

REVIEW OF ENVIRONMENTAL FACTORS

Determination Notice for NSW National Parks and Wildlife Service proponents

Major projects

- Recommendation by Biodiversity Conservation Division Project Manager
 - Determination by Biodiversity Conservation Division Manager
-

REF No. **Light to Light Walk Upgrade 21-945**

Project Name: **Light to Light Walk Upgrade Project Number 21-945**

Reserve Name: **Ben Boyd National Park**

Proponent: **NSW National Parks and Wildlife Service**

Region/Area: **South Coast**

Based on the REF 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 DPE sign-off

Major projects – BCD determination

BCD Project Manager recommendation


Name: Angela Jenkins

Signature: 

Date: 06 June 2022

BCD Director determination

Name: Michael Saxon

Signature: 

Director South East Biodiversity Conservation Division

Date: 08 June 2022

NEXT STEPS

If proposal to proceed:

- Provide determination notice to proponent
- Register determination

Schedule 1 Conditions of Determination

Reference No: **DOC22/231386 FINAL Light to Light Walk Upgrade Review of Environmental Factors**

Project Name: **Light to Light Walk Upgrade**

Reserve Name: **Beowa (formerly Ben Boyd) National Park**

Proponent: NPWS

Region/Area: South Coast

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 Regional Director.

Inspection of work covered by this REF determination

The DPE 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 Regional Director may delegate any functions ascribed in the determination to another NPWS officer including, but not limited to, the relevant 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 the DPE

All written requests and information required to be submitted to the DPE, are to be lodged at the following address:

Attention: NPWS Branch Mailbox - South Coast
npws.southcoastbranch@environment.nsw.gov.au
NSW National Parks and Wildlife Service

SCHEDULE 1: CONDITIONS OF DETERMINATION ISSUED **{08June 2022}**

GENERAL CONDITIONS

Duration and scope of determination

1. The NPWS will have substantially commenced the activity within 5 years of the date of this approval.¹
2. This determination only applies to those parts of the activity as identified in the Review of Environmental Factors (REF) *Review of Environmental Factors Light to Light Walk Upgrade February 2022 Project number 21-945* by NGH dated 2022 that will be undertaken within Ben Boyd National Park at the locations indicated in Figures 1.1-1.9, Figures 4.1- 4.3 and Appendix G of the REF.
3. NPWS will determine whether any other approvals are required for any associated works that are to occur outside this area.

²Reasons: *To ensure that the activity is commenced and 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 approval, in the event that emergency works are required to be undertaken, all reasonable steps are to be taken 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.

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 REF³ titled *Review of Environmental Factors Light to Light Walk Upgrade February 2022 Project number 21-945* by NGH dated February 2022 must be undertaken:
 - at the locations identified in the REF;
 - in accordance with the description of the activity and environmental safeguards and mitigation measures listed in the REF including;
 - Clearing activities/earthworks restricted to the minimum extent necessary to carry out the activity and to a maximum of 1.2 m width for track construction

¹ If the activity is not substantially commenced within this time, the applicant must seek direction from BCD as to whether a new CRA/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 part of the condition but can be included in the Determination Notice for clarity.

³ Any addendum or additional documentation that supports the CRA/REF should also be referenced in this condition.

- Temporary disturbance such as the trimming of vegetation with no tree removal, to a distance of 5 m for Activity 1;
 - Clearing activities must not exceed maximum distances and/or total area depicted in Appendix G of the REF for Activity 2 and Activity 3;
 - 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 NPWS 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*.
 8. NPWS will 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 insurance, including public liability insurance.
 9. The following will be provided to the Sapphire Coast Area Manager⁴ 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.

Reasons: 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 appropriate individuals.

PRIOR TO COMMENCEMENT OF ACTIVITY CONDITIONS

Aboriginal community participation in monitoring

10. At least 21 days prior to activities commencing in identified sensitive areas requiring monitoring, the NPWS must invite, in writing, representatives from the Registered Aboriginal Parties (RAP's) 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

Approvals and compliance

11. A) Prior to the commencement of the activity, NPWS must comply with any other relevant requirements of this determination, including submission and approval by Biodiversity Conservation Division of the following:
 - Biodiversity Management Plan (Condition 23)
 - A Soil and Water Management Plan (Condition 38)

⁴ The NPWS Contact Officer referenced in this determination will be identified in the approval letter which accompanies this determination.

- Construction and Environmental Management plan (Condition 39)
11. B) Prior to the commencement of the activity, NPWS must comply with any other relevant requirements of this determination, including submission and approval by Heritage NSW of the following:
- Aboriginal Cultural Heritage Management Plan (Condition 29)
 - Heritage interpretation Plan (Condition 35)
12. Prior to the commencement of the activity the NPWS (including any employees, contractors, subcontractors and agents involved in undertaking the activity) must hold an on-site meeting with the Sapphire Coast Area Manager (or their delegate).
- Prior to commencement of any clearing works the final track location and extent of clearing for Activity 2 and 3 shall be marked on the ground in accordance with plans provided and approved by NPWS and BCD in the final approved CEMP (Condition 39)

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

Aboriginal Cultural Heritage Protection

13. The NPWS will comply with the recommendations of the *Aboriginal Cultural Heritage Assessment Report (ACHAR)* by *Lantern* dated December 2021 (also Appendix A of the REF) 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.
14. All works must be undertaken in a way that minimises harm to Aboriginal objects and Aboriginal cultural heritage values.
15. Prior to commencement of any work the NPWS must apply for and be granted an AHIP to carry out the proposed activity.
16. No harm can occur to Aboriginal objects unless covered by a valid Aboriginal Heritage Impact Permit (AHIP) issued by Heritage NSW.
17. Further Aboriginal cultural heritage investigation must be conducted if any construction or ancillary works are proposed outside the assessment corridor described in the Aboriginal Cultural Heritage Assessment Report (Lantern Heritage, December 2021)
18. A representative or representatives of the Registered Aboriginal Parties must be present for any works within areas with potential to contain Aboriginal burials. This is in accordance with Requirement 25 of the Code of Practice for Archaeological Investigation of Aboriginal Objects in New South Wales (DECCW 2010).
19. The relevant requirements of the AHIP and the Aboriginal Cultural Heritage Management Plan (prepared by Lantern Heritage, 2022) must be incorporated into the Construction Environmental Management Plan to ensure that works comply with the AHIP conditions.

Certification of building and infrastructure works prior to commencement

20. Prior to the commencement of building or infrastructure works, the NPWS will 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.

21. For those proposed works that do not require certification under the OEH *Construction Assessment Procedure*, NPWS 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.

Environmental supervision

22. A designated environmental supervisor must be appointed for the activity to ensure that all mitigation measures are effectively applied. This person must have the authority to stop work if environmental harm is likely. The environmental supervisor's details must be provided to Sapphire Coast Area Manager at least 48 hours prior to the commencement of the activity.

Reason: To minimise the risk of environmental harm.

Biodiversity

23. A Biodiversity Management Plan (BMP) is to be prepared to address the safeguards/mitigation measures listed for Biodiversity in Section 8 of the REF, and the Biodiversity Assessment Report (BAR) by NGH March 2022.
24. The BMP must be prepared by a suitably qualified ecologist to the satisfaction of NPWS and BCD prior to commencement of the activity.
25. The BMP must detail the requirements and procedures for pre-clearing surveys, unexpected finds procedures and the requirements for ongoing protection and impact mitigation for the potential *Acacia constablei* populations (refer NPWS ToS report dated March 2022 for mapped locations) and any threatened species detected as a result of the pre-clearing surveys.
26. The relevant requirements of the BMP including specific threat abatement and performance measures must be incorporated into the Construction Environmental Management Plan (condition 39) and Operational Environmental Management Plan (condition 53) to ensure that works comply with the REF and conditions of this approval.

27. The Biodiversity Management Plan shall provide details of the necessary conservation management actions, timeframes, responsibilities and performance measures for the long-term protection, threat abatement and monitoring of potential *Acacia constablei* populations (NPWS 2022) at Pulpit Rock⁵ and the Southern Brown Bandicoot and Long-nosed Potoroo populations surrounding the accommodation precincts.

Reason: To minimise the risk of environmental harm and ensure that impacts to biodiversity values are within that predicted and evaluated by the Biodiversity Assessment and REF.

Aboriginal Heritage

28. An Aboriginal cultural heritage induction is required for all construction workers and contractors to help avoid inadvertent impacts to Aboriginal objects and to ensure the management and mitigation measures described in the ACHAR (Lantern Heritage, December 2021) and any subsequent AHIP are met. The Aboriginal cultural heritage induction must be provided by an appropriate Aboriginal community member determined in consultation with the Registered Aboriginal Parties.

29. 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 must address the safeguards listed in the REF and ACHAR (Lantern Heritage, December 2021), and any subsequent addendum or amended REF and ACHAR, 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

Reason: To minimise the risk of environmental harm and ensure that impacts to Aboriginal Cultural Heritage values are within that documented and predicted by the REF

Historic Heritage

30. NPWS must apply the recommendations of the *Historical Assessment Report – Ben Boyd National Park* prepared by Lantern Heritage, dated February 2022 (Version 2.2), including the following prior to commencement of the activity:

- Conduct archival recording at all heritage items of local or state significance where impacts are anticipated within the curtilage of an item.
 - i. L2L-20-H3 - Water storage dam, Mowarry Point
 - ii. L2L-20-H4 - Mowarry homestead complex
 - iii. L2L-20-H5 - Ancillary features, Mowarry Point
 - iv. L2L-20-H7 - Hegartys Bay complex
 - v. L2L-20-H13 - L2L WalkingTrack

⁵ The population of Acacia near Pulpit Rock Carpark has not yet been confirmed as *A. constablei*. Miles 2022 concluded that the plants are most likely Black Wattle but that it would be necessary to wait until they mature to conclusively prove this (Miles 2022).

Given the species identity is inconclusive, a precautionary approach has been adopted meaning that it has been assumed that the species is present in the study area and that those plants observed near Pulpit Rock displaying *A. constablei* like characteristics are *A. constablei*.

- NPWS must apply for a Section 140 Permit for the following sites, where ground disturbance activities are anticipated and will need to be mitigated through monitoring and/or salvage excavation:
 - vi. L2L-20-H4 - Mowarry homestead complex
 - vii. L2L-20-H5 - Ancillary features, Mowarry Point
 - viii. L2L-20-H7 - Hegartys Bay complex
31. Approval must be sought under S.57 of the Heritage Act 1977 to cover minor ground disturbance works for the walking track within the curtilage of the SHR listed Green Cape Precinct. This can occur through a S.60 fast track works application or a standard S.60 works application.
 32. Appropriate conservation management documents must be prepared prior to the commencement of works for the heritage items associated with, or that will be impacted by, the proposal, as identified in the '*Historical Assessment Report – Ben Boyd National Park*' prepared by Lantern Heritage, dated February 2022 (Version 2.2), in order to reduce and manage the potential long-term visitor impacts of the Light to Light Walk Project.
 33. These conservation management documents must be prepared in accordance with the Heritage NSW guidelines available at: <https://www.heritage.nsw.gov.au/protecting-our-heritage/conservation-management-plans/>.
 34. The applicant must ensure that if unexpected archaeological deposits or relics not identified and considered in the supporting documents for this approval are discovered, work must cease in the affected area(s) and the Heritage Council of NSW must be notified. Additional assessment and approval may be required prior to works continuing in the affected area(s) based on the nature of the discovery

Reason: The proposal will make the identified heritage items more accessible to the public. As such, a new management framework will need to be put in place to ensure their future conservation and protection

HERITAGE INTERPRETATION PLAN

35. An interpretation plan must be prepared in accordance with the Heritage NSW publication '*Interpreting Heritage Places and Items Guidelines*' (2005), prior to the issue of a Construction Certificate/ Government certification.
36. The interpretation plan must detail how information on the history and significance of the heritage items associated with, or that will be impacted by, the proposal will be provided to the public, and make recommendations regarding public accessibility, signage and lighting. The plan must identify the types, locations, materials, colours, dimensions, fixings and text of interpretive devices that will be installed as part of this project and a timeframe for implementation.
37. The interpretation plan must incorporate any additional information, research, or findings that result from the mitigation measures recommended by the '*Historical Assessment Report – Ben Boyd National Park*' prepared by Lantern Heritage, dated February 2022 (Version 2.2).

Reason: Interpretation is an important part of every proposal for works at heritage places.

Soil and Water Management Plan

38. A Soil and Water Management Plan (SWMP) is to be prepared to the satisfaction of NPWS and BCD to address the safeguards/mitigation measures listed in Section 8 of the REF. The SWMP is to include but not be limited to:

- Measures to minimise soil disturbance to be installed during construction and to be incorporated into the CEMP (condition 39)
- Measures to be maintained during operation of the activities and accommodation precincts including any onsite wastewater treatment requirements
- Requirements for erosion and sedimentation control in accordance with Blue book
- Requirements for soil stabilisation and rehabilitation

Reason: To minimise and mitigate impacts to water quality for each stage and component of the activity

Construction Environmental Management Plan

39. 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 NPWS South Coast Branch Director or delegate and Director South East BCD for approval prior to the commencement of the activity. The applicant must comply with all measures identified in the approved CEMP.

40. The CEMP must provide the final track location in accordance with the approved Biodiversity Management Plan requirements for protection of threatened species habitats and any threatened species detected as a result of the pre-clearing surveys and to meet the requirements of the NPWS *Test of Significance report for Acacia constablei* (NPWS dated March 2022) requirements

41. The CEMP must address these conditions and detail the environmental management procedures to be applied during and after the completion of the activity including, but not limited to, the following:

- location of active work and storage areas
- measures to protect areas of environmental sensitivity including reporting and communication pathways
- measures to ensure clearing and construction impacts are restricted to those approved (1.2m maximum clearing track width, 5m temporary disturbance and accommodation precincts as assessed in the BAR (NGH February 2022) and as depicted in Appendix G of the REF (NGH February 2022))
- measures to protect Aboriginal Cultural Heritage and historic heritage including reporting and communication pathways
- measures to address environmental safeguards listed in Section 8 of the REF Review of Environmental Factors Light to Light Walk Upgrade *February 2022 Project number 21-945, Biodiversity Assessment Report* (NGH February 2022) and Soil and Water Management Plan requirements (Condition 38)
- measures to address requirements of the *Biodiversity Management Plan* (condition 24, above) including: pre-clearing protocols,

avoidance and micro-siting requirements around any habitat features detected as a result of pre-clearing surveys and as detailed in NPWS *Test of Significance report for Acacia constablei* (NPWS May 2022)

- management of contaminated materials and soils including and post construction site rehabilitation
- aircraft operations, 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 Sapphire Coast Area Manager and Ranger
- site induction and training arrangements
- site monitoring and reporting
- protocols for incidents and emergencies (including fire prevention in periods of very high fire danger) and contingency planning, including reporting pathways.

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

Vegetation management

42. Clearing for the activity is only permitted in the areas as identified in the approved CEMP & BMP and as depicted in Appendix G of the REF (NGH February 2022)
43. Prior to commencing clearing, areas not approved for clearing must be marked clearly on the ground via stakes or other suitable markers as identified in the CEMP (Condition 39 & BMP Condition 23)

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

Traffic and Aircraft management and public access

44. A Traffic and Aircraft Operations Management Plan (TAOMP) incorporating any necessary Traffic Control Plans (for road closures) and helicopter operations must be submitted to the NPWS Authorised Officer for approval at least 14 days prior to the commencement of the activity. The applicant must comply with all measures identified in the approved TAOMP.
45. The NPWS will take all reasonable steps to restrict public access during the construction period.

Reason: To minimise impacts on traffic in the immediate vicinity of the works.

OPERATIONAL CONDITIONS

Availability of REF determination and conditions

46. A copy of the REF, this determination and attached schedule of conditions must be kept at the site to which the REF applies and produced for inspection when requested by any authorised officer of NPWS.

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

Discovery of unknown Aboriginal and historic heritage values

47. If during the course of the activity:

- any Aboriginal objects, as defined under the NSW NPW Act 1974, are uncovered or discovered; and/or
- any relics, as defined under the NSW *Heritage Act 1977*, are uncovered or discovered.

then the NPWS will 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 NPWS.

48. 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 South Coast Branch Director or delegate; and
- recommence the activity only after receiving confirmation in writing from the local police or NPWS that it is appropriate to do so.

Reason: To protect cultural heritage values

Discovery of unknown biodiversity values

49. If, during the course of undertaking the activity, NPWS 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, then NPWS will ensure:

- all work will follow the unexpected finds procedure as detailed in the approved Biodiversity Management Plan

Reason: To minimise biodiversity impacts.

Bushfire Protection and emergency management procedures

50. A detailed Bushfire Protection Strategy (BPS) must be prepared and submitted for approval of the South Coast Branch Director or delegate prior to the Operation of the activity. The BPS must address the recommendations in Section 7 of ELA 2021 (in 'Eco Logical Australia 2021. *Final Bushfire Advice*

on Design Drawings for overnight facilities on the Light to Light Walk, Ben Boyd National Park. Prepared for Andrew Burns Architecture.'

51. Further Biodiversity investigation must be conducted if the Bushfire Protection strategy requires in any further clearing beyond that depicted for Activity 2 in Appendix G of the REF (NGH February 2022)
52. A bushfire specific strategy and emergency management procedures must be developed, and incorporated into the Ben Boyd NP Reserve Fire Management Strategy. This strategy must be developed for Hegartys Bay, Mowarry Beach and for the Light to Light Walk and must detail procedures to be followed in the event of an emergency or similar event including bushfires and include, but not be 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 annually

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

Operation Environment Management Plan (OEMP)

53. An Operation Environment Management Plan (OEMP) must be prepared and submitted 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.
54. The OEMP must:
 - address all requirements for impact mitigation, landscaping and rehabilitation listed in Section 8 of the REF (NGHG February 2022)
 - address recommendations provided by the approved BMP, ACHMP SWMP, *Historical Assessment Report – Ben Boyd National Park* prepared by Lantern Heritage, dated February 2022 (Version 2.2), (Appendix J of the REF) and CEMP (Condition 39)
 - identify the management actions and performance measures necessary to ensure the impacts of the activity do not exceed that assess in the REF
 - detail the rehabilitation requirements and performance criteria for redundant track sections
 - provide a monitoring and reporting strategy to demonstrate the REF safeguards and BMP performance measures for threatened species protection and redundant track rehabilitation are being met.
 - provide a program to monitor, evaluate and report on visitor numbers as a result of the activity
55. As described in the *Review of Environmental Factors Light to Light Walk Upgrade February 2022 Project number 21-945*, 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 Biodiversity Management Plan and Soil and Water Management Plans
- Project-specific and threat specific management strategy for both pests, weeds and disease
- The approved AHMP (recommendations to avoid and limit the impact of increased visitation on Aboriginal cultural heritage values)
- The approved Bushfire protection strategy (Condition 50)
- Conservation management documents and interpretation of Historic heritage as per recommendations of the *Historical Assessment Report – Ben Boyd National Park* prepared by Lantern Heritage, dated February 2022 (Version 2.2),

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

Notification of environmental harm

56. The contractor(s) 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.
57. Notifications must be made by telephoning the NPWS contact person.
58. The contractor must provide written details of the notification to NPWS within 7 days of the date on which the incident occurred.

Equipment and materials storage

59. NPWS will ensure any machinery, equipment or materials required for the activity is stored in existing cleared areas or areas determined to be cleared in accordance with the REF.
60. Machinery, vehicles, and other construction equipment must be cleaned (e.g. washed down) prior to entry into Ben Boyd National Park to remove any soil or plant matter.
61. 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.
62. All vehicles, including helicopters and machinery must only be parked within the designated staging area described in the approved REF and Traffic and Aircraft Operations Management Plan (Condition 44). At no time must parking occur which presents a danger to passing traffic.
63. 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.
64. All site buildings and associated services must be removed at the completion of the activity except with the approval of the NPWS Authorised Officer.

Reasons: To ensure that equipment is stored and secured in suitable locations and that any damage from the storage of vehicles and equipment is repaired.

Fire prevention and control

65. Machinery which may result in sparking or ignition must not be operated during a Park Fire Ban for Ben Boyd National Park or a declared Total Fire Ban for the zone which includes Ben Boyd National Park
66. All fuel and other similar flammable materials, such as gas cylinders and paint, must be stored in appropriate fire-resistant storage containers.

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

To ensure that fire response is undertaken quickly and in such a way as to minimise environmental and cultural heritage impacts

Demolition

67. NPWS will 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 EPA website for more information on management of asbestos material*
- ii. *Certification of demolition work may be required under the OEH Construction Assessment Procedures*

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

Operational hours and site access

68. Work must only be conducted between the following hours: 7am to 6pm Mondays to Fridays (except public holidays). Work may only occur on public holidays or weekends with prior written approval of the Sapphire Coast Area Manager.
69. NPWS will take all reasonable steps to restrict public access during the construction period. Where access restrictions such as temporary barriers (e.g. brightly coloured tape and/or moveable barriers) are required, appropriate signage must be erected by the applicant around the work area prior to commencement.

Reason: *To minimise impacts on visitors to the park and park neighbours, and to support the safe undertaking of the activity.*

Ground disturbance and topsoil

70. NPWS will ensure that during any excavation associated with the activity, contaminated soil will be managed as specified in the Construction Environmental Management Plan (CEMP) (Condition 39). Uncontaminated topsoil will be removed, stockpiled and re-spread in accordance with the CEMP and BMP (Condition 23), requirements
71. Vehicles and machinery must only use the track/s described in the REF.
72. Works must not be undertaken in wet weather if the proposed track surfaces and sites are going to be damaged by vehicles, equipment or works.
73. The activity must have appropriate erosion and sediment controls installed to adequately manage drainage.

74. Any areas including vehicular tracks which are damaged or disturbed in such a way that may lead to soil erosion must be stabilised immediately and rehabilitation undertaken within 7 days. All repairs and rehabilitation must be to a standard satisfactory to the NPWS Authorised Officer.

Reason: To ensure topsoil is managed appropriately and ground disturbance is minimised.

Threatened species and fauna protection

75. All works are to be undertaken with the approved BMP (Condition 23).
76. Prior to commencing vegetation clearing, the applicant must clearly mark the areas approved for clearing via stakes or other suitable markers identified in the CEMP (Condition 39)
77. All Threatened Species (TS) within the activity areas must be identified and habitat flagged/marked prior to works commencing. Any impacts to TS or their habitat not identified in the REF is not permitted.
78. No removal of a hollow-bearing tree is permitted as specified in the REF.
79. Any deep excavations left open at night must be left with ramps or openings such that any fauna entering has a means of escape. Excavations must be checked each morning for any trapped animals.

Reason: To minimise biodiversity impacts

Site rehabilitation

80. Rehabilitation for redundant track sections must be undertaken in accordance with the approved BMP.
81. Disturbance to low growing plant species must be minimised during vegetation removal and ground cover retained where possible.
82. Any restoration or rehabilitation works must only use locally sourced indigenous plant species, unless otherwise approved in writing by the NPWS Authorised Officer.
83. Any felled timber or vegetation must be dispersed throughout the adjacent environment to aid stabilisation of bare soils, enhance fauna habitat and reduce fire risk.

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

Exotic species management

84. All imported material must be from a source approved by NPWS and must not contain soil or vegetative matter.

Reason: To reduce the risk of weed invasion and to minimise biodiversity impacts.

Track maintenance

85. Track Maintenance works must be undertaken in accordance with the NPWS publication *A Field Guide for Erosion and Sediment Control Maintenance Practices on Unsealed Roads (April 2010)*, unless otherwise approved by the NPWS Authorised Officer.
86. A pre-works inspection with NPWS must be undertaken prior to the commencement of the activity to document the current condition of the road/site.

Reason: To minimise soil disturbance and erosion and maintain the condition of tracks.

Building

87. Concrete mixing or washout must not occur at the work site or within the Ben Boyd National Park
88. If concrete washout is to occur on-site the resultant effluent must be discharged to a fully lined impervious bunded container for later discharge offsite.

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

Explanatory notes:

Refer to <http://www.environment.nsw.gov.au/waste/asbestos/index.htm> for more information on management of asbestos material

Certification of demolition work may be required under the NPWS Construction Assessment Procedures

Waste management

89. 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*.
90. 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

91. Except as may be expressly provided in any other condition of this determination, NPWS will comply with section 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

Site rehabilitation

92. Any area being damaged by vehicular or other access to the site, must be repaired and rehabilitated within 7 days to the satisfaction of the Sapphire Coast Area Manager and in accordance with the relevant requirements of the BMP (Condition 23)

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

Certification on completion of works

93. Upon completion of building or infrastructure works and prior to occupation of the building subject to those works or infrastructure works being made operational, NPWS will ensure that the completed 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 or Australian Standards must be submitted to the satisfaction of the Southern Branch Director.

94. A final report (with photos) must be provided to Sapphire Coast Area Manager within 1 month of the completion or temporary cessation of the works.

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

To ensure works have been undertaken in accordance with the conditions of this approval.

Explanatory Notes:

i) Building works are as defined above, and include a change of use

ii) Infrastructure works are as defined above.

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