



NSW NATIONAL PARKS & WILDLIFE SERVICE

Wombeyan Karst Conservation Reserve

Decision Statement



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Decision statement

REF:	DOC22/236569
Title of proposal:	Wombeyan Caves Visitor Precinct Upgrade Works
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Park name:	Wombeyan Karst Conservation Reserve
Area/NPWS Branch:	Kanangra / Blue Mountains
Proponent:	Angela Lonergan, Manager Kanangra Area
Proponent's contact:	Matthew McNeil, Senior Project Officer

Based on the Review of Environmental Factors (REF), plus additional reports, including the Statement of Heritage Impact and Aboriginal Cultural Heritage Assessment Report, 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 section 5.5 of the *Environmental Planning and Assessment Act 1979*), **I hereby determine that:**

Activity to proceed except as noted below

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 area of outstanding biodiversity value and is not likely to significantly affect threatened species or ecological communities, or their habitats)
- the REF has adequately addressed the matters in Chapter 8 of the *State Environmental Planning Policy (Biodiversity and Conservation) 2021* for the activity, which will occur within the Sydney Drinking Water Catchment
- the activity is not inconsistent with any relevant plans prepared under Division 3.1 of the Environmental Planning and Assessment Act, including:
 - Upper Lachlan Shire Local Strategic Planning Statement
 - Wingecarribee Local Strategic Planning Statement
 - South East and Tablelands Regional Plan 2036.

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

Parts of the activity are not to proceed

The installation of any instream structures is not to proceed because the REF has not adequately addressed the required notification under s 199 of the *Fisheries Management Act 1994* and consideration of any matters raised in response to that notification.

Related matters

Further, it is considered that the proposed activity:

- **is unlikely to** impact significantly on matters of **National Environmental Significance** under the Commonwealth *Environment Protection and Biodiversity Conservation (EPBC) Act 1999*
- **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**
- **will** require certification to Building Code of Australia or Australian Standards in accordance with the NPWS *Construction Assessment Procedures*.

Determination

NPWS Area Manager recommendation

Name: Angela Lonergan
Signature: 
Date: 07/07/2022

Determination by Director Park Operations, Blue Mountains Branch

I certify that I have reviewed and endorsed the contents of this REF and, to the best of my knowledge, it is in accordance with the Environmental Planning and Assessment Act, the Environmental Planning and Assessment Regulation and the Guidelines approved under section 170 of the Regulation, and the information it contains is neither false nor misleading.

Name: David Crust
Signature: 
Date: 07/07/2022

under delegation of Secretary, Department of Planning and Environment (Park Authority)

Schedule 1: Conditions of determination

REF No.	DOC22/236569
Title of proposal:	Wombeyan Caves Visitor Precinct Upgrade Works
Proponent:	Angela Lonergan, Manager Kanangra Area
Park name:	Wombeyan Karst Conservation Area
Area/ NPWS Branch:	Kanangra/Blue Mountains

General information about this determination

REF document

The REF referred to in this determination is the version published on the department's Environment and Heritage Group website which is based on the original version dated 29 April 2022 and prepared by EcoLogical on behalf of National Parks and Wildlife Service (NPWS).

Responsibilities of the applicant

The applicant is responsible for the manner in which the activity detailed in the REF and this determination is performed.

Transfer of REF determination

REF determinations are not transferable, except with the written approval of the NPWS Branch Director.

Inspection of work covered by this REF determination

The NPWS reserves the right to examine work undertaken as part of the activity at any reasonable time.

Entry to land

The applicant is responsible for securing permission to enter land from the registered owner or occupier of the land or lands outside the land area identified in the REF and subject to this determination.

Reference to NPWS officers in this determination

The NPWS Branch Director may delegate any functions ascribed to the NPWS Branch Director in the determination to another NPWS officer including, but not limited to, the relevant NPWS Area Manager.

Explanatory notes to conditions in this determination

Explanatory notes included with this determination do not form part of the conditions.

Submission of information to NPWS

All written requests and information required to be submitted to NPWS, are to be lodged at the following address: matthew.mcneil@environment.nsw.gov.au

General conditions

Duration and scope of determination

1. The applicant must have commenced the activity within 5 years from the date of determination¹.
2. The activity must cease in their entirety, including rehabilitation of the activity footprint (as per Figure 3 of the published REF) to NPWS satisfaction, within 5 years from the date of commencement.
3. This determination only applies to those parts of the activity as identified in the Review of Environmental Factors (REF) that will be undertaken within Wombeyan Karst Conservation Reserve at the locations indicated in Figure 3 of the published REF, with the exception of any instream structures. The applicant must determine whether any other approvals are required for any associated works that are to occur outside this area, including any works in other parts of the Wombeyan Karst Conservation Reserve or outside Wombeyan Karst Conservation Reserve.

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

4. 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.
5. In the event that emergency works are undertaken the applicant must notify the Environment Line on 131 555 as soon as practicable. Once notification has been made, the applicant must contact the Blue Mountains 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.

¹ If the activity is not substantially commenced within this time, the applicant must seek direction from the NPWS Kanangra Area Manager 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.

Undertaking the activity

6. The 'activity' detailed in the REF titled Wombeyan Caves Visitor Precinct Upgrade Works submitted to NPWS on 29 April 2022 must be undertaken:
 - at the location identified in the REF
 - in accordance with the description of the activity and environmental safeguards or mitigation measures listed in the REF
 - as required or amended by the conditions of this determination.

In particular, the stepping stones described in the REF are not to be constructed.

7. In the event of any inconsistency between the REF and the conditions of this determination, the conditions of the determination shall prevail.
8. 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, including but not limited to any approvals required under the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999*.
9. 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 and a Work Health and Safety Management Plan.
10. The applicant must provide the following to the Blue Mountains 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.

Prior to commencement of activity conditions

Approvals and compliance

11. Prior to the commencement of the activity, the applicant must obtain the following:
 - Aboriginal Heritage Impact Permit issued under s.90 of the *National Parks and Wildlife Act 1974*
 - Approved traffic management plan.
12. 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 (see Condition 16)
 - an Erosion and Sediment Control Plan (see Condition 18)
 - a Quality Management Plan (see Condition 15)
 - a Work Health and Safety Management Plan (see Condition 9)
 - a Waste Management Plan (see Condition 31)
13. Prior to the commencement of the activity the applicant (including any employees, contractors, subcontractors and agents involved in undertaking the activity) must hold an on-site meeting with the Kanangra Area Manager (or their delegate).

Reason: To ensure confirmation of any site-specific arrangements for the undertaking of the activity.

Certification of building and infrastructure works prior to commencement

14. 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 NPWS *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 Blue Mountains Branch Director.
15. For those proposed works that do not require certification under the NPWS *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. Any contractors employed to do this work are to submit a Quality Management Plan.

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

Explanatory notes:

- i. 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.
- ii. 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.
- iii. The process for obtaining certification is specified in the department's Construction Assessment Procedure.

Construction Environmental Management Plan

Comply with safeguards/mitigation measures noted in *Section 9.1 of the Review of Environmental Factors – Impact Assessments*.

16. A Construction Environmental Management Plan (CEMP) identifying the potential risks of the activity and how these will be managed must be prepared by the applicant and submitted to the Blue Mountains Branch Director or delegate for approval at least 14 days prior to the commencement of the activity. The applicant must comply with all measures identified in the approved CEMP. The plan must detail the environmental management procedures to be applied during and after the completion of the activity including, but not limited to, the following components:

- location of active work and storage areas
- measures to protect areas of environmental sensitivity including reporting and communication pathways
- measures to protect Aboriginal Cultural Heritage including reporting and communication pathways
- environmental safeguards, including water pollution controls, waste management, and management of hazardous substances
- site rehabilitation 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 NPWS Kanangra Area Manager (or delegate)
- site induction and training arrangements
- site monitoring and reporting
- protocols for incidents and emergencies and contingency planning, including reporting pathways.

Reason: To provide detailed site-specific guidance to minimise environmental risk from the activity.

Signage and public notification

Refer to safeguards/mitigation measures noted in *Section 9.3 of the Review of Environmental Factors – Impact Assessments*.

17. At least 7 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 Kanangra Area Manager or delegate. 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.

Stormwater, erosion and sediment controls

Comply with safeguards/mitigation measures noted in *Section 9.1 of the Review of Environmental Factors – Impact Assessments*.

18. Prior to the commencement of the activity, the applicant must submit an erosion and sediment control plan for the approval of the Kanangra Area Manager or delegate. The plan must be prepared using the guidelines *Managing Urban Stormwater: Soils and Construction* (Landcom 2004)) and other relevant guidelines³. The applicant must comply with the approved plan.

Reason: To ensure appropriate management of stormwater and to minimise the risk of environmental harm associated with erosion and sedimentation.

³ for example, the Field Guide for erosion and sediment control on unsealed roads, www.environment.nsw.gov.au/research-and-publications/publications-search/erosion-and-sediment-control-on-unsealed-roads

Operational conditions

Discovery of unknown Aboriginal and historic heritage values

Comply with safeguards/mitigation measures noted in *Section 9.5 & 9.6* of the *Review of Environmental Factors – Impact Assessments*.

19. If, during the course of the activity either:

- any Aboriginal objects, as defined under the National Parks and Wildlife Act, are uncovered or discovered
- any relics, as defined under the *Heritage Act 1977*, are uncovered or discovered

the applicant must cease work immediately and notify the Environment Line on 131 555, 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.

20. 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 131 555 as soon as practicable and at that time provide any available details about the nature and location of the remains
- notify the Blue Mountains Branch Director or delegate
- recommence the activity only after receiving confirmation in writing from the local police or Heritage NSW that it is appropriate to do so.

Reason: To protect cultural heritage values

Discovery of unknown biodiversity values

Comply with safeguards/mitigation measures noted in *Section 9.2 & 9.7* of the *Review of Environmental Factors – Impact Assessments*.

21. If, during the course of undertaking the activity, the applicant becomes aware of the presence of threatened species or endangered ecological communities, or their habitats, that were not identified and assessed in the REF and which are likely to be affected by the activity, the applicant must:

- immediately cease all work likely to affect the threatened species or endangered ecological communities, or their habitats
- inform the Blue Mountains Branch Director or delegate and/or the local NSW Department of Primary Industries (DPI) Fisheries office (for threatened fish or marine vegetation matters) as relevant. Notification must be made as soon as practicable by phone, electronically or in writing
- not recommence work likely to affect the threatened species or endangered ecological communities, or their habitats until receiving written advice from NPWS and/or DPI Fisheries to do so.

Reason: To minimise biodiversity impacts.

Notification of environmental harm

Comply with safeguards/mitigation measures noted in *Section 9.2 of the Review of Environmental Factors – Impact Assessments*.

22. The applicant or its employees (including any contractors) must notify NPWS of incidents causing or threatening material harm to the environment as soon as practicable after the person becomes aware of the incident.
23. Notifications must be made by telephoning the Environment Line on 131 555.
24. Once notification has been made the applicant must also contact the Blue Mountains Branch Director or delegate to seek direction on any further procedures to be implemented.
25. The applicant must provide written details of the notification to NPWS within 7 days of the date on which the incident occurred.

Equipment and materials storage

Comply with safeguards/mitigation measures noted in *Section 9.1 of the Review of Environmental Factors – Impact Assessments*.

26. The applicant must store any machinery, equipment or materials required for the activity in existing cleared areas or areas determined to be cleared in accordance with the REF.
27. Machinery, vehicles and other construction equipment must be cleaned (e.g. washed down) by the applicant prior to entry into Wombeyan Karst Conservation Reserve to remove any soil or plant matter.
28. At all times that the activity is not being undertaken, machinery, vehicles and equipment must be stored in a secure location with authorised access only.

Reasons: To reduce the risk of weed invasion and to ensure that equipment is stored and secured in suitable locations.

Demolition

Comply with safeguards/mitigation measures noted in *Section 9.1 of the Review of Environmental Factors – Impact Assessments*.

29. The applicant must carry out all demolition work in accordance with the provisions of relevant Australian Standards, including AS2601-2001 *Demolition of structures*. Any demolition works involving asbestos materials must also comply with the *Protection of the Environment Operations (Waste) Regulation 2014* with regard to handling and movement of asbestos material.

Explanatory notes:

- i. Refer to the NSW Environment Protection Authority (EPA) website for more information on management of asbestos material
- ii. Certification of demolition work may be required under the department's Construction Assessment Procedures

Reason: To ensure that demolition works are carried out in accordance with relevant requirements.

Use of rainforest timbers

30. The applicant must not use rainforest timbers in undertaking the activity unless written approval is obtained from the Blue Mountains Branch Director.

Note: to gain approval to use rainforest timber the applicant must demonstrate:

- i. that no feasible alternatives exist, or
- ii. the rainforest timbers are to be obtained from a plantation source which has received appropriate industry and environmental certification.

Reason: To promote the use of sustainable construction materials in accordance with department policies.

Waste management

Comply with safeguards/mitigation measures noted in *Section 9.1 & 9.3* of the *Review of Environmental Factors – Impact Assessments*.

31. Waste generated at the site from works undertaken as part of the activity must be managed in accordance with the *Protection of the Environment (Waste) Regulation 2014* and consistent with a Waste Management Plan approved by the Blue Mountains Branch Director.

32. Removal of any asbestos-containing material must be undertaken in accordance with *Working with Asbestos: Guide 2008* published by the WorkCover Authority.

Reason: To ensure the appropriate management of waste material.

Explanatory note: For further information on managing waste see the EPA website

Waterway protection

Comply with safeguards/mitigation measures noted in *Section 9.1* of the *Review of Environmental Factors – Impact Assessments*.

33. Except as may be expressly provided in any other condition of this determination, the applicant must comply with s.120 of the *Protection of the Environment Operations Act 1997*.

Explanatory note: Section 120 states that a person who pollutes any water is guilty of an offence. Sections 121 and 122 provide that a person is not guilty of an offence if they are acting in accordance with a regulation or licence applicable to the activity.

Post activity conditions

Certification on completion of works

34. 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 department's *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 Blue Mountains Branch Director.

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

Explanatory notes:

- i. Building works are as defined above, and include a change of use
- ii. Infrastructure works are as defined above.
- iii. The process for obtaining certification is specified in the department's Construction Assessment Procedure.

Site rehabilitation

35. Within 7 days of any area being damaged by vehicular or other access to the site, the applicant must repair and rehabilitate such land to the satisfaction of the Blue Mountains Branch Director or delegate.

36. The applicant must only use locally sourced indigenous plant species for site restoration works, unless otherwise agreed in writing by the Kanangra Area Manager or delegate.

Reason: To ensure that works sites are suitably rehabilitated following the completion of the activity.