



Decision Statement for External Proponents

Instructions

This decision statement should be filled in by the project officer (e.g. ranger) following an assessment of the adequacy and completeness of the Review of Environmental Factors (REF).

Once prepared it should be filed in CM9 and related to the REF (e.g. by using 'alternatively within') or by attaching the Decision Statement and the REF to a covering briefing note. It should be submitted to:

- the relevant NPWS Area Manager for recommendation
- the relevant NPWS Branch Director, Park Operations for endorsement as a formal record that the REF has been determined

Note that, under the 2021 Instrument of Ministerial delegations, all members of the NPWS executive can grant leases up to 20 years (previously Directors could only enter into leases for up to 15 years). Hence there is no legislative need for the determination of those REFs to be endorsed by an Executive Director.

The brown text are prompts and instructions that should be deleted before submitting this statement for endorsement.

REF CM9 file no. DOC22/997292

Title of proposal: Yathong Nature Reserve – feral predator-free area

Park name: Yathong Nature Reserve

Area/ NPWS Branch: Central west area/ West branch

Proponent: NSW National Parks and Wildlife Service

Based on the REF and any additional information obtained, 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

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 not proposed in any part of an area of outstanding biodiversity value or critical habitat and is not likely to significantly affect threatened species or ecological communities, or their habitats).

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

standards (see *Endnote 2*) – to be considered for the following necessary approvals (see *Endnote 1*) under the NPW Act or NPW Regulation and/or other relevant legislation:

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*.

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**.

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

Certification of building or infrastructure works

- will not** require certification to Building Code of Australia or Australian Standards in accordance with the NPWS *Construction Assessment Procedures*

Determination

NPWS Area Manager recommendation:

Name: Fiona Buchanan

Signature:

Date:

Determination by A/Director, West Branch

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

Name: Darren Pitt

Signature:



Date: 12/5/2023

NEXT STEPS

Record the outcome in the Branch's EIA Register in EF19/24502.

If proposal to proceed:

- Obtain final fee from proponent (if relevant) prior to release of determination
- Register determination
- Provide determination notice to proponent (preferably **concurrent with the approval** – see below)
- Prepare and issue **approval** to proponent (see Endnote 1 below), making sure the approval references the REF determination and any conditions (see Endnote 2 below)

If proposal not to proceed:

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

Endnotes

1. For external proponents, the authorisation required will normally be in the form of a consent issued under the NPW Regulation or a lease, licence or easement issued under the NPW Act, by a NPWS officer with appropriate delegation.
2. If the activity is determined to proceed *subject to conditions* then it is assumed that specific reference to the conditions will be included in any required authorisation that is issued under the NPW Regulation or a lease, licence or easement issued under the NPW Act. If this is not the case, consultation with the above signatory must occur.

Schedule 1: Conditions of Determination

REF No. 22/547589-3

from CM9

Title of proposal: Yathong Nature Reserve – feral predator-free area

Proponent: NSW National Parks and Wildlife Service

Park name: Yathong Nature Reserve

Area/ NPWS Branch: Central west area/ West branch

General information about this Determination

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 West Branch Director.

Inspection of work covered by this REF determination

The Area Manager, NPWS Central West or their delegate reserves the right to inspect and examine works associated with this project 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:

Attention: Fiona Buchanan
National Parks and Wildlife Service
74 River St, Dubbo NSW 2830

Emergency reporting

Table 1: Emergency reporting as specified in this notice

Priority	Reporting line	Contact Details
1	Environment Line (for all pollution and environmental incidents)	13 15 55
2	NPWS West Branch Director: Mark Peacock	Phone: 02 6841 0932 Mobile: 0447 659 544 Email: mark.peacock@environment.nsw.gov.au
3	NPWS Central West Area Manager: Fiona Buchanan	Phone: 02 6841 7108 Mobile: 0459 810 557 Email: fiona.buchanan@environment.nsw.gov.au
4	NPWS Central West Area Senior Project Officer: Denyell Clark	Phone: 02 6841 7108 Mobile: 0459 810 557 Email: denyell.clark@environment.nsw.gov.au
5	NPWS Central West Area Ranger: Tim Dawson	Phone: 02 6841 7108 Mobile: 0459 810 557 Email: tim.dawson@environment.nsw.gov.au

GENERAL CONDITIONS

Duration of determination

- 1) The proponent must have substantially commenced the activity within five (5) years from date of determination.
- 2) The activity must cease in its entirety within ten (10) years from date of determination, unless alternative written arrangements are in place and approved by the Director, NPWS West Branch.

Note: *If the activity is not substantially commenced within the 5-year timeframe, this REF determination will be deemed lapsed. If this occurs the proponent must seek direction from the Executive Director, NPWS as to whether a new REF must be prepared, submitted and determined before the activity can proceed.*

Scope of determination

- 3) This determination only applies to those parts of the activity that will be undertaken within Yathong Nature Reserve as identified in the Review of Environmental Factors (REF). The proponent must determine whether any other approvals are required for any associated works that are to occur outside the feral predator-free area, including any works in other parts of Yathong Nature Reserve or outside the reserve.
- 4) The proponent is to ensure that the activity is delivered:
 - a. at the location identified in Yathong FPFA REF within Yathong Nature Reserve
 - b. in accordance with the activity as in Section 7 (pages 23 to 45) of Yathong FPFA REF
 - c. as specified in the activity footprint as shown in Section 7, (Figure 4 and 5) in Yathong FPFA REF
 - d. in accordance with the description of the activity and environmental safeguards or mitigation measures listed in Yathong FPFA REF

- 5) In the event of any inconsistency between Yathong FPFA REF and the conditions of this determination, the conditions of the determination shall prevail.
- 6) Notwithstanding any other conditions of this determination, in the event that emergency works are required to be undertaken by the applicant, 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.
- 7) In the event that emergency works are undertaken the applicant must notify NPWS as soon as practicable and seek direction on any further procedures to be implemented.

Hours of operation

- 8) The project works must only be conducted during daylight hours Monday to Sunday. Should works be required outside of the standard working hours, consultation would be undertaken with any potentially affected residents regarding the altered construction hours, and approval given by the Central West Area manager.

PRIOR TO COMMENCEMENT

Approvals and compliance

- 9) This determination, and the schedule of conditions, do not relieve the proponent of any obligation to obtain statutory approvals or permits necessary to undertake the activity as specified by Yathong FPFA REF.
- 10) A copy of Yathong FPFA REF, this determination notice, the Construction Environmental Management Plan (CEMP) must be kept on site and available for inspection by all personnel.

Note: To ensure that the activity is undertaken in accordance with Yathong FPFA REF, and any terms expressed in this determination.

- 11) Prior to the commencement of the activity, the proponent must comply with any other relevant requirements of this determination, including submission and approval of:
 - a. a construction environmental management plan (Condition 13)
 - b. an erosion and sediment control plan (Condition 14)
 - c. a vegetation management plan (Condition 15-17)
 - d. a wildfire preparedness, prevention, and response plan (Condition 52-55)
- 12) Prior to the commencement of the activity the proponent (including any employees, contractors, sub-contractors, agents and invitees involved in undertaking the project) must hold an on-site meeting with the NPWS Central West Area Senior Project Officer (or their delegate).

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

Construction Environmental Management Plan (CEMP)

- 13) A CEMP identifying the potential risks of the project and how these will be managed must be prepared and submitted to the West Branch Director or delegate for approval at least 14 days prior to the commencement of the activity. The proponent 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:
 - a. measures to protect areas of environmental sensitivity including reporting and communication pathways

- b. measures to protect Aboriginal Cultural Heritage including reporting and communication pathways
- c. environmental safeguards, including water pollution controls, waste management, and management of hazardous substances
- d. site rehabilitation including management of contaminated materials and soils
- e. location of active work and storage areas
- f. vehicle and pedestrian access arrangements, including parking
- g. contact protocols outlining procedures and any notifications to be given before works commence, together with contact details for the project officer and the NPWS Central West Area Manager and Ranger
- h. site induction and training arrangements
- i. site monitoring and reporting
- j. protocols for incidents and emergencies and contingency planning, including reporting pathways in detail

Note: To provide detail site-specific guidance to minimise environmental risk from the activity.

Erosion and Sediment Control Plan (ESCP)

- 14) Prior to the commencement of the activity, the applicant must submit an erosion and sediment control plan for the approval of the NPWS Central West Area Manager. The plan must be prepared using the guidelines Managing Urban Stormwater: Soils and Construction (Landcom 2004) and relevant NPWS/DPE guidelines including the NPWS publication A Field Guide for Erosion and Sediment Control Maintenance Practices on Unsealed Roads. All measures identified in the ESCP must be followed throughout construction.

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

Vegetation management plan

- 15) A Vegetation Management Plan must be prepared and submitted for approval of the West Branch Director or delegate prior to the commencement of the activity. The Plan must identify the precise extent, location and type of vegetation to be cleared, and areas to be revegetated or regenerated at the conclusion of the activity.
- 16) The applicant must only clear areas as identified in the approved Vegetation Management Plan.
- 17) Prior to commencing clearing, the applicant must clearly mark the areas not approved for clearing via stakes or other suitable markers as identified in the Vegetation Management Plan.

Note: To provide detailed site-specific guidance to minimise impacts on vegetation

Engineering and design drawings

- 18) A set of engineering drawings outlining the construction details for the trails, predator proof fence and wet crossings will be approved by a NPWS officer prior to the commencement of the activity. All construction works will be done in accordance with these drawings.

OPERATIONAL CONDITIONS

Work health and safety

- 19) The proponent must remain compliant with:
- a. the *Work Health and Safety Act 2011*, and any industry codes of practice adopted under the Act, or the Work Health and Safety Regulation 2011
 - b. the *Occupational Health and Safety Act 2000* & the Occupational Health & Safety Regulation 2001 for all aspects of the activity
 - c. Work Cover NSW and apply industry best practice during construction works.

Restricted construction activity footprint

- 20) The activity is restricted to the construction footprint as specified in the activity footprint as shown in Section 7, (Figures 4 and 5) in Yathong FPFA REF.
- 21) The proponent must ensure:
- a. clearing or modification of native vegetation is restricted to the 137.41 hectares maximum allowable under this determination. Additional clearing or modification of vegetation is prohibited under this determination
 - b. no disturbance, excavation, landform modification, or storage of materials or equipment movements occur outside the allocated construction footprint. Disturbance outside the construction activity footprint is prohibited under this determination
 - c. all ancillary works are restricted to the track corridor, visitor infrastructure and associated construction compounds and with no parking, traversing, or turning of vehicles or machinery permitted outside the designated areas

Access

- 22) Access to the activity footprint is to accord with the CEMP, and ensure:
- a. use is limited or prohibited during bad or poor weather conditions to prevent damage to the existing fire trail network. The proponent is held accountable for any damaged caused during the construction phase
 - b. access to the trail network outside of the approved routes as specified in the CEMP is limited and must be authorised by the Manager, NPWS Central West Area if required during any phase of construction
 - c. public safety during construction works, especially during bridge replacements and culvert installation works. Construction sites must apply appropriate trail closure security or safety fencing to prevent unauthorised access

Incident or emergency management

- 23) During an emergency or incident, the proponent must ensure that all reasonable steps to arrest an imminent threat to life (persons), property and/or the environment occur, by:
- a. enacting relevant procedures as specified in the approved CEMP
 - b. notify the relevant emergency services and NPWS staff dependent on the nature and severity of the event. Contacts are specified in Table 1 of this notice and the CEMP

- c. follow immediate and initial directions given by an emergency services authority or officer (including but not limited to police) or NPWS officer if relevant
- d. seek verbal direction from the Manager, Central West Area or their delegated. Enact measures as instructed to protect or arrest damage to the environment or to the reserve or its infrastructure
- e. notifying NPWS in writing the details of the emergency or incident and actions taken within 24 hours to the Director, NPWS West Branch or their delegate
- f. providing a full incident report, as specified by the CEMP within five (5) days of the incident occurring
- g. recognising incidents involving hydrocarbon spills (oil & fuel) as an emergency with direct reporting to Environment Line on 131555 and the Manager, NPWS Central West Area or their delegate immediately

Cultural value (Historic Heritage)

- 24) A heritage assessment has been prepared to understand the impacts to heritage items as a result of the proposed activity
- 25) If, during the course of the activity any relics, as defined under the Heritage Act 1977, are uncovered or discovered the applicant must:
 - a. cease work immediately and notify the Heritage NSW
 - b. work must not recommence until advice to do so has been provided by Heritage NSW
 - c. work must not recommence until a valid Heritage Permit is obtained

Cultural value (Aboriginal Cultural Heritage)

- 26) An Aboriginal Cultural Heritage Assessment Report (ACHAR) has been prepared to understand the extent of impacts to Aboriginal cultural heritage as a result of the proposed activity
 - 27) Recommendations of the ACHAR will be followed
 - 28) All safeguards/mitigation measures specified in section 10.5 of Yathong FPFA REF will be adhered to
 - 29) An update report is to be provided to the Yathong FPFA identified Registered Aboriginal Party (RAP) every 6 months notifying of project progress.
- Note: To maintain currency of the ACHAR in the event an AHIP is required.*
- 30) If, during the course of the activity any Aboriginal objects, as defined under the National Parks and Wildlife Act, are uncovered or discovered the applicant must:
 - a. cease work immediately and notify the Heritage NSW
 - b. work must not recommence until advice to do so has been provided by Heritage NSW
 - c. work must not recommence until an Aboriginal Heritage Impact Permit is obtained.
 - 31) 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:
 - a. immediately cease the activity and not further harm these remains
 - b. secure the area so as to avoid further harm to the remains

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

Biodiversity values

- 32) All hollow bearing trees (HBTs) within the construction footprint are to be identified and marked with the clearing protocol for their removal outlined in Yathong FPFA REF and the vegetation management plan to be followed.
- 33) No go areas and exclusion zones are to be established for ecologically sensitive areas including the Mukarrhippi grasswren Asset of Intergenerational Significance (AIS).
- 34) If, during the course of undertaking the project, 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:
 - a. immediately cease all work likely to affect the threatened species or endangered ecological communities, or their habitats
 - b. inform the North Coast Branch Director or delegate and/or the local NSW 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
 - c. not recommence work likely to affect the threatened species or endangered ecological communities, or their habitats until receiving written advice to do so
- 35) Clearing is always restricted to the minimum extent practicable and remain within the approved construction activity footprint, with no clearing of native vegetation greater than the 137.41 hectares approved as part of this notice.
- 36) Vegetation is mulched and retained onsite.
- 37) All safeguards/mitigation measures specified in section 10.2 of Yathong FPFA REF are to be adhered to.

Environmental management

- 38) Construction and demolition waste are managed in accordance with the resource management hierarchy principal of avoid, minimise, reuse, or disposal in accordance with the Waste Avoidance and Resource Recovery Act 2001.
- 39) Uncontaminated construction spoil must be retained and reused on site. Designated stockpile areas must be identified within the road corridor at least 50 m from any natural surface drainage areas or built drainage structures and not within 40 m of any watercourse. Stockpiles are to be appropriately covered, bunded if necessary.
- 40) Material not suitable for re-use on site is classified in accordance with the NSW EPA Waste Classification Guidelines, Part 1: Classifying Waste (NSW EPA 2014) and disposed of offsite. Disposal must remain compliant with the Protection of the Environment Operations Act 1997 and Regulations.
- 41) All Imported fill (and gravel) is to be EPA Certified VENM and is to be signed off by the Manager, NPWS Central West Area or their delegate prior to commencement of delivery. Contaminated material or gravel is prohibited.
- 42) All machinery and equipment transported to and accessing the construction site must comply with the provisions set by the publication 'Arrive Clean, Leave Clean - Guidelines

to help prevent the spread of invasive plant diseases and weeds threatening our native plants, animals and ecosystems' (Commonwealth of Australia 2015).

- 43) 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.
- 44) 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.
- 45) All vehicles and machinery on site must be maintained in working order and remain comply with industry noise, emission standards and guidelines.
- 46) All vehicles transporting waste or other must cover loads during transportation.
- 47) Wind erosion and dust generation will be monitored onsite. If dust generation exceeds environmental or safety standards works are to cease until control measures are adequately in place, such as the use of water carts to suppress dust.
- 48) Vehicle movements and adequate speed restrictions of 40km remain to control dust generation, reduce risk of accelerated erosion, reduce noise and ensure limited likelihood of animal vehicle strict.
- 49) All hazardous liquids, chemicals and materials are to be stored in a secure location and manner.
- 50) Refuelling and maintenance of machinery must be undertaken at least 100 m from any watercourse or low-lying area.
- 51) All safeguards/mitigation measures specified in section 10.1 of Yathong FPFA REF are to be adhered to.

Wildfire preparedness, prevention, and response

- 52) A bushfire preparedness, prevention and response plan specific to the proposed activity must be approved by NPWS prior to commencement of the activity. This plan must specify control mechanisms to minimise the risk of a wildfire starting in the nature reserve as a result of the proposed activity. A copy of the bushfire plan must be kept at each work site.
- 53) Firefighting foams or gels can be used by fire appliances (including aircraft) with prior consent from NPWS Central West Area manager and in accordance with Yathong Nature Reserve fire management strategy 2014.
- 54) If the Fire Danger Rating is High or above works associated with a sparking or ignition source are to be managed according to any direction issued by the Manager, NPWS Central West or their delegate and fire-fighting equipment with a minimum of 400L be present on site to extinguish fires.
- 55) All work must cease when NSW RFS declare a Total Fire Ban or when Fire Danger rating reaches Extreme for Yathong Nature Reserve unless approved otherwise by West Branch Director or their delegate.

POST ACTIVITY CONDITIONS

Site Rehabilitation

- 56) 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 West Branch Director or delegate.

57) The applicant must only use locally sourced indigenous plant species for site restoration works, unless otherwise agreed in writing by the NPWS Central West Area Manager.