

# Annual EPBC Act Approval Compliance Report

EPBC Approval: 2018-8142

Reporting Period: 18 May 2020 - 18 May 2021

05 July 2021

DOC/21/109631

## Declaration of Accuracy

I declare that all the information and documentation supporting this compliance report is true and correct in every particular. I am authorised to bind the approval holder to this declaration and that I have no knowledge of that authorisation being revoked at the time of making this declaration.

In making this declaration, I am aware that sections 490 and 491 of the *Environment Protection and Biodiversity Conservation Act 1999* (Cth) (EPBC Act) make it an offence in certain circumstances to knowingly provide false or misleading information or documents. The offence is punishable on conviction by imprisonment or a fine, or both.



Signed:

Full Name:

Duncan Elliott

Position:

CEO of NELP, in my capacity as a statutory delegate of the Secretary to the Department of Transport (the Project Authority for North East Link Project).

Organisation:

North East Link Project (NELP) (a division of the Major Transport Infrastructure Authority (MTIA) (ABN 69 9812 087 82)

Date:

5 July 2021

# Document Control

Revision	Date	Revision Particulars
DRAFT	29 April 2021	Initial issue for review by Clayton Utz
DRAFT	21 June 2021	Initial issue for review by NELP Director of Land Planning and Environment
DRAFT	24 June 2021	Review by Defence (Simpson Barracks)

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# 1 Introduction

## 1.1 Purpose of report

This compliance report covers the reporting period between 18 May 2020 and 18 May 2021. The purpose of this report is to document compliance with the conditions for the *Environment Protection Biodiversity Conservation Act 1999* (EPBC Act) Approval 2018/8142 Condition 12. Details of compliance are provided, and where appropriate, the timing of completion of individual actions is identified.

The key dates that relate to the approval are detailed in Table 1.

The map as presented in the Variation to Approval 2018/8142 is available in Attachment A.

Action	Key date
Commonwealth Approval	12/12/2019
Commonwealth Variation Approval	28/08/2020
Commencement of the action	18/05/2020
Expiry of Commonwealth approval	03/10/2039

# 2 Description of activities

## 2.1 Overview of project

The North East Link Project (NELP) (a division of the Major Transport Infrastructure Authority (MTIA)), on behalf of the Victorian State government, is currently constructing the North East Link (NEL) project (referred to herein as 'the Project'). The NEL is a new freeway-standard road connection to the north-east of the Melbourne Central Business District that would complete Melbourne's ring road. Specifically, the NEL will connect the Metropolitan Ring Road (M80) to the Eastern Freeway and includes works along the Eastern Freeway from near Hoddle Street to Springvale Road.

The Project has been broken down into phases to allow seamless delivery. The initial phase - Early Works - allows for utilities and secondary infrastructure to be prepared prior to the major development. Works include the relocation of utilities, relocation of Sports and Recreation spaces and development of Park and Ride services for Public Transport linkages. The following phases - Primary Package, and Secondary Packages - are the divisions of the road connections relevant to the development and construction of the tunnel, and interchanges with the M80 and Eastern Freeway and ancillary works respectively.

## 2.2 Works undertaken during current reporting period

The following works have been undertaken in the approval area during the 2020-2021 reporting period:

### 2.2.1 Early Works

- Utilities relocations
- Power utilities relocations along Lower Plenty Road and Greensborough Road
- Communications utilities relocation along Lower Plenty Road and Greensborough Road
- Gas transmission main relocations along Greensborough road and Lower Plenty Road
- A number of utilities relocations works at Borlase Reserve, Yallambie including sewer reticulation, water mains, a pressure reducing station and Banyule Creek temporary diversion
- Replacement of a sewer main – YEMS
- Water mains replacement under the Eastern Freeway at Balwyn North at Koonung Creek
- Power relocations in the northern zone at Watsonia and Greensborough Road
- Communications utilities around the northern zone at Greensborough Road
- Ford Park Sport Ground Upgrades - upgrade to turf with drainage, new pavilions, lighting, car parking, players shelters, spectator facilities, running track, fencing, demolition of decommissioned buildings and redundant infrastructure
- Bulleen Park and Ride - New premium bus station incorporating multi-level carpark, bus interchange, road network improvements and a public open space 'green roof'.
- Simpson Barracks transfer of land - tree and vegetation clearing, erection of perimeter fence and fire/patrol roads (hardstand), construction of new buildings, demolition of decommissioned buildings, network communications
- Jemena Zone Substation - design and construct a Zone Substation to supply construction power for the North East Link tunnel boring machines

### 3 Approval conditions compliance

Table 1: Approval conditions compliance

Condition No.	Approval Condition	Condition Currently Triggered	Compliance	Comments and supporting documentation
1	Unless otherwise agreed to in writing by the Minister, the approval holder must not clear more than:	Yes		

Condition No.	Approval Condition	Condition Currently Triggered	Compliance	Comments and supporting documentation												
	a) 105 Matted Flax-lily plants and/or patches of Matted Flax-lily		Compliant	The Project has so far salvaged 27 of the 105 plants/patches of Matted Flax-lily and is therefore compliant within the scope of the approval												
				<table><tr><th>Pre-Clearance survey</th><th>Date of Salvage</th><th>Location</th><th>Number of plants</th></tr><tr><td>March 2020</td><td>01/04/2020</td><td>Simpson Barracks</td><td>Seven (7)</td></tr><tr><td>July 2020</td><td>02/09/2020</td><td>Simpson Barracks</td><td>20</td></tr></table>	Pre-Clearance survey	Date of Salvage	Location	Number of plants	March 2020	01/04/2020	Simpson Barracks	Seven (7)	July 2020	02/09/2020	Simpson Barracks	20
				Pre-Clearance survey	Date of Salvage	Location	Number of plants									
				March 2020	01/04/2020	Simpson Barracks	Seven (7)									
July 2020	02/09/2020	Simpson Barracks	20													
The locations of the Matted Flax-lily salvaged to date are presented in Attachment B - Salvaged MFL Locations																



Condition No.	Approval Condition	Condition Currently Triggered	Compliance	Comments and supporting documentation
	b) 11.866 hectares of Plains Grassy Woodland within Simpson Barracks		Compliant	<p>The Project has as of 18 May 2021 cleared 2.706 ha of Plains Grassy Woodland of the 11.866 ha allowed in this condition and is therefore compliant with this approval condition</p> <p>The Early Works contractors have designed and constructed the new boundary fence, access track, ANZAC day area and associated utilities relocations at Simpson Barracks. Native vegetation removal for Early Works is reported through 'Native Vegetation Removal' reports produced for CPB by their ecology subcontractors. As per the Victorian Guidelines. To date, the ecologists engaged by CPB have confirmed that 2.706 ha of Plains Grassy Woodland has been removed at Simpson Barracks. The total area to be removed at Simpson Barracks will be confirmed upon completion of design of the Project's Primary Package</p>
2	To compensate for the removal of up to 105 Matted Flax-lily plants and/or patches of Matted Flax-lily:	Yes		

Condition No.	Approval Condition	Condition Currently Triggered	Compliance	Comments and supporting documentation
	a) Prior to any clearance, the approval holder must undertake a pre-clearance survey to identify the total numbers of Matted Flax-lily plants and patches of Matted Flax-lily that, if not salvaged, would be impacted by the approved action		Compliant	As outlined above, pre-clearance surveys have occurred in March 2020 and July 2020 prior to salvaging events of the Matted Flax-lily. The pre-clearance surveys were undertaken in accordance with the Matted Flax-lily Salvage and Translocation Plan (August 2020). The project is therefore compliant with this condition
	b) Prior to construction, the approval holder must salvage all Matted Flax-lily plants and patches of Matted Flax-lily that would otherwise be impacted due to the approved action. In the event that construction occurs in stages, prior to commencing each stage the approval holder must salvage all Matted Flax-lily plants and patches of Matted Flax-lily that would otherwise be impacted by that stage of work		Compliant	<p>MFL salvage and translocation has commenced for the early works stage in accordance with the Matted Flax-lily Salvage and Translocation Plan (August 2020) and is therefore compliant with this condition</p> <p>Salvage (removal) will occur in two broad stages; to facilitate the Early Works program (current), and a larger salvage to facilitate the Primary and Secondary Packages of Works (future). NELP is recording salvage and translocation information as it is completed in a Matted Flax-lily Asset Management Register spreadsheet</p>

Condition No.	Approval Condition	Condition Currently Triggered	Compliance	Comments and supporting documentation
	c) The approval holder must propagate the salvaged Matted Flax-lily plants and patches and translocate them, excepting some Matted Flax-lily plants and patches that may be kept as an insurance population, to a recipient site. The number of Matted Flax-lily plants and patches kept as an insurance population must not be the majority of Matted Flax-lily plants or patches propagated. All propagated Matted Flax-lily plants and patches of Matted Flax-lily, excepting those kept as an insurance population, must be translocated within 2 years of salvage of each Matted Flax-lily plant and patch of Matted Flax-lil.		Compliant	As outlined in the Matted Flax-lily Salvage and Translocation Plan (August 2020) sufficient material was taken from each plant to propagate the required six (6) clones per plant/patch, so the project is therefore compliant with this condition. The individuals were salvaged and processed at the selected nursery in accordance with the Matted Flax-lily Salvage and Translocation Plan (August 2020). At least six (6) clones have been propagated from each original individual and are surviving at time of reporting. No MFL have been translocated to the recipient sites at this stage

Condition No.	Approval Condition	Condition Currently Triggered	Compliance	Comments and supporting documentation
	d) The approval holder must manage the recipient site for a period of 10 years commencing on the date that the first Matted Flax-lily plant or patch of Matted Flax-lily is translocated to the recipient site		Not Applicable	Translocation at the recipient sites has not yet occurred
	e) The approval holder must monitor the recipient site for a period of at least 10 years, commencing on the date that the first Matted Flax-lily plant or patch of Matted Flax-lily is translocated to the recipient site and, concluding no sooner than 5 years after the last Matted Flax-lily plant or patch of Matted Flax-lily is translocated to the recipient site		Not Applicable	Translocation at the recipient sites has not yet occurred

Condition No.	Approval Condition	Condition Currently Triggered	Compliance	Comments and supporting documentation
	f) The approval holder must, until otherwise agreed in writing by the Minister, provide the Department with a report each year as part of the compliance report, which must detail the numbers of Matted Flax-lily plants and patches that have been translocated to the recipient site and the numbers of translocated and propagated plants and patches that have survived until the end of the period reported on. The report must also document likely threats to the translocated Matted Flax-lily plants and patches and any management actions, including corrective actions, taken or proposed		Not Applicable	Translocation at the recipient sites has not yet occurred
3	By implementing contingency measures, the approval holder must ensure that a minimum of 85 per cent of 4 times the number of salvaged Matted Flax-lily plants	No	Not Applicable	Not Applicable - translocation at the recipient sites has not yet occurred

Condition No.	Approval Condition	Condition Currently Triggered	Compliance	Comments and supporting documentation
	and patches have survived at the recipient site at least 5 years after the date the last Matted Flax-lily plant or patch, excepting plants or patches from the insurance population, is translocated to the recipient site. The approval holder must ensure that the location of each translocated Matted Flax-lily plant and patch is recorded in the Atlas of Living Australia and Victorian Biodiversity Atlas within 6 months of being translocated			
4	If the Minister is not satisfied that the requirements of condition 3 have been, or are likely to be, achieved, and has given the approval holder written notice to this effect, the approval holder must:	No		

Condition No.	Approval Condition	Condition Currently Triggered	Compliance	Comments and supporting documentation
	a) Within 1 year of receiving written notification by the Minister to this effect, plant propagated Matted Flax-lily plants and/or patches to the recipient site in accordance with directions made by the Minister		Not Applicable	Not Applicable - translocation has not yet occurred
	b) Provide the Department with a report each year for an additional 5 years as part of the compliance report, which must detail the numbers of Matted Flax-lily plants and patches that have been translocated to the recipient site and the numbers of translocated and propagated plants and patches that have survived until the period reported on. The report must also document likely threats to the translocated Matted Flax-lily plants and patches and any management actions, including		Not Applicable	Not Applicable - translocation has not yet occurred

Condition No.	Approval Condition	Condition Currently Triggered	Compliance	Comments and supporting documentation
	corrective actions, taken or proposed			
	c) Each 12 months, for the following 5 years, the approval holder must translocate an additional number of Matted Flax-lily plants and/or patches to the recipient site equal or greater than the number which have not survived during the preceding 12 months. The translocated Matted Flax-lily plants and patches must be sourced from the plants and patches propagated as required under condition 2c		Not Applicable	Not Applicable - translocation has not yet occurred



Condition No.	Approval Condition	Condition Currently Triggered	Compliance	Comments and supporting documentation
5	Prior to the commencement of the action at Simpson Barracks, to compensate for the loss of up to 11.866 hectares of Plains Grassy Woodland, the approval holder must establish an offset in accordance with the Victorian Government Guidelines and provide to the Department written evidence that DELWP is satisfied that the offset meets the requirements of the Victorian Government Guidelines. Within 2 weeks of the offset being established, the approval holder must provide the Department with evidence that the offset has been established	Yes	Non- compliant	<p>In accordance with Victorian Government Guidelines the project has established native vegetation offsets to compensate for the loss of the 2.706ha of the allowed 11.86ha of Plains Grassy Woodland removed to date at Simpson Barracks; the project is therefore compliant with this part of the condition. Offsets were secured (31/03/2020) well in excess of the 1.344 General Habitat Units indicated for the current state of removal of Plains Grassy Woodland at Simpson Barracks, evidence of which was provided in a letter sent to the Department on 28/05/2020. This letter included written evidence of the established offsets in the form of Native Vegetation Offset Credit Extracts from DELWP which demonstrates that DELWP are satisfied that the offsets are in accordance with the Victorian Government Guidelines</p> <p>As the letter (28/05/2020) was sent to DAWE more than two weeks after the offsets were established (31/03/2020), NELP is in breach of Condition 5 and is required as per Condition 13 to notify the Department of the administrative non-compliance within two business days of becoming aware of the non-compliance. NELP has notified the Department in the same letter on 28/05/2020</p>
6	The approval holder must implement the Studley Park Gum Management Framework for the period of effect of the approval. The approval holder must provide	Yes	Compliant	A Studley Park Gum Management Framework (August 2020) has been implemented for the period of effect of the approval, the project is therefore compliant with this condition. The Studley Park Gum Management Framework is available on the NELP website

Condition No.	Approval Condition	Condition Currently Triggered	Compliance	Comments and supporting documentation
	the Department with a report, as part of the compliance report, every year for 3 years, commencing from the date the first Studley Park Gum tree is planted in accordance with the Studley Park Gum Management Framework. This report must detail the number, condition, and threats faced by the Studley Park Gum trees that have been planted, as well as any maintenance or corrective actions that have been taken or are proposed			A Studley Park Gum Management Plan has been developed in consultation with DELWP and the land managers of the recipient sites as per the Studley Park Gum Management Framework obligations. Studley Park Gum seeds have been collected from trees to be impacted by the project and are being stored by the Royal Botanic Gardens Victoria, viability testing provided good results Tubestock is being grown by the Royal Botanic Gardens Victoria from the seed collected and the two recipient sites are currently being prepared for planting. A contractor has been appointed to undertake the planting and maintenance with the planting to commence in late May 2021. The next annual compliance report will include a report of the first year following the first planting event of the Studley Park Gums
7	The approval holder must notify the Department in writing of the date of commencement of the action within 10 business days after the date of commencement of the action	Yes	Compliant	Letter was sent to DAWE on 28 May 2020 notifying of the commencement of the action on 18 May 2020, the project is therefore compliant with this condition

Condition No.	Approval Condition	Condition Currently Triggered	Compliance	Comments and supporting documentation
8	The approval holder must maintain accurate and complete compliance records	Yes	Compliant	NELP is maintaining compliance records in accordance with this condition. The project is therefore compliant with this condition
9	If the Department makes a request in writing, the approval holder must provide electronic copies of requested compliance records to the Department within the timeframe specified in the request, or an alternative timeframe agreed in writing with the Department	No	Not Applicable	Not Applicable- no request have been made
10	The approval holder must:	Yes		

Condition No.	Approval Condition	Condition Currently Triggered	Compliance	Comments and supporting documentation
	a) Publish the Salvage and Translocation Plan and Studley Park Gum Management Framework, not as an attachment or appendix within a larger document, on the website within 20 business days of the date of this approval of the action, or of the date a revised action management plan is submitted to the Minister or the Department, unless otherwise agreed to in writing by the Minister		Compliant	Plans were initially published on the North East Link website on 19/12/2019. On August 2020, the Federal Minister for the Environment updated the conditions under the EPBC Act and the Salvage and Translocation Plan and Studley Park Gum Management Framework were revised on August 2020 and these plans continue to be available on the website. The project is therefore compliant with this condition
	b) Exclude or redact sensitive ecological data from plans published on the website or provided to a member of the public; and		Compliant	No information was required to be redacted. The project is therefore compliant with this condition
	c) Keep plans published on the website until the end date of this approval		Compliant	The revised Plans were published on August 2020 and these plans continue to be available on the website. The project is therefore compliant with this condition

Condition No.	Approval Condition	Condition Currently Triggered	Compliance	Comments and supporting documentation
11	The approval holder must ensure that any monitoring data (including sensitive ecological data), surveys, maps, and other spatial and metadata required under conditions of this approval, is prepared in accordance with the Department's Guidelines for biological survey and mapped data (2018) and submitted electronically to the Department as part of the reports required under condition 2f, condition 4b and condition 6	No	Not Applicable	Not Applicable- monitoring events have not commenced in relation to Conditions 2f, 4b and 6

Condition No.	Approval Condition	Condition Currently Triggered	Compliance	Comments and supporting documentation
12	Unless otherwise agreed to in writing by the Minister, the approval holder must prepare a compliance report for each 12 month period following the date of commencement of the action until the approval expires, or otherwise in accordance with an annual date that has been agreed to in writing by the Minister. The approval holder must:	Yes		This report has been prepared to satisfy this condition. It will be published on the NELP website. The project is therefore compliant with this condition
	a) Publish each compliance report on the website within 60 days following the relevant 12 month period;		Compliant	The commencement of the action occurred 18th May 2020, and as such, the due date for this report is 16th July 2020. The project is therefore compliant with this condition

Condition No.	Approval Condition	Condition Currently Triggered	Compliance	Comments and supporting documentation
	b) Notify the Department by email that a compliance report has been published on the website and provide the weblink for the compliance report within five business days of the date of publication;		Compliant	The Department will be notified by email at such time as the report is published. The project is therefore compliant with this condition
	c) Keep all compliance reports publicly available on the website until this approval expires;		Compliant	The report will remain publicly available on the website. (A link will be provided to DAWE as per Condition 12b). The project is therefore compliant with this condition
	d) Exclude or redact any sensitive ecological data or other sensitive information from compliance reports published on the website; and		Not Applicable	The compliance report has been reviewed to determine if any sensitive ecological data was required to be redacted

Condition No.	Approval Condition	Condition Currently Triggered	Compliance	Comments and supporting documentation
	e) Where any sensitive ecological data or other sensitive information has been excluded from the version published, submit the full compliance report to the Department within 5 days of publication		Not Applicable	The compliance report has been reviewed to determine if any sensitive ecological data was required to be redacted
13	The approval holder must notify the Department in writing of any: incident, non-compliance with the conditions, or non-compliance with the commitments made in plans. The notification must be given as soon as practicable, and no later than two business days after becoming aware of the incident or non-compliance. The notification must specify:	Yes		
	a) Any condition which is or may be in breach;		Compliant	A letter was sent to the Department 28/05/2020 providing evidence that the Plains Grassy Woodlands offset has been established and secured



Condition No.	Approval Condition	Condition Currently Triggered	Compliance	Comments and supporting documentation
				(31/03/2020). As the letter was sent more than two weeks after the offsets were established, NELP is in breach of Condition 5 and was required to notify the Department of the administrative non-compliance. NELP became aware of the non-compliance while preparing the letter providing evidence that the offset has been established. NELP therefore notified the Department of the non-compliance in the same letter. This letter complied with the Condition 13 of notifying DAWE within two business days of becoming aware of the non-compliance. The project is therefore compliant with this condition
	b) A short description of the incident and/or non-compliance; and		Compliant	The letter sent to the Department (28/05/2020) provided a short description of the non-compliance. The project is therefore compliant with this condition
	c) The location (including co-ordinates), date and time of the incident and/or non-compliance. In the event the exact information cannot be provided, provide the best information available		Compliant	The letter sent to the Department (28/05/2020) provided details of the non-compliance. The project is therefore compliant with this condition

Condition No.	Approval Condition	Condition Currently Triggered	Compliance	Comments and supporting documentation
14	The approval holder must provide to the Department the details of any incident or non-compliance with the conditions or commitments made in plans as soon as practicable and no later than 10 business days after becoming aware of the incident or non-compliance, specifying:	Yes		Refer to comments in relation to Conditions 5 and 13  As the non-compliance was administrative and Condition 5 has now been met, Conditions 14 a- c are not necessary. The project is therefore compliant with this condition
	a) Any corrective action or investigation which the approval holder has already taken or intends to take in the immediate future;		Compliant	Refer to comment above
	b) The potential impacts of the incident or non-compliance; and		Compliant	Refer to comment above
	c) The method and timing of any remedial action that will be undertaken by the approval holder		Compliant	Refer to comment above

Condition No.	Approval Condition	Condition Currently Triggered	Compliance	Comments and supporting documentation
15	The approval holder must ensure that independent audits of compliance with the conditions are conducted as requested in writing by the Minister	No	Not Applicable	Not Applicable- no request has been made for an independent audit
16	For each independent audit, the approval holder must:	No		
	a) Provide the name and qualifications of the independent auditor and the draft audit criteria to the Department		Not Applicable	Not applicable- refer to Condition 15
	b) Only commence the independent audit once the audit criteria have been approved in writing by the Department		Not Applicable	Not Applicable- refer to Condition 15

Condition No.	Approval Condition	Condition Currently Triggered	Compliance	Comments and supporting documentation
	c) Submit an audit report to the Department within the timeframe specified in the approved audit criteria		Not Applicable	Not Applicable- refer to Condition 15
17	The approval holder must publish the audit report on the website within 10 business days of receiving the Department's approval of the audit report and keep the audit report published on the website until the end date of this approval	No	Not Applicable	Not Applicable- refer to Condition 15
18	Within 30 days of the completion of the action, the approval holder must notify the Department in writing and provide completion data	No	Not Applicable	Not Applicable- the action has not been completed

## 4 New environmental risks

At this stage of the project, no new environmental risks have been identified. This is the first compliance report for the project and the scale of works required to relocate utilities ahead of the NEL Primary and Secondary packages are relatively minor by comparison to the broader project. Project environmental risks are currently managed through NELP's Early Works Contractor's ISO 14001-compliant environmental management systems.

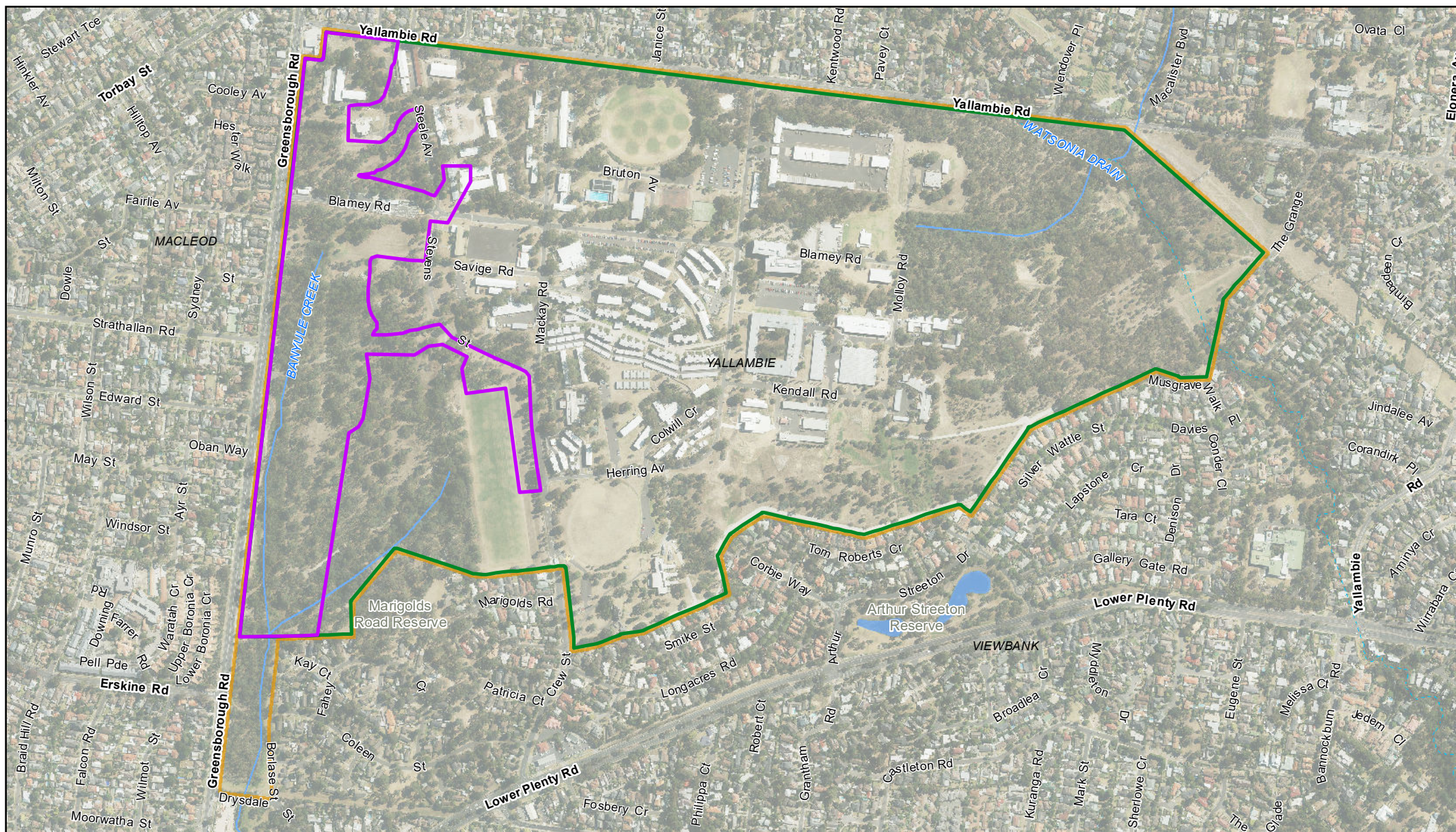
## 5 Attachments

Table 2 List of attachments

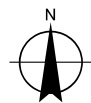
Attachment	Document Title
A	Simpson Barracks Map
B	Salvaged MFL locations

## ATTACHMENT A





Paper Size A4  
0 50 100 200 300  
Meters  
Map Projection: Transverse Mercator  
Horizontal Datum: GDA 1994  
Grid: GDA 1994 MGA Zone 55



**Legend**  
 Simpson Barracks EPBC assessment area  
 Barracks fenceline  
 Commonwealth land



North East Link Project  
Simpson Barracks Map  
EPBC Approval: 2018-8142

Job Number 31-35006  
Revision A  
Date 31 Jul 2020



## ATTACHMENT B





- Legend**
- ★ MFL salvaged
  - ▭ Simpson Barracks EPBC assessment area





- Legend**
- ★ MFL salvaged
  - ▭ Simpson Barracks EPBC assessment area