting areas of **Blue Gum High Forest** threatened ecological community where it occurs on **the Property**.
 - b) Maintaining and improving the condition of **Blue Gum High Forest** on **The Property** through removal of weeds and assistive regeneration with local provenance stock of species comprising **Blue Gum High Forest**.
 - c) Preventing any avoidable **harm** to **protected matters** and mitigating unavoidable and accidental **harm** to **protected matters**.
- 5) The approval holder must ensure that the **Concept Vegetation Management Plan Area** is burdened by a restriction and a positive covenant using the “Vegetation Management Plan/Restricted Development Area” terms included in the Hills Shire Council Standard Recitals for Easements, Restrictions and Positive Covenants (adapted appropriately for **the Property**) as

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required by Condition 98 of **NSW Development consent** DA 860/2022/JP issued by The Hills Shire Council.

- 6) Prior to selling any part of **The Property**, the approval holder must submit to the **department** either a copy of the proposed **titling instrument** containing the proposed covenant, or a copy of the disclosure in the proposed contract of sale.
- 7) The approval holder must submit a copy of the final **titling instrument** containing the restriction and positive covenant to the **department** within 20 **business days** of the **titling instrument** being registered under the *Conveyancing Act, 1919* (NSW).

OFFSETS

- 8) To compensate for the residual significant impacts of the Action on **Blue Gum High Forest**, the approval holder must **retire 76 PCT 1237 ecosystem credits** prior to the **Commencement of the Action**.
- 9) The approval holder must notify and provide evidence to the **department** in writing within five (5) **business days** of the **PCT 1237 ecosystem credits** being **retired** in accordance with condition 6 of this approval.

Part B – Administrative conditions

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 or as subsequently revised in accordance with the following 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 condition 3, 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 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.

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- iv) The reasons the approval holder considers that taking the Action in accordance with the RAMP 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 with the **department**.
- 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** notifies the approval holder that the **Minister** is satisfied that the taking of the Action in accordance with the RAMP would be 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 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) the **plan** is approved by the **Minister** in writing, if the **plan** requires the approval of the **Minister**, or
 - b) of this approval, if the version of the **plan** to be implemented is specified in these conditions, 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
- 18) The approval holder must keep all **plans** required by these conditions published on the **website** until the expiry date of this approval.
- 19) The approval holder is required to exclude or redact **sensitive ecological data** from **plans** published on the **website** or otherwise provided to a member of the public. If **sensitive ecological data** is excluded or redacted from a **plan**, the approval holder must notify the **department** in writing what exclusions and redactions have been made in the version published on the **website**.

COMMENCEMENT OF THE ACTION

- 20) The approval holder must notify the **department** electronically of the date of **commencement of the Action**, within 5 **business days** following **commencement of the Action**.
- 21) The approval holder must not **commence the Action** later than 5 years after the date of this approval decision.

COMPLIANCE RECORDS

- 22) The approval holder must maintain accurate and complete **compliance records**.
- 23) 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.

- 24) 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 *Guidelines for biological survey and mapped data*, Commonwealth of Australia 2018, or as otherwise specified by the **Minister** in writing.
- 25) 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 *Guide to providing maps and boundary data for EPBC Act projects*, Commonwealth of Australia 2021, or as otherwise specified by the **Minister** in writing.
- 26) 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 20 **business days** of each anniversary of the date of this approval decision or in accordance with the requirements of the **Concept Vegetation Management Plan**.

ANNUAL COMPLIANCE REPORTING

- 27) The approval holder must prepare a **compliance report** for each 12-month period following the date of this approval decision (or as otherwise agreed to in writing by the **Minister**).
- 28) Each **compliance report** must be consistent with *the Annual Compliance Report Guidelines*, Commonwealth of Australia 2023.
- 29) Each **compliance report** must include:
 - a) Accurate and complete details of compliance and any non-compliance with:
 - i) each condition attached to this approval decision,
 - ii) each condition imposed under a **NSW Development Consent** if a condition attached to this approval decision requires compliance with that **NSW Development Consent** condition,
 - iii) all commitments made in each **plan**, and
 - iv) if any **incident** occurred, each **incident**.

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- b) One or more **shapefile** showing all **clearing of protected matters**, and/or their habitat, undertaken within the 12-month period at the end of which that **compliance report** is prepared.
 - c) A schedule of all **plans** in existence in relation to these conditions and accurate and complete details of how each **plan** is being implemented.
- 30) The approval holder must:
- a) Publish each **compliance report** on the **website** within 20 **business days** following the end of the 12-month period for which that **compliance report** is required.
 - b) Notify the **department** electronically, within 5 **business days** of the date of publication that a **compliance report** has been published on the **website**.
 - c) Provide the weblink for the **compliance report** in the notification to the **department**.
 - d) Keep all published **compliance reports** required by these conditions on the **website** until the expiry date of this approval.
 - e) Exclude or redact **sensitive ecological data** from **compliance reports** published on the **website** or otherwise provided to a member of the public.
 - f) 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

- 31) 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**.
- 32) 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.

- 33) The approval holder must provide to the **department** in writing, within 12 **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

- 34) The approval holder must ensure that an **independent audit** of compliance with the conditions is conducted for every three-year period following the **commencement of the Action** until this approval expires (unless otherwise specified in writing by the **Minister**).
- 35) 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.
- 36) Each **audit report** must report for the three-year period preceding that audit report.
- 37) Each **audit report** must be completed to the satisfaction of the **Minister** and be consistent with the *Environment Protection and Biodiversity Conservation Act 1999 Independent Audit and Audit Report Guidelines*, Commonwealth of Australia 2019.

COMPLETION OF THE ACTION

- 38) 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.
- 39) Within 20 **business days** after the **completion of the Action**, and, in any event, at least 20 **business days** before this approval expires, the approval holder must notify the **department** electronically of the date of **completion of the Action** and provide **completion data**. The approval holder must submit any spatial data that comprises **completion data** as a **shapefile**.

Part C – Definitions

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

Action area means the location of the Action, represented in Attachment A by the zone enclosed by the dashed RED line designated 'Current Development/Action Area'.

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 **department**.

Blue Gum High Forest means the EPBC-listed threatened ecological community *Blue Gum High Forest of the Sydney Basin Bioregion*. Within the **Action area**, the location of **Blue Gum High Forest** identified as of the date of this approval is represented in Attachment B by the zones shaded:

- PEACH and designated PCT 1237 (BGHF)_Good
- BLUE and designated PCT1237 (BGHF)_Modified/Weedy

Business day means a day that is not a Saturday, a Sunday or a public holiday in New South Wales.

Clear, cleared or clearing means the cutting down, felling, thinning, logging, removing, killing, destroying, poisoning, ringbarking, uprooting, or burning of vegetation but does not include control of weeds (see the *Australian Weeds Strategy 2017-2027*, Commonwealth of Australia 2017 for further guidance’).

Commence the Action or commences the Action means the first instance of any on-site **clearing, construction** or other physical activity associated with the Action, but 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 **Action area**, so long as the signage and/or temporary fencing is located where it does not **harm** any **protected matter**.
- c) Protect environmental and property assets from fire, weeds, 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 facilities are located where they do not **harm** any **protected matter**.

Commencement of the Action means the date on which the approval holder **commences the Action**.

Completion data means an environmental report and spatial data clearly detailing how the conditions of this approval have been met.

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 (including compliance with commitments made in **plans**) in the approval holder’s possession, or that are within the approval holder’s power to obtain lawfully.

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

Concept Vegetation Management Plan means the document '55 Coonara Avenue, West Pennant Hills: Vegetation Management Plan, Mirvac 27 March 2024', prepared by Cumberland Ecology, or the latest subsequent version revised in accordance with these conditions.

Concept Vegetation Management Plan Area means the area to which the **Concept Vegetation Management Plan** applies, represented in Attachment A by the zones enclosed by a dashed ORANGE line and designated 'Subject Site (areas subject to management under this 5-year VMP)'.

Construct or construction means:

- a) the erection of a building or structure that is, or is to be, fixed to the ground and wholly or partially fabricated on-site,
- b) the alteration, maintenance, repair or demolition of any building or structure,
- c) any work which involves breaking of the ground (including pile driving) or bulk earthworks,
- d) the laying of pipes and other prefabricated materials in the ground, and
- e) any associated excavation work.

Construction does not include the installation of temporary fences and signage.

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

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

Harm means to cause any measurable direct or indirect disturbance or deleterious change as a result of any activity associated with the Action.

IBRA subregions means the subregions as defined by the 'Interim Biogeographic Regionalisation for Australia (IBRA) version 7.0 (Subregions), Commonwealth of Australia 2024' document that classifies Australian land surface into biogeographic regions.

Incident means any event which has the potential to, or does, **harm 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 Action, 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** 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

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subject matter using the relevant protocols, standards, methods and/or literature, as detailed in the *Environment Protection and Biodiversity Conservation Act 1999 Independent Audit and Audit Report Guidelines*, Commonwealth of Australia 2019.

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*, Commonwealth of Australia 2017.

NSW development consents means the NSW development consents issued by the Hills Shire Council on 15 September 2021 for DA 585/2021/HC, 19 October 2021 for DA 1414/2022/ZB and 3 November 2022 for DA 860/2022/JP, and described in the referral documentation for this approval as the Demolition DA, the Subdivision DA and the Concept Masterplan DA respectively.

Plan means any action management plan or strategy that the approval holder is required by these conditions to implement.

PCT 1237 ecosystem credits means like-for-like credits for offsets issued in accordance with the Biodiversity Offsets Scheme under the *Biodiversity Conservation Act 2016 (NSW)* in respect of Plant Community Type 1237 as specified under the NSW BioNet Vegetation Classification system and sourced from an **IBRA subregion** located less than 100 km from **The Property** or from **IBRA subregions** Cumberland, Burrogorang, Pittwater, Sydney Cataract, Wollemi or Wyong.

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

Retired or retiring means retirement of **PCT 1237 ecosystem credits** in accordance with the Biodiversity Offset Scheme under the *Biodiversity Conservation Act 2016 (NSW)*, such that the **PCT 1237 ecosystem credits** can no longer be bought or sold.

Sensitive ecological data means data as defined in the *Sensitive Ecological Data – Access and Management Policy v1.0*, Commonwealth of Australia 2016

Shapefile means location and attribute information about the Action provided in an Esri shapefile format containing:

- a) '.shp', '.shx', '.dbf' files,
- b) a '.prj' file which specifies the projection or geographic coordinate system used, and

- c) an '.xml' metadata file that describes the shapefile for discovery and identification purposes.

Titling instrument means an instrument under Section 88B of the *Conveyancing Act, 1919* (NSW), which governs the creation of easements, restrictions and positive covenants on the titles of property in NSW.

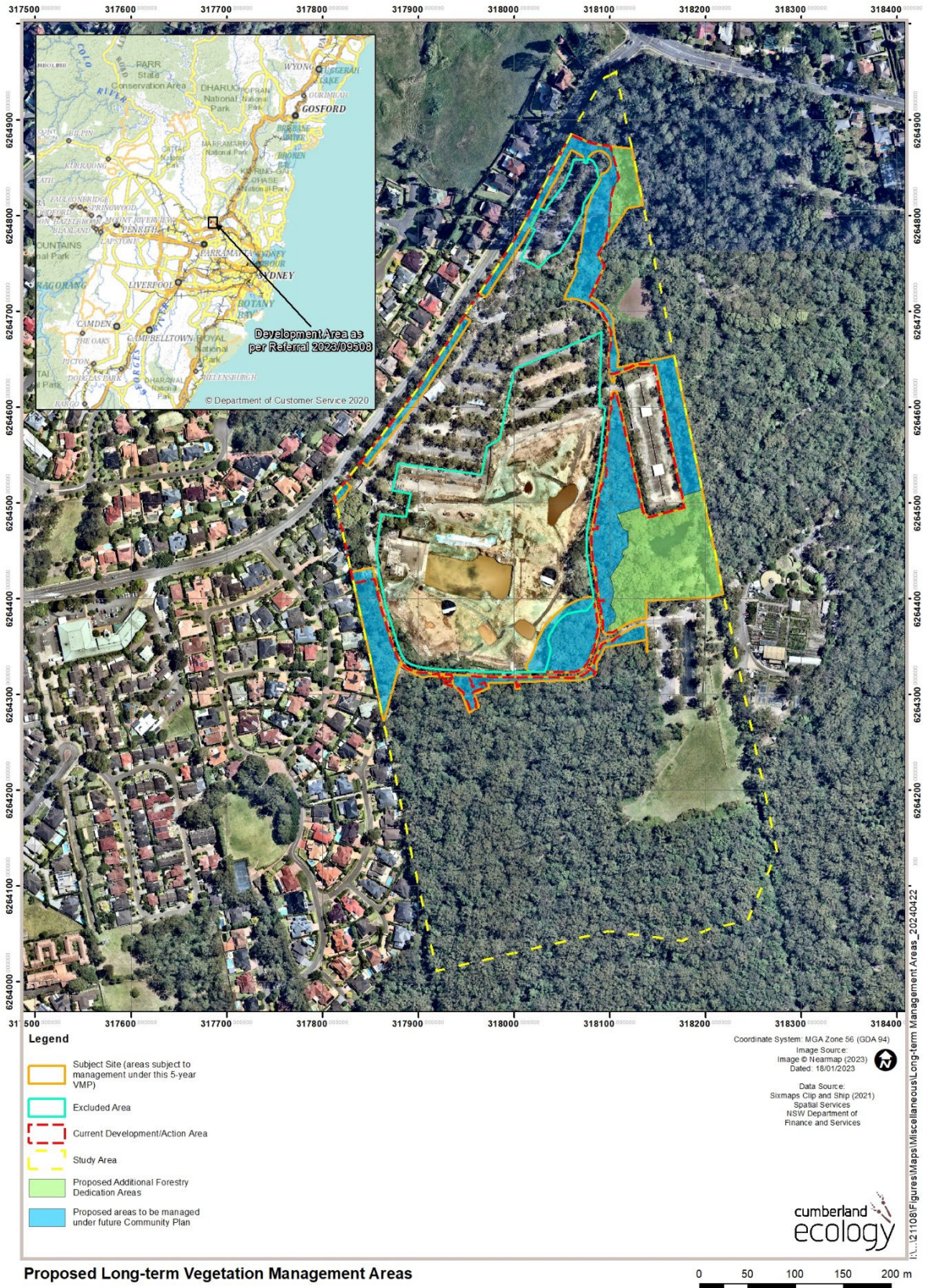
The Property means the broader location of the Action, including the **Action Area** and **Concept Vegetation Management Plan Area**, represented in Attachment A by the zone enclosed by the dotted YELLOW dashed line designated 'Study Area'.

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

Attachments

- 1) Attachment A Map of **the Property**, including **Action Area** and **Concept Vegetation Management Plan Area**
- 2) Attachment B Map of **the property** showing locations of threatened ecological communities

Attachment A – Map of the Property including Action Area and Concept Vegetation Management Plan Area



Attachment B – Map of the Property showing location of Threatened Ecological Communities

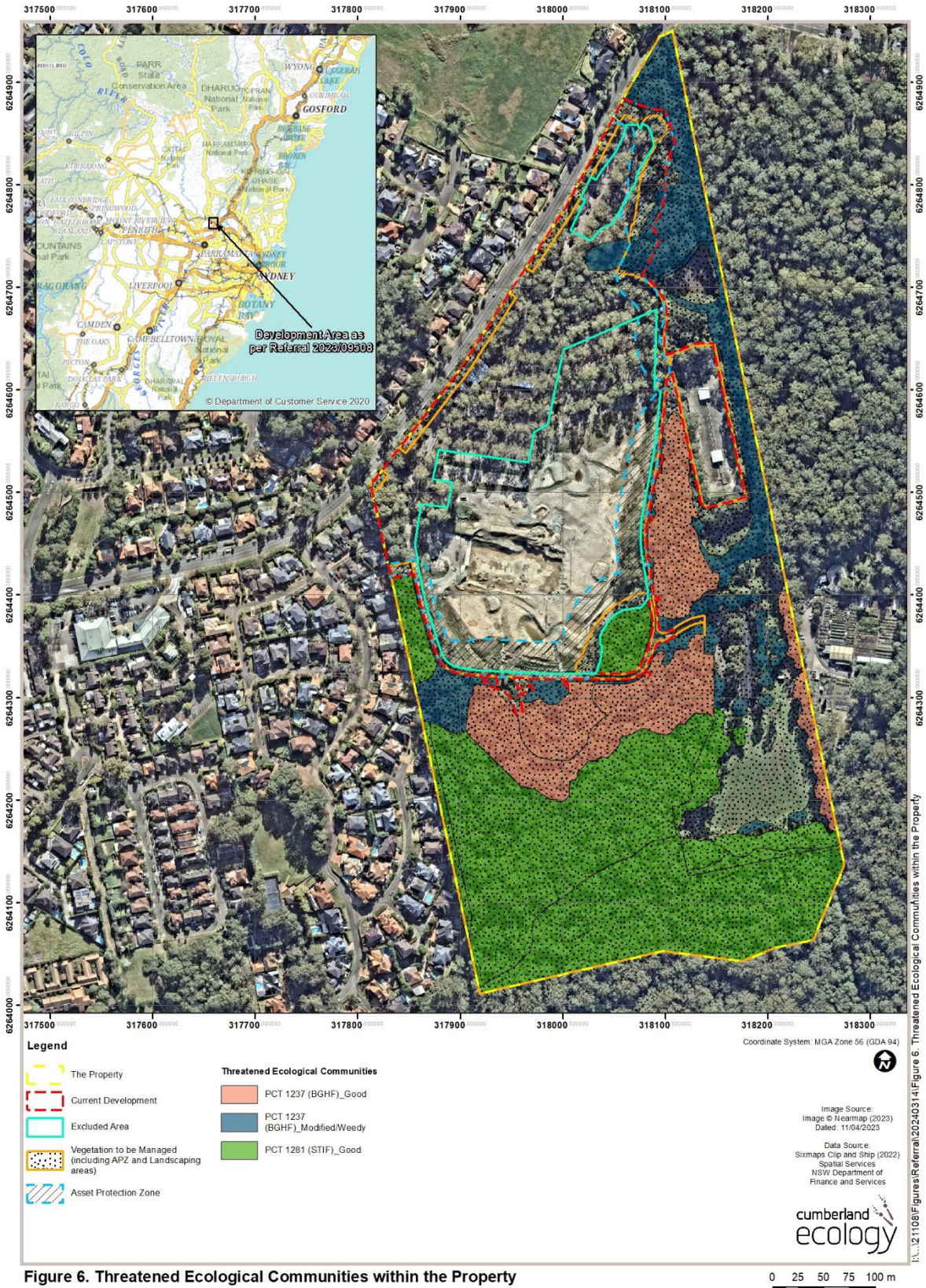


Figure 6. Threatened Ecological Communities within the Property