



Tom Pinzone
National Parks and Wildlife Service South Coast Branch
55 Graham Street
Nowra NSW 2541

14 September 2021

Dear Tom

Review of Environmental Factors (REF) Determination for Murramarang South Coast Walk (ref:DOC21/740597)

I refer you to the above REF submitted to Biodiversity and Conservation for the proposed Murramarang South Coast Walk Final Alignment.

Attached is a signed determination dated 14 September 2021 that satisfies Part 5 of the *Environmental Planning and Assessment Act 1979* and determines the activity may proceed subject to the Conditions of Approval outlined in **Attachment 1**, Schedule 1. This includes the requirement for a Construction Environment Management Plan, a Visitor Monitoring Program, a Threatened Shorebird Monitoring Plan, and an Operation Environmental Management Plan to address the recommendations of the REF.

Heritage NSW have provided conditions of approval that include the requirement to apply for and be granted an AHIP prior to commencement of any work and the preparation of an Aboriginal Heritage Management Plan to the satisfaction of Heritage NSW within 6 months of the issue of the AHIP.

If you would like to discuss this matter further, please contact Angela Jenkins, Senior Conservation Planner on 02 6229 7075 or at rog.southeast@environment.nsw.gov.au.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Michael Saxon'.

Michael Saxon
Director South East Branch
Biodiversity and Conservation Division

Determination Notice for NPWS proponents

Major projects

- Recommendation by Regional Operations Group Project Manager
- Determination by Regional Operations Group Manager (EPO11 and above)

REF No.: *DOC21/740597 FINAL Murramarang South Coast Walk Review of Environmental Factors*

Project Name: Murramarang South Coast Walk

Reserve Name: Murramarang National Park

Proponent: NPWS

Region/Area: South Coast

Based on the REF and any additional information obtained, attached at Schedule 1, Appendix 1, and after having taken into account to the fullest extent possible all matters likely to affect the environment as a result of the proposed activity (in accordance with s.111 of the *Environmental Planning and Assessment Act 1979*), **I hereby determine that:**

Activity to proceed

Further information/assessment is not required:

- an Environmental Impact Statement (EIS) is not required (the activity is not likely to significantly affect the environment);
- a Species Impact Statement (SIS) is not required (the activity is proposed on land that is not part of any critical habitat and is not likely to significantly affect threatened species, populations or ecological communities, or their habitats).

The activity may proceed subject to any necessary approvals (*if approval required*) being obtained first.

AND

The activity may proceed **subject to the conditions** specified in the attached Schedule 1, which will minimise the environmental impacts to best practice standards.

Related matters

Further, it is considered that the proposed activity:

EPBC Act

- is unlikely to*** impact significantly on matters of **National Environmental Significance** under the Commonwealth *Environment Protection and Biodiversity Conservation (EPBC) Act 1999*.

Note: the proponent is responsible for determining whether approvals are required under the EPBC Act and obtaining them if necessary.

Local council matters

- is unlikely to*** impact significantly on **local council infrastructure, including roads, water, sewer and stormwater, local heritage items listed by the council, and flood liable land.**

Note: if the proposal is likely to significantly impact on the above features, the State Environmental Planning Policy (Infrastructure) 2007 requires that the council is consulted **before** the activity is determined.

- a record of any required consultation with the appropriate council has been provided.

Certification of building or infrastructure works

- will** require certification to Building Code of Australia or Australian Standards in accordance with the OEH *Construction Assessment Procedure*

Biodiversity and Conservation DPIE sign-off

Major projects – ROG determination

ROG Project Manager recommendation

Name: Angela Jenkins

Signature: 

Date: 25 August 2021

ROG Unit Head/Section Manager/Director determination (EPO 11 and above)

Name: Michael Saxon

Signature: 

Date: 14 September 2021

NEXT STEPS

If proposal to proceed:

- Provide determination notice to proponent
- Register determination

If proposal not to proceed:

- Advise proponent, provide reasons, and discuss alternatives (if applicable)

SCHEDULE 1: CONDITIONS OF DETERMINATION ISSUED 14 SEPTEMBER 2021

GENERAL CONDITIONS

Duration and scope of determination

1. The applicant must have commenced the activity within 5 years from the date of determination¹.
2. This determination only applies to those parts of the activity as identified in the Review of Environmental Factors (REF) that will be undertaken within Murramarang National Park and Murramarang Aboriginal Area. The applicant must determine whether any other approvals are required for any associated works that are to occur outside this area.

Reasons²: To ensure that the activity is commenced and is completed within an appropriate timeframe.

To ensure that the activity is consistent with the consideration of potential environmental impacts in the REF and in accordance with relevant statutory approvals issued for the activity as described in the REF.

Emergency works

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

Reason: To arrest an imminent threat to life, safety, public liability, and/or threat to fabric or property.

Undertaking the activity

5. The 'activity' detailed in the REF titled *Murramarang South Coast Walk (NPWS Estate) Final Alignment Review of Environmental Factors version 3* submitted to NPWS on 29 July 2021 must be undertaken:
 - within the approved 20m wide track corridor and precinct areas identified in the REF;
 - in accordance with the description of the activity and environmental safeguards and mitigation measures listed in the REF; and
 - as required or amended by the conditions of this determination.
6. In the event of any inconsistency between the REF and the conditions of this determination, the conditions of the determination shall prevail.
7. This determination, and the conditions of this determination, do not relieve the applicant of any obligation to obtain other statutory approvals necessary to undertake the activity,

¹ If the activity is not substantially commenced within this time, the applicant must seek direction from the NPWS South Coast Branch Director as to whether a new REF must be submitted for determination before the activity may proceed.

² 'Reasons' are included as a mechanism to explain the rationale of a condition to an applicant. The reason does not form a part of the condition but is included for clarity.

including but not limited to any approvals required under the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999*.

8. The applicant must undertake the activity in accordance with the requirements of the *Work Health and Safety Act 2011*, including codes of practice adopted under the Act, and the *Work Health and Safety Regulation 2011*. Any contractors on the site are to have appropriate insurances, including public liability insurance.
9. The applicant must provide the following to the South Coast Branch Director or delegate prior to commencement of the activity:
 - the contact details and qualifications of a person who will be present on site to supervise the activity
 - a list of tradespersons, contractors or subcontractors who will be involved in undertaking the activity. The list must include the trade licence number and information on the expertise and experience of the tradesperson or contractor.

Reason: To ensure that the activity is undertaken in accordance with the REF as amended by the conditions of approval and that the activity is carried out by appropriately qualified individuals.

Aboriginal participation in monitoring

10. At least 21 days prior to activities commencing in identified sensitive areas requiring monitoring, the applicant must invite, in writing, representatives from the Batemans Bay Local Aboriginal Land Council to monitor works associated with the undertaking of the activity, for the duration of the activity or as specified in the approved REF or any Aboriginal Heritage Impact Permit.

Reason: To provide the Aboriginal community with an opportunity to monitor works in areas of cultural heritage significance.

PRIOR TO COMMENCEMENT OF ACTIVITY CONDITIONS

11. The applicant is to comply with the recommendations of the *Aboriginal Cultural Heritage Assessment Report (ACHAR)* (NGH August 2021) except where expressly modified by the conditions of this REF or of any Aboriginal Heritage Impact Permit (AHIP) issued under section 90 of the NPW Act.
12. All works must be undertaken in a way that minimises harm to Aboriginal objects and Aboriginal cultural heritage values.
13. Prior to commencement of any work the NPWS must apply for and be granted an AHIP to carry out the proposed activity.
14. The applicant must not commence work within the Maloneys Beach and Pretty Beach precincts and associated buffers identified in (Appendix 1) until:
 - The results of the archaeological test excavations are considered in consultation with the Registered Aboriginal Parties
 - An AHIP or AHIP variation for the construction work at these locations is granted, as per Condition 13 above.
 - Any deviations from the ACHAR study area are referred to Heritage NSW and BCS to determine any additional assessment and approval requirements.

The level of detail required is not to the finalised design and drawing but adequate information to describe and show the design and construction techniques to be employed for all the terrain types to be crossed in that section of the track

Prior to the commencement of the activity, the applicant must comply with any other relevant requirements of this determination, including submission and approval of:

- A Construction Environmental Management Plan (CEMP) (Condition 19)
- An Incident Management Plan (Condition 22)

Aboriginal Heritage

15. An Aboriginal cultural heritage induction is required for construction workers to help avoid inadvertent impacts to Aboriginal objects and to ensure the management and mitigation measures described in the ACHAR and any subsequent AHIP are met. The induction must be provided by an appropriate Aboriginal community member determined in consultation with the Registered Aboriginal Parties.
16. An Aboriginal Heritage Management Plan (AHMP) must be prepared within 6 months of the issue of an AHIP for track construction. The AHMP must be prepared in consultation with the Registered Aboriginal Parties and Heritage NSW. The AHMP needs to consider the safeguards listed in the REF and ACHAR (NGH August 2021), and any subsequent addendum or amended REF and ACHAR for Maloneys Beach and Pretty Beach precincts, provide measures to avoid and limit the impact of increased visitation on Aboriginal cultural heritage values and provide a process for ongoing Aboriginal community consultation on this project.
17. Remote camping must be managed in accordance with the Murramarang National Park Plan of Management (2002) and monitored to avoid and minimise harm to Aboriginal objects.

Construction Environmental Management Plan

18. A Construction Environmental Management Plan (CEMP) must be prepared and submitted to the South Coast Branch Director or delegate for approval at least 14 days prior to the commencement of the activity. Work must not commence until the CEMP is approved.
19. The CEMP must provide details of the final track location in consideration of any micro-siting requirements as required by the REF (*Final Alignment Review of Environmental Factors version 3 29 July 2021*) and must also detail the environmental management procedures to be applied pre, during and immediately post construction of the activity including, but not limited to, the following components:
 - Actions to address the recommendations and safeguards listed in the REF (section 7.3) including sediment and erosion controls, measures to protect areas of environmental sensitivity including creek crossing and TEC's
 - Details of pre-clearing survey protocols and unexpected finds procedures
 - Work Method Statements for discrete track sections detailing access arrangements, work locations, waste management, stock piling locations, rehabilitation and erosion and control actions and measures to confine work to the track corridor
 - Work Method Statements depicting the micro-sited track location within the approved 20m wide track corridor and precinct areas identified in the REF; *Final Alignment Review of Environmental Factors version 3 29 July 2021*) and as depicted in the CEMP. *The level of detail required is not to the finalised design and drawing but adequate information to describe and show the design and construction techniques to be employed for all the terrain types to be crossed in that section of the track*

- a monitoring and reporting framework that demonstrates the nature, location, and scale of impacts, are consistent with the recommendations of the REF;
 - site rehabilitation strategy including management of contaminated materials and soils;
 - vehicle and pedestrian access arrangements, including parking;
 - public safety, including location, design and timeframes of information signage and public relations media releases by the applicant;
 - contact protocols outlining procedures and any notifications to be given before works commence, together with contact details for the project manager and the relevant NPWS officers (e.g. Ranger and Area Manager);
 - site induction and training arrangements;
 - site monitoring and reporting requirements during construction; and
 - A schedule of works that incorporates the plans actions, timeframes for implementation, accountabilities and monitoring and reporting requirements
20. The CEMP must be reviewed and updated throughout the work at least every 6 months
- Reason: To provide detailed site-specific guidance to minimise environmental risk from the activity.*

Incident and emergency preparedness and management

21. An Incident Management Plan must be prepared and kept on site by the applicant. The Plan must be submitted to the South Coast Branch Director or delegate approval at least 14 days prior to the commencement of the activity. Work must not commence until the Incident Management Plan is approved. The applicant must implement the approved plan. The content of the plan must be developed in consultation with the project team and must detail procedures to be followed in the event of an emergency or similar event including bushfires. These procedures must include, but are not limited to, the following:
- measures to ensure all workers are made aware of the plan and its provisions and be trained in the use of emergency equipment and procedures for evacuation and seeking refuge
 - equipment to be tested in accordance with manufacturer's recommendations during training of employees
 - the plan is to be displayed in a prominent location and should clearly highlight recommended actions and 24-hour contacts
 - the plan must be reviewed/updated at least every 6 months.

Reason: To ensure appropriate management of emergency situations including fire incidents.

Signage and public notification

22. At least 30 days before the activity commences, the applicant must erect signs at the park entrance or in the immediate vicinity of the activity site, the size, location and content of which must be to the satisfaction of the NPWS South Coast Branch Director and in accordance with the conditions of any AHIP issued. Signs must be visible and clearly identify the applicant and list:
- a description of the activity, reasons for undertaking the activity and duration of the activity

- the hours of operation
- a contact telephone number for public inquiries.

Reason: To support the safe undertaking of the activity and provide appropriate information to the public.

Certification of building and infrastructure works prior to commencement

23. Prior to the commencement of building or infrastructure works, the applicant must ensure that proposed works are certified to comply with the Building Code of Australia (BCA) or relevant Australian Standards, if required by the OEH *Construction Assessment Procedure*. Evidence of compliance with the BCA, Disability (Access to Premises – Buildings) Standard, or Australian Standards must be submitted to the satisfaction of the South Coast Branch Director.
24. For those proposed works that do not require certification under the OEH *Construction Assessment Procedure*, the applicant must still ensure that the activity is undertaken in accordance with any relevant requirements of the BCA, Disability (Access to Premises – Buildings) Standards or Australian Standards, and is safe and fit for the intended purpose.

Reason: To ensure that proposed building and infrastructure works comply with all necessary OEH policy and statutory requirements.

Explanatory Notes:

Building works mean an activity that comprises:

erection of a building

demolition of a building or work

the doing of anything that is incidental to the erection of a building or the demolition of a building or work

a change of building use where there is a resulting change in the BCA classification applicable to the building.

Infrastructure works means any physical activity involved in the erection or alteration of on-park public or private assets and utility services, including demolition. Examples include car parks, roads, tracks, viewing platforms, landscaping, fencing, environment protection works and public utilities.

The process for obtaining certification is specified in the OEH Construction Assessment Procedure.

Visitor Monitoring

25. A Visitor Monitoring Program (VMP) must be prepared within 6 months of the date of the REF determination to address the safeguards and mitigation measures listed in the REF *Final Alignment Review of Environmental Factors version 3, 29 July 2021*. The program must provide a program to monitor, evaluate and report on increased visitor numbers as a result of the activity.

Reason: To support the commitments of the REF to address potential increased public usage of Council infrastructure and facilities

Threatened Shorebird Monitoring

26. A Threatened shorebird monitoring plan must be prepared in consultation with BCS and submitted to the South Coast Branch Director or delegate for approval within 6 months of the date of the REF determination. This plan must:
 - Be prepared by a suitably qualified and experienced person in consultation with the NPWS and BCS;
 - Provide baseline data for areas where there are previous records of nesting i.e., Dawsons Beach, Island Beach, Oaky Beach, North Durras Beach, Pebbly Beach and Durras Lake Entrance

- Provide performance measures developed in consideration of the current shorebird monitoring program and targets
- Include a monitoring strategy, that
 - is developed in consideration of existing shorebird monitoring and SOS programs and proposed visitor monitoring program
 - specifically targets those areas where there are previous records of nesting i.e., Dawsons Beach, Island Beach, Oaky Beach, North Durras Beach, Pebbly Beach and Durras Lake Entrance
 - provides a mechanism to measure or audit any impacts that could be attributed to increased human traffic/visitor use as a result of the activity.
 - provides monitoring methodology that includes timing, locations, and monitoring parameters of target species.
- Provide a Trigger Action Response Plan that identifies impact triggers for a management response including additional impact mitigation, i.e.; if performance measures are not being met and increased negative impacts are determined by NPWS to be attributable to the activity and increased visitor numbers.
- Include an annual reporting obligation to the NPWS South Coast Branch Manager or delegate & Biodiversity and Conservation Directorate South East Branch Director stating the results of the shorebirds monitoring and any management responses undertaken in the previous 12 months.

Reason: To support the REF commitments and provide a mechanism to monitor and address identified indirect and uncertain impacts

OPERATIONAL CONDITIONS

27. Works must be carried out in accordance with approved CEMP. The approval holder must comply with all measures identified in the approved CEMP.

Operation Environment Management Plan (OEMP)

28. An Operation Environment Management Plan (OEMP) must be prepared and submitted by the approval holder to the South Coast Branch Director for review and approval within 6 months of the date of the REF determination. The OEMP must be implemented by the approval holder.
29. The OEMP must:
- address any requirements for impact mitigation and rehabilitation provided by the approved CEMP
 - identify the management actions and performance measures necessary to ensure biodiversity values are maintained and protected during the operation and maintenance of the track and precincts including the measures to address the safeguards listed in section 7.3 of *Final Alignment Review of Environmental Factors version 3 29 July 2021*) (Moorcroft 2021), for ongoing protection of biodiversity values
 - detail the rehabilitation requirements and performance criteria for redundant track sections
 - provide a monitoring and reporting strategy to demonstrate the REF safeguards, redundant track rehabilitation and performance measures are being met.

30. As described in the REF *Final Alignment Review of Environmental Factors version 3, 29 July 2021*), NPWS is to prepare specific documents to be appended to OEMP to capture the REF management actions and mitigation measure commitments of:
- Performance review, and measures to address any performance failures identified by OEMP reporting
 - The approved Threatened Shorebird Monitoring Plan and Trigger Action Response Plan
 - Project-specific pest management strategy
 - The approved AHMP (recommendations to avoid and limit the impact of increased visitation on Aboriginal cultural heritage values)

Reason: To provide detailed site-specific guidance to minimise environmental risk from identified ongoing and indirect impacts

Availability of REF determination and conditions

31. A printed copy of the REF, this determination and attached schedule of conditions must be kept at the site to which the REF applies.
32. The REF, this determination and attached schedule of conditions must be produced to any authorised officer of NPWS who asks to see it.
33. The REF, this determination and attached schedule of conditions must be available for inspection by any employee or agent of the applicant working at the site.

Reason: To ensure that the activity is undertaken in accordance with the REF and in accordance with relevant statutory approvals.

Aboriginal and historic heritage values

34. No harm may occur to Aboriginal objects unless covered by a valid AHIP issued by Heritage NSW.
35. All works must be undertaken in a way that minimises harm to Aboriginal objects and Aboriginal cultural heritage values.
36. A representative or representatives of the Registered Aboriginal Parties must be present for all works within areas with potential to contain Aboriginal burials (as defined by NGH August 2021). This is in accordance with Requirement 25 of the *Code of Practice for Archaeological Investigation of Aboriginal Objects in New South Wales* (DECCW 2010).
37. This determination does not authorise the disturbance or movement of any human skeletal remains. If, during the course of the activity, any human skeletal remains are located the applicant must:
- immediately cease the activity and not further harm these remains;
 - secure the area so as to avoid further harm to the remains;
 - notify the local police and Environment Line on 131555 as soon as practicable and at that time provide any available details about the nature and location of the remains;
 - notify the South Coast Branch Director or delegate;
 - notify Heritage NSW and

- recommence the activity only after receiving confirmation in writing from the local police or Heritage NSW that it is appropriate to do so.

Discovery of unknown Aboriginal and historic heritage values

38. If, during the course of the activity:

- any previously unrecorded Aboriginal objects, as defined under the National Parks and Wildlife Act 1974, are uncovered, or discovered that are not covered by the AHIP; and/or
- any relics, as defined under the Heritage Act 1977, are uncovered, or discovered
- or the nature of the recorded site changes

the applicant must cease work immediately and notify the Environment Line on 131555 unless the objects and/or relics are subject to the Aboriginal Heritage Impact Permit or a valid Heritage Permit. Work must not recommence until written advice to do so has been provided by Heritage NSW.

Any Aboriginal objects identified must be registered on the Aboriginal Heritage Information Management System in accordance with s89A of the *National Parks and Wildlife Act 1974*.

Reason: To protect cultural heritage values

Safety and OH&S compliance

39. Southern Ranges Region is responsible for any compliance engineering and geotechnical aspects of the project.

Fire prevention and control

40. No construction work is permitted on total fire ban days without seeking permission from the South Coast Branch Director or delegate.

41. No smoking in National Parks is permitted at any time

Reasons: To establish adequate controls to manage the risk of the activity accidentally starting a fire.

POST ACTIVITY CONDITIONS

42. The track and precincts will be managed by NPWS in compliance with the approved OEMP requirements

43. NPWS will undertake monitoring, reporting and ongoing review as per the approved OEMP requirements

Certification on completion of works

44. Upon completion of building or infrastructure works, and prior to occupation of the building subject to those works or infrastructure works being made operational, the applicant must ensure that the completed works are certified to comply with the Building Code of Australia (BCA), Disability (Access to Premises – Buildings) Standards, or relevant Australian Standards, if required by the OEH *Construction Assessment Procedure*. Evidence of compliance with the BCA, Disability (Access to

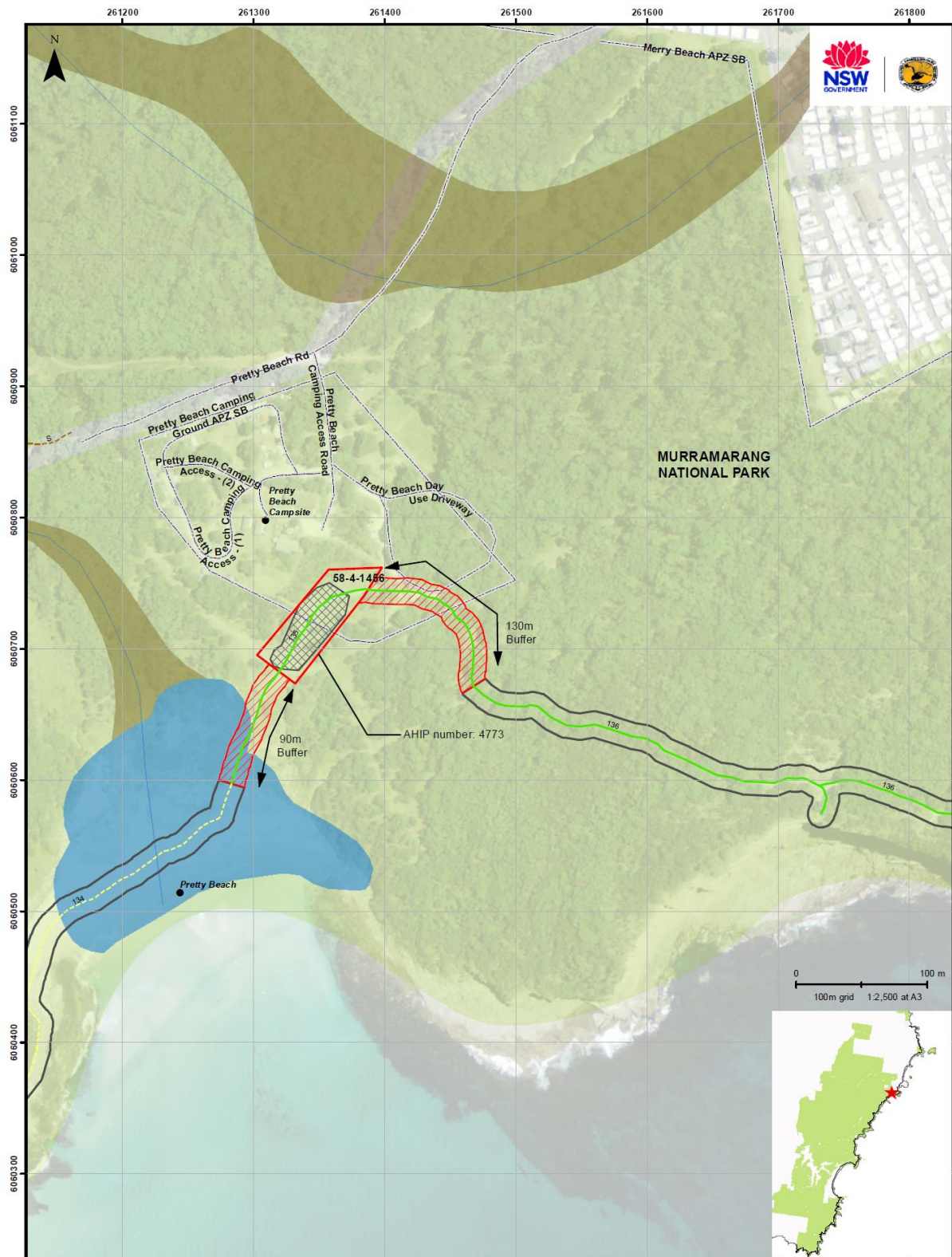
Premises – Buildings) Standards, or Australian Standards must be submitted to the satisfaction of the South Coast Branch Director.

Reason: To ensure that completed building and infrastructure works are certified to comply with all necessary OEH policy and relevant statutory requirements.

Explanatory notes:

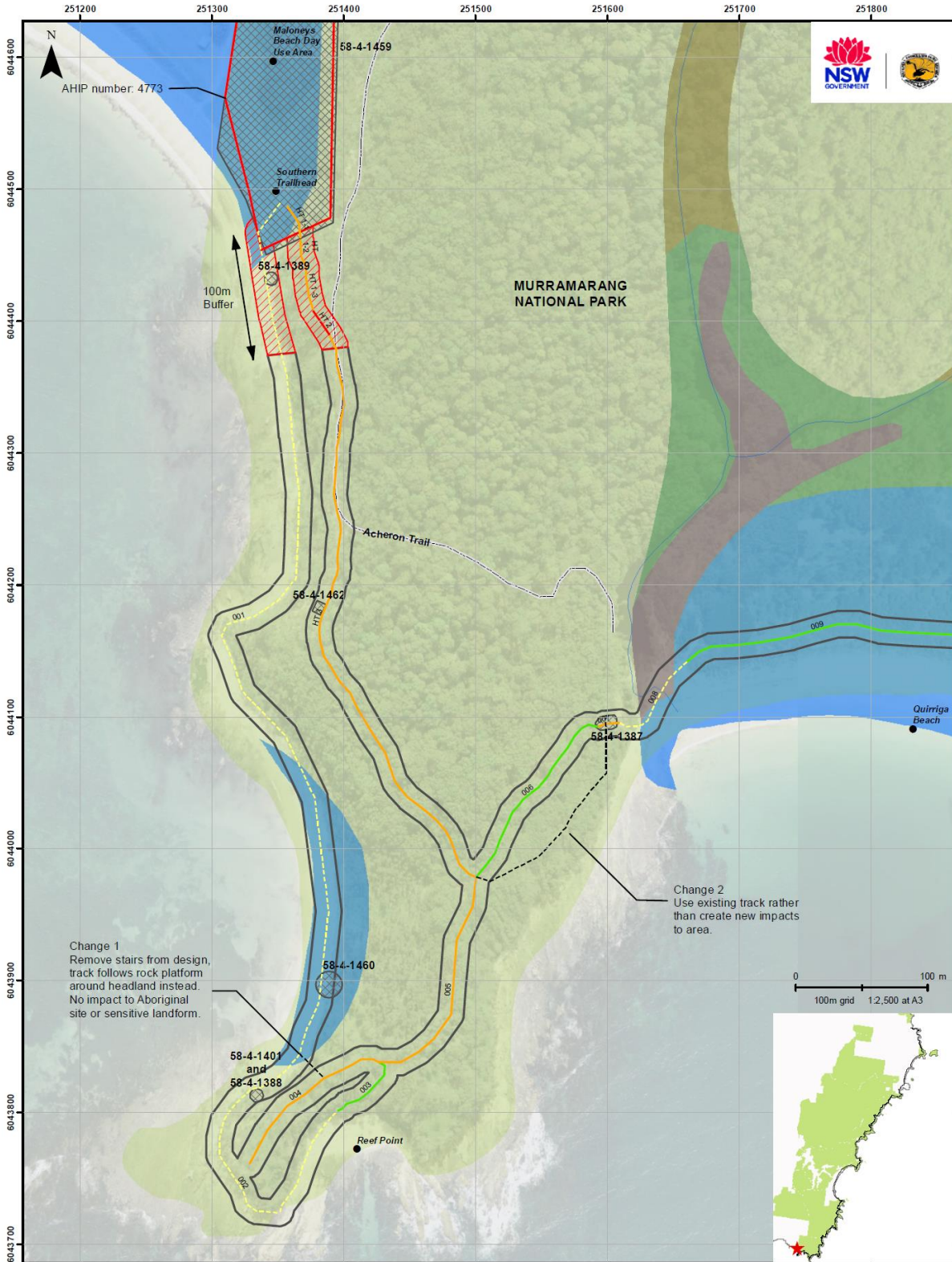
- 1. Building works are as defined above, and include a change of use*
- 2. Infrastructure works are as defined above.*
- 3. The process for obtaining certification is specified in the OEH Construction Assessment Procedure.*

Appendix 1: Maloneys Beach and Pretty Beach precincts and associated buffers (Condition 14)



Murramarang South Coast Walk Pretty Beach

Cultural Heritage	Walking Track	Coastal Quaternary Geology
AHIMS Site	New Track	Subaqueous
Proposed AHIP	Upgrade Track	Coastal Barrier System
AHIP Buffer	Existing Track	Pleistocene Undifferentiated
	Design Amendment	Alluvial Plain System
	Redundant Track	
	Subsidiary Track	
	Beach	



Murramarang South Coast Walk
Maloney's Beach

Cultural Heritage	Walking Track	Coastal Quaternary Geology
AHIMS Site	New Track	Subaqueous
Proposed AHIP	Upgrade Track	Coastal Barrier System
AHIP Buffer	Existing Track	Alluvial Plain System
	Design Amendment	Estuarine Plain System
	Redundant Track	Pleistocene Undifferentiated
	Subsidiary Track	
	Beach	