

Decision Statement for NPWS Proponents

REF CM9 file no.	DOC23/648121
Title of proposal:	Flood 21/22 - Karuah NP Infrastructure Repairs and Replacements
Park name:	Karuah National Park
Area/ NPWS Branch:	Hunter Coast, Hunter Central Coast Branch
Proponent:	Tim Meaker, Project Officer

Based on the Review of Environmental Factors (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 as the activity is not likely to significantly affect the environment
- a Species Impact Statement (SIS) is not required as the activity is not proposed to occur on land that is 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 activity may proceed, subject to the conditions specified in the attached Schedule 1 and subject to any necessary approvals (if approval required under other legislation) being obtained first.

AND

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 Act 1999* (EPBC Act).
- ☒ **is unlikely to*** impact significantly on **local council infrastructure**, including roads, water, sewer and stormwater, **local heritage items** listed by the council, and **flood patterns on flood liable land**.
 - ☐ a record of any required consultation with the appropriate council has been provided.
- ☒ **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: Susanne Callaghan

Signature:

Date:

Determination by Director Park Operations, Hunter Central Coast Branch*

I certify that I have reviewed and endorsed the contents of this REF document and, to the best of my knowledge, it is in accordance with the EP&A 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: Kylie Yeend

Signature:

Date:

Schedule 1: Conditions of Determination

REF DOC No. from CM9	DOC23/648121
Title of proposal:	Flood 21/22 Karuah NP Infrastructure Repairs and replacements
Proponent:	Tim Meaker, Project Officer
Park name:	Hunter Coast, Hunter Central Coast Branch
Area/ NPWS Branch:	Karuah National Park

General information about this Determination

References to the REF

All references to the REF are references to the following documents:

- Flood 21/22 - Karuah National Park Infrastructure Upgrades– DOC23/648121

Responsibilities of the proponent

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

Explanatory notes to conditions in this determination

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

Determination conditions

General conditions

Duration and scope of determination

1. The proponent must have commenced the activity within 5 years from the date of determination¹.
2. This determination only applies to those parts of the activity as identified in the Review of Environmental Factors (REF) that will be undertaken within Karuah National Park at the locations indicated in Map 1. The proponent 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 Karuah National Park or outside Karuah National Park.

Reasons²: 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.

¹ If the activity is not substantially commenced within this time, the proponent must seek direction from the NPWS Hunter Coast 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 a proponent. The reason does not form a part of the condition but is included for clarity.

Emergency works

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

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

Undertaking the activity

5. The 'activity' detailed in the REF 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.
6. In the event of any inconsistency between the REF and the conditions of this determination, the conditions of the determination shall prevail.
7. This determination, and the conditions of this determination, do not relieve the proponent 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. The proponent 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 2017. Any contractors on the site are to have appropriate insurances, including public liability insurance.
9. The proponent must provide the following to the Hunter Central Coast Branch Director or delegate prior to commencement of the activity:
 - the contact details and qualifications of a person who will be present on site to supervise the activity
 - a list of tradespersons, contractors or subcontractors who will be involved in undertaking the activity. The list must include the trade licence number and information on the expertise and experience of the tradesperson or contractor.

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

Prior to commencement of activity conditions

Approvals and compliance

10. Prior to the commencement of the activity, the proponent must obtain the following:
 - a consent via a Permit to Harm Aquatic under s 205 of the Vegetation Fisheries Management Act 1994 is required prior to the commencement of work at the Double Wharf boat ramp
 - written notice prior to the commencement of works at Hobarts Forest Road Bridge at Deep Creek and Tattersalls Road boat ramp is to be provided to NSW Fisheries, under s 199 of the Fisheries Management Act 1994

- written notice of the intention to carry out work in flood liable land is to be provide to the State Emergency Service, under s 2.13 of the State Environmental Planning Policy (Transport and Infrastructure) 2021
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:
- an environmental management plan (Condition 16)
 - an incident management plan (Condition 17)
 - an erosion and sediment control plan (Condition 19)
12. Prior to the commencement of the activity the proponent (including any employees, contractors, subcontractors and agents involved in undertaking the activity) must hold an on-site meeting with the Hunter Coast Area Manager (or their delegate).

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

Aboriginal participation

13. At least 14 day prior to the activity commencing the proponent must invite in writing/phone call representatives from the Karuah Local Aboriginal Land Council to monitor works associated with the undertaking of the activity, for the duration of the activity.

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

NPWS notification

14. The proponent must notify the NPWS Hunter Coast Area Manager in writing or by email at least 7 days prior to commencing the activity.

Reason: To ensure appropriate liaison with OEH staff.

Environmental management plan

15. An Environmental Management Plan (EMP) identifying the potential risks of the activity and how these will be managed must be prepared by the proponent and submitted to the Hunter Central Coast Branch Director or delegate for approval at least 48 hours prior to the commencement of the activity. The proponent must comply with all measures identified in the approved EMP. 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 proponent
 - contact protocols outlining procedures and any notifications to be given before works commence, together with contact details for the project manager and the NPWS Hunter Central Area Manager and Ranger
 - 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.

Incident and emergency preparedness and management

16. An Incident Management Plan must be prepared and kept on site by the proponent. The Plan must be submitted for approval of the Hunter Central Coast Branch Director or delegate prior to the commencement of the activity. The proponent must implement the approved plan. The content of the plan must be developed in consultation with the Hunter Coast Area Manager and must detail procedures to be followed in the event of an emergency or similar event including bushfires. These procedures must include, but are not limited to, the following:

- measures to ensure all workers are made aware of the plan and its provisions and be trained in the use of emergency equipment and procedures for evacuation and seeking refuge
- equipment to be tested in accordance with manufacturer's recommendations during training of employees
- the plan is to be displayed in a prominent location and should clearly highlight recommended actions and 24-hour contacts
- the plan must be reviewed/updated at least every 6 months.

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

Signage and public notification

17. Prior to the activity commencing, the proponent must erect signs at the park entrance and in the immediate vicinity of the activity site. Signs must be visible and clearly identify the proponent 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

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

Vegetation management

19. Prior to commencing the activity, the applicant must clearly mark the proposed access routes approved for clearing and those areas not approved for clearing via stakes or other suitable markers.

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

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

Availability of REF determination and conditions

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

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

Discovery of unknown Aboriginal and historic heritage values

23. If, during the course of the activity:
 - any Aboriginal objects, as defined under the National Parks and Wildlife Act, are uncovered or discovered; and/or
 - any relics, as defined under the *Heritage Act 1977*, are uncovered or discoveredthe proponent must cease work immediately and notify the Environment Line on 131555, unless the objects and/or relics are subject to the Aboriginal Heritage Impact Permit or a valid Heritage Permit. Work must not recommence until written advice to do so has been provided by NPWS.
24. Unless explicitly covered by the REF, 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 proponent must:
 - immediately cease the activity and not further harm these remains
 - secure the area so as to avoid further harm to the remains
 - notify the local police and Environment Line on 131555 as soon as practicable and at that time provide any available details about the nature and location of the remains
 - notify the Hunter Central Coast Branch Director or delegate, and
 - 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

25. If, during the course of undertaking the activity, the proponent 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 proponent must:
 - immediately cease all work likely to affect the threatened species or endangered ecological communities, or their habitats
 - inform the Hunter Central Coast Branch Director or delegate and/or the local NSW DPIE 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, and
 - not recommence work likely to affect the threatened species or endangered ecological communities, or their habitats until receiving written advice from NPWS and/or DPIE Fisheries to do so.

Reason: To minimise biodiversity impacts.

Notification of environmental harm

26. The proponent 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.
27. Notifications must be made by telephoning the Environment Line on 131555.
28. Once notification has been made the proponent must also contact the Hunter Central Coast Branch Director or delegate to seek direction on any further procedures to be implemented.
29. The proponent must provide written details of the notification to NPWS within 7 days of the date on which the incident occurred.

Equipment and materials storage

30. The proponent 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.
31. Machinery, vehicles and other construction equipment must be cleaned (e.g. washed down) by the proponent prior to entry into Karuah National Park to remove any soil or plant matter.
32. 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.

Fire prevention and control

33. Machinery which may result in sparking or ignition must not be operated during a Park Fire Ban for Karuah National Park or a declared Total Fire Ban for the zone which includes Karuah National Park.
34. The proponent must store fuel and other similar flammable materials, such as gas cylinders and paint, 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.

Operational hours / Site access

35. Work must only be conducted between the following hours: 7am to 6pm Mondays to Saturdays (except public holidays). Work may only occur on Sundays or public holidays with prior written approval of the Hunter Coast Area Manager.
36. The proponent must take reasonable steps to limit restrictions on public access during the activity. Where access restrictions are required, such as in areas where works are under way, temporary barriers (e.g. brightly coloured tape and/or moveable barriers) and appropriate signage must be erected by the proponent around the work area prior to commencement.
37. The proponent is to encourage staff and contractors involved in the activity to carpool to the site in light vehicles during the proposed activity.

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

Topsoil

38. The proponent must ensure that during any excavation associated with the activity, contaminated soil will be managed as specified in the Environmental Management Plan.

Uncontaminated topsoil will be removed and stockpiled in an area identified and agreed to in writing by the Hunter Coast Area Manager, and later re-spread across the disturbed area with the consent of the Hunter Coast Area Manager if the soil is deemed safe to re-use.

39. Works must not be undertaken in wet weather if the access tracks and track surfaces are going to be significantly damaged by vehicles, equipment or works. This can usually be defined by water starting to run in table drains.

Reason: To ensure topsoil is managed appropriately.

Waste management

40. 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*.

Reason: To ensure the appropriate management of waste material.

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

Waterway protection

41. Except as may be expressly provided in any other condition of this determination, the proponent 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

42. Upon completion of infrastructure works, and prior to infrastructure works being made operational, the proponent must ensure that the completed works are certified to comply with relevant Australian Standards as required by the *OEH Construction Assessment Procedure*. Evidence of compliance with Australian Standards must be submitted to the satisfaction of the Hunter Central Coast Branch Director.

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

Explanatory notes:

- 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 OEH Construction Assessment Procedure.*

Site rehabilitation

43. Within 7 days of any area being damaged by vehicular or other access to the site, the proponent must repair and rehabilitate such land to the satisfaction of the Hunter Central Coast Branch Director or delegate.

44. The proponent must only use locally sourced indigenous plant species for site restoration works, unless otherwise agreed in writing by the Hunter Coast Area Manager.

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