

APPROVAL

Gippsland Line Upgrade, Corridor Works – Pakenham to Longwarry East, Victoria (EPBC 2019/8563)

This decision is made under sections 130(1) and 133(1) of the *Environment Protection and Biodiversity Conservation Act 1999* (Cth) (the EPBC Act). Note that section 134(1A) of the EPBC Act applies to this approval, which provides in general terms that if the approval holder authorises another person to undertake any part of the action, the approval holder must take all reasonable steps to ensure that the other person is informed of any conditions attached to this approval, and that the other person complies with any such condition.

Details

Person to whom the approval is granted (approval holder)	DEPARTMENT OF TRANSPORT
ACN or ABN of approval holder	ABN: 69 981 208 782
Action	To upgrade the railway corridor of the Gippsland Line between Pakenham and Longwarry, Victoria [See EPBC Act referral 2019/8563].

Approval decision

My decision on whether or not to approve the taking of the action for the purposes of the controlling provision for the action is as follows.


Controlling Provisions

Listed Threatened Species and Communities	
Section 18	Approve
Section 18A	Approve

Period for which the approval has effect

This approval has effect until 30 June 2041.

Decision-maker

Name and position	Kim Farrant Assistant Secretary Environment Assessments (Vic, Tas) and Post Approvals Branch
Signature	
Date of decision	25 June 2021

Conditions of approval

This approval is subject to the conditions under the EPBC Act as set out in ANNEXURE A.

ANNEXURE A – CONDITIONS OF APPROVAL

Part A – Conditions specific to the action

1. The approval holder must not **clear** more than 0.901 ha of **Southern Brown Bandicoot habitat** in the **action area**. The approval holder must not **clear** any **Southern Brown Bandicoot habitat** outside the **action area**.
2. To compensate for the loss of habitat connectivity, the approval holder must install **culverts** in areas where the rail line will be duplicated. The approval holder must not commence **construction** unless a **plan** specifying the number and locations of **culverts** to be installed has been approved in writing by the **Minister**.
3. Within twelve months of the **commencement of the action**, the approval holder must **secure** the **offset area**.
4. Within 10 **business days** of the **offset area** being **secured**, the approval holder must provide the **department** with:
 - written evidence demonstrating that the **offset area** has been **secured**; and
 - **shapefiles** and the **offset attributes** for the **offset area**.
5. The approval holder must commence implementing the **Offset Management Plan** for the **offset area** prior to the **commencement of the action**, and must continue to implement the **Offset Management Plan** for the duration of the approval.

Part B – Standard administrative conditions

Notification of date of commencement of the action

6. 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**.
7. If the **commencement of the action** does not occur within 5 years from the date of this approval, then the approval holder must not **commence the action** without the prior written agreement of the **Minister**.

Compliance records

8. The approval holder must maintain accurate and complete **compliance records**.
9. If the **department** makes a request in writing, the approval holder must provide electronic copies of **compliance records** to the **department** within the timeframe specified in the request.

Note: **Compliance records** may be subject to audit by the **department** or an independent auditor in accordance with section 458 of the **EPBC Act**, and or used to verify compliance with the conditions. Summaries of the result of an audit may be published on the **department's** website or through the general media.

Preparation and publication of plans

10. The approval holder must keep the **Offset Management Plan** published on the **website** until the end date of this approval.

Annual compliance reporting

11. The approval holder must prepare a **compliance report** addressing each condition of this approval for each 12 month period following the date of **commencement of the action**, or otherwise in accordance with an annual date that has been agreed to in writing by the **Minister**. The approval holder must:

- a. publish each **compliance report** on the **website** within 60 **business days** following the relevant 12 month period
- 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 5 **business days** of the date of publication
- c. keep all **compliance reports** publicly available on the **website** until this approval expires
- d. exclude or redact **sensitive ecological data** from **compliance reports** published on the **website**
- e. where any **sensitive ecological data** has been excluded from the version published, submit the full **compliance report** to the **department** within 5 **business days** of publication.

Note: **Compliance reports** may be published on the **department's** website.

Reporting non-compliance

12. 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 2 **business days** after becoming aware of the **incident** or non-compliance. The notification must specify:
 - a. any condition which is or may be in breach
 - b. a short description of the **incident** and/or non-compliance
 - 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.
13. 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:
 - a. any corrective action or investigation which the approval holder has already taken or intends to take in the immediate future
 - b. the potential impacts of the **incident** or non-compliance
 - c. the method and timing of any remedial action that will be undertaken by the approval holder
 - d. the measures put in place to prevent a reoccurrence of the **incident** of non-compliance.

Independent audit

14. The approval holder must ensure that an **independent audit** of compliance with the conditions of approval is conducted for the 36 month period starting from the **commencement of the** action, and thereafter that an **independent audit** of compliance with the conditions of approval is conducted when requested by the **Minister**.
15. For each **independent audit**, the approval holder must:
 - a. provide the name and qualifications of the proposed **independent** auditor and the draft audit criteria to the **department** before the end of the subject time period;
 - b. only commence the **independent audit** once the audit criteria and auditor have been approved in writing by the **department**; and
 - c. submit an audit report to the **department** within the timeframe specified in the approved audit criteria.
16. 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.

Completion of the action

17. Within 30 **business days** after whichever is the earlier of
- the **completion of the action** or
 - 60 **business days** before the end date of the period for which the approval has effect,
- the approval holder must notify the **department** in writing of the date of the **completion of the action** and submit all **completion data** to the **department**.

Part C - Definitions

In these conditions, except where contrary intention is expressed, the following definitions are used:

Action area means the location of the proposed action, as demarcated by the black line labelled 'Referral Area' in Maps 1 to 15 in Attachment A.

Business day means a day that is not a Saturday, a Sunday or a public holiday in the state or territory of the action.

Clear/ing means the cutting down, felling, thinning, logging, removing, killing, destroying, poisoning, ringbarking, uprooting or burning of vegetation (but not including weeds – see the *Australian weeds strategy 2017 to 2027* for further guidance).

Commencement of the action/commence the action means the first instance of any specified activity associated with the action including **clearing** and **construction**. **Commencement of the action** does not include minor physical disturbance necessary to:

- undertake pre-clearance surveys or monitoring programs
- install signage and /or temporary fencing to prevent unapproved use of the project area
- protect environmental and property assets from fire, weeds and pests, including installation of temporary fencing, and use of existing surface access tracks
- install temporary site facilities for persons undertaking pre-commencement activities so long as these are located where they have no impact on the **protected matters**

Completion data means an environmental report and spatial data clearly detailing how the conditions of this approval have been met. The **Department's** preferred spatial data format is **shapefile**.

Completion of the action means the date on which all specified activities associated with the action have permanently ceased.

Compliance records means all documentation or other material in whatever form required to demonstrate compliance with the conditions of approval in the approval holder's possession or that are within the approval holder's power to obtain lawfully.

Compliance reports means written reports:

- providing accurate and complete details of compliance, **incidents**, and non-compliance with the conditions and the **plans**
- consistent with the **Department's Annual Compliance Report Guidelines** (2014)
- include a **shapefile** of any clearance of any **protected matters**, or their habitat, undertaken within the relevant 12 month period
- annexing a schedule of all **plans** prepared and in existence in relation to the conditions during the relevant 12 month period.

Construction means the erection of a building or structure that is or is to be fixed to the ground and wholly or partially fabricated on-site; the alteration, maintenance, repair or demolition of any building or structure; preliminary site preparation work which involves breaking of the ground

(including pile driving); the laying of pipes and other prefabricated materials in the ground, and any associated excavation work; but excluding geotechnical investigation and the installation of temporary fences and signage.

Culverts means **Southern Brown Bandicoot**-specific culverts, designed and constructed in accordance with the *Guidelines for best-practice management of modified habitats for Southern Brown Bandicoots – road and rail impacts* (Masters, N., Taylor, R. and MacLagan, S. 2019).

Department means the Australian Government agency responsible for administering the **EPBC Act**.

EPBC Act means the *Environment Protection and Biodiversity Conservation Act 1999* (Cth).

Incident means any event which has the potential to, or does, impact on one or more **protected matter(s)** other than as authorised by this approval.

Independent audit means an audit conducted by an independent and **suitably qualified person** as detailed in the *Environment Protection and Biodiversity Conservation Act 1999 Independent Audit and Audit Report Guidelines* (2019)

Independent means a person(s) that does not have any individual, or by employment or family affiliation, conflicting or competing interest(s) with the approval holder; the approval holder's staff, representatives or associated persons; or the action, including any personal, financial, business or employment relationship, other than receiving payment for undertaking the role for which the condition requires an independent person.

Minister means the Australian Government Minister administering the **EPBC Act** including any delegate thereof.

Offset area means the location of the offset which must be secured under condition 3 as demarcated by the black line labelled 'Proposed EPBC Offset Site Area (2019/8563)' in Attachment B.

Offset attributes means relevant features of the **offset area**, including the **EPBC Act** reference number, the physical address of the **offset area**, coordinates of the boundary points in decimal degrees, and the **protected matter(s)** present at the **offset area**.

Offset Management Plan means the following document:

- *GLU-AJM-PWD-PWD-MPL-XLP-NAP-0000905 Pakenham to Longwarry East (EPBC 2019/8563) Southern Brown Bandicoot Offset Management Plan*, AJM Joint Venture for Rail Projects Victoria, Rev D. Dated 19 March 2021 and provided to the Department on 26 March 2021;

or a subsequently revised version currently approved by the **Minister** in writing.

Plan(s) means any of the documents required to be prepared, approved by the **Minister**, implemented by the approval holder and/or published on the **website** in accordance with these conditions (includes action management plans and/or strategies).

Protected matter means a matter protected under a controlling provision in Part 3 of the **EPBC Act** for which this approval has effect.

Secure/ed means to establish and register a covenant for the long-term protection of the property for the conservation of the relevant **protected matters**, under Section 3A of the *Victorian Conservation Trust Act 1972* or under a section 69 agreement under the *Conservation, Forests and Lands Act 1987*.

Sensitive ecological data means data as defined in the Australian Government Department of the Environment (2016) *Sensitive Ecological Data – Access and Management Policy V1.0*.

Shapefile means location and attribute information of the action provided in an Esri shapefile format. Shapefiles must contain '.shp', '.shx', '.dbf' files and a '.prj' file that specifies the projection/geographic coordinate system used. Shapefiles must also include an '.xml' metadata file that describes the shapefile for discovery and identification purposes.

Southern Brown Bandicoot means the **EPBC Act** listed threatened species *Isoodon obesulus obesulus*.

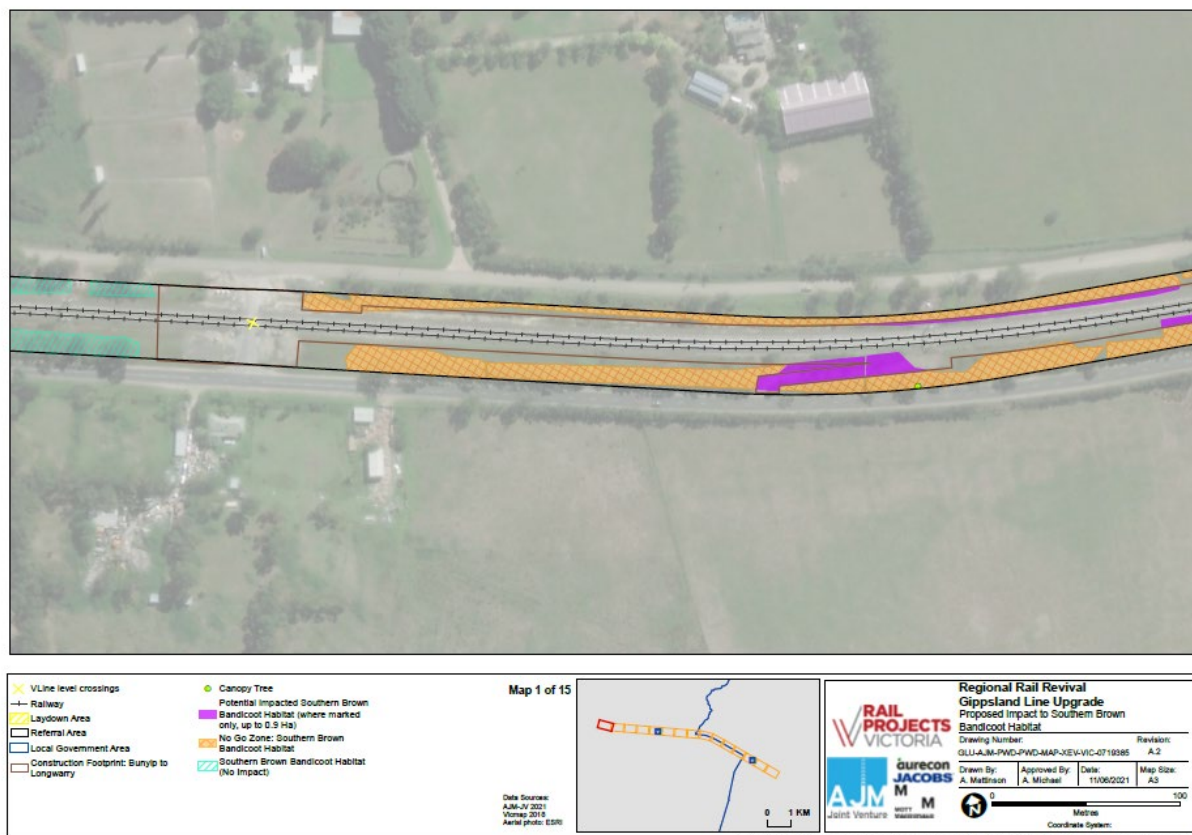
Southern Brown Bandicoot habitat means habitat suitable for the **Southern Brown Bandicoot**, as demarcated in Maps 1 to 15 in Attachment A by the yellow hatching labelled "Potential Impacted Southern Brown Bandicoot Habitat", the orange hatching labelled "No Go Zone: Southern Brown Bandicoot Habitat", or the purple hatching labelled "Southern Brown Bandicoot Habitat (No Impact)".

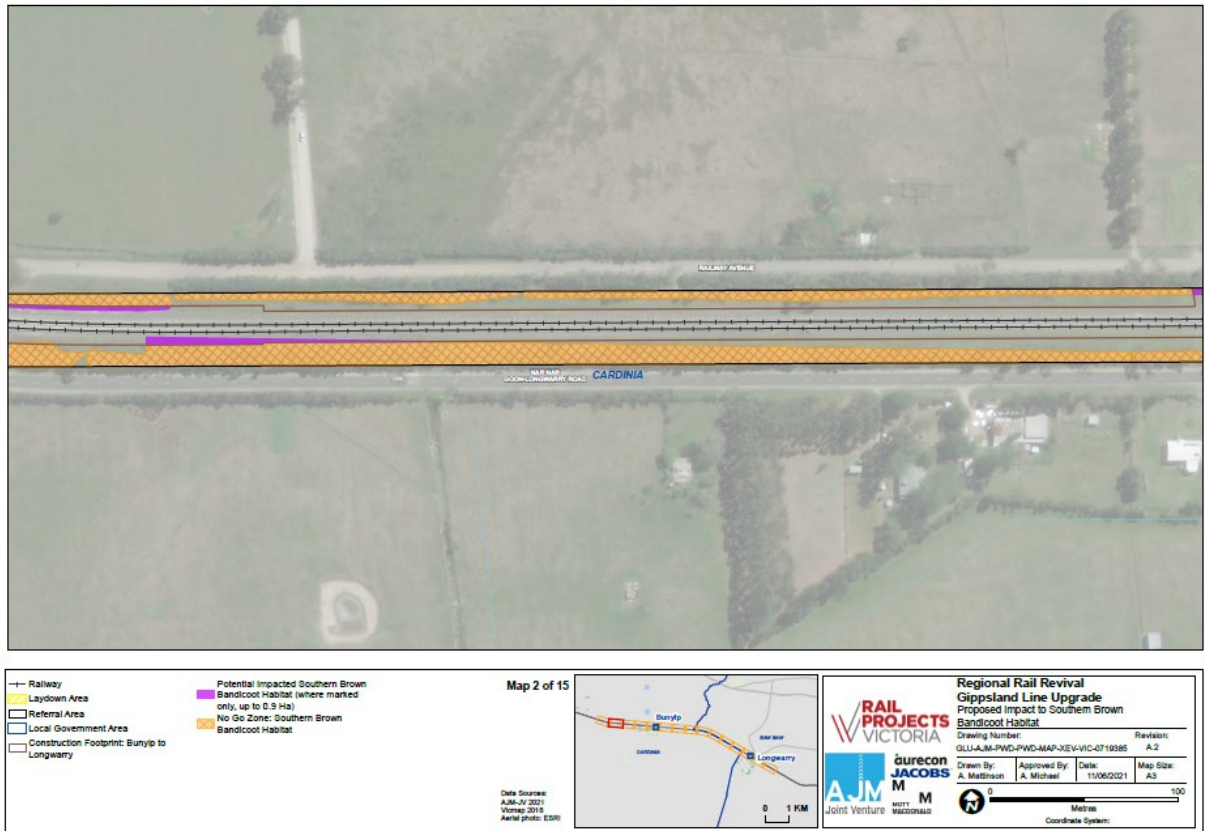
Suitably qualified person means a person who has professional qualifications, training, skills and/or experience related to the nominated subject matter and can give authoritative independent assessment, advice and analysis on performance relative to the subject matter using the relevant protocols, standards, methods and/or literature.

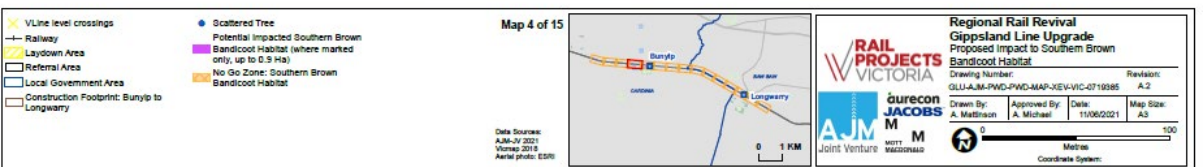
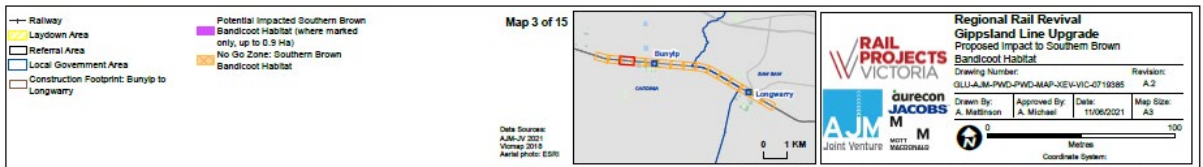
Website means a set of related web pages located under a single domain name attributed to the approval holder and available to the public.

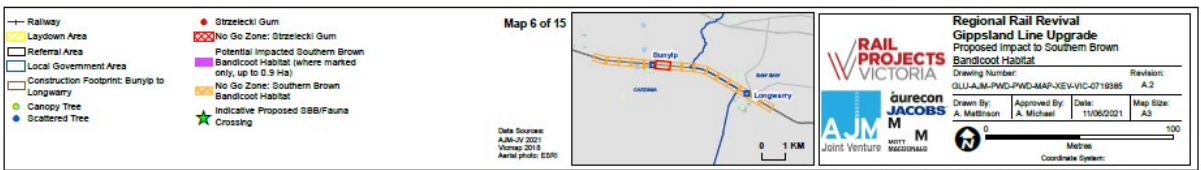
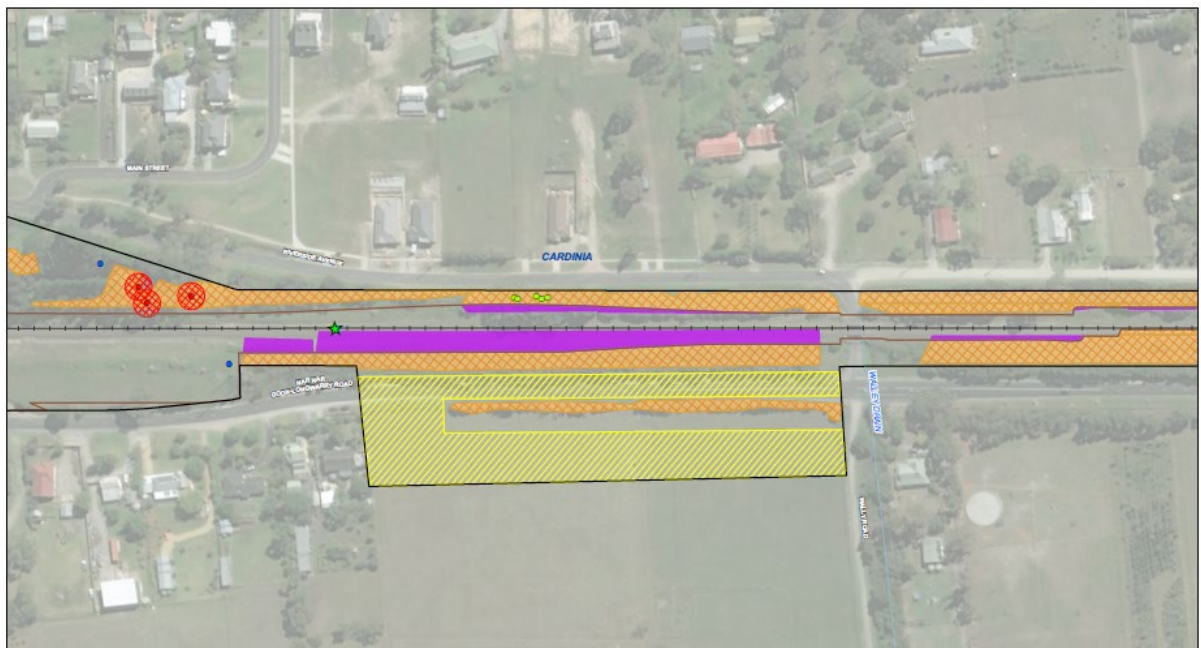
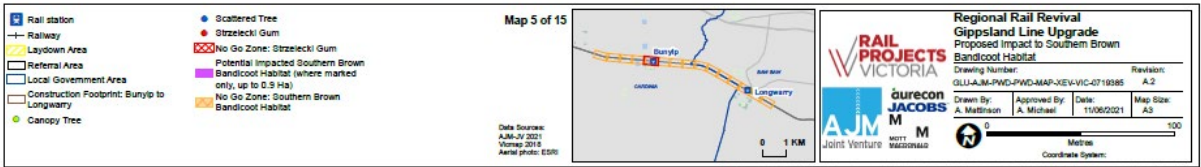
ATTACHMENTS

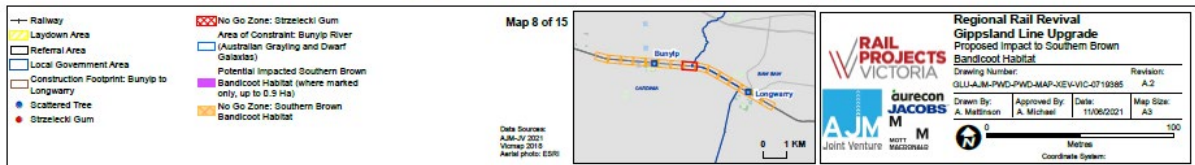
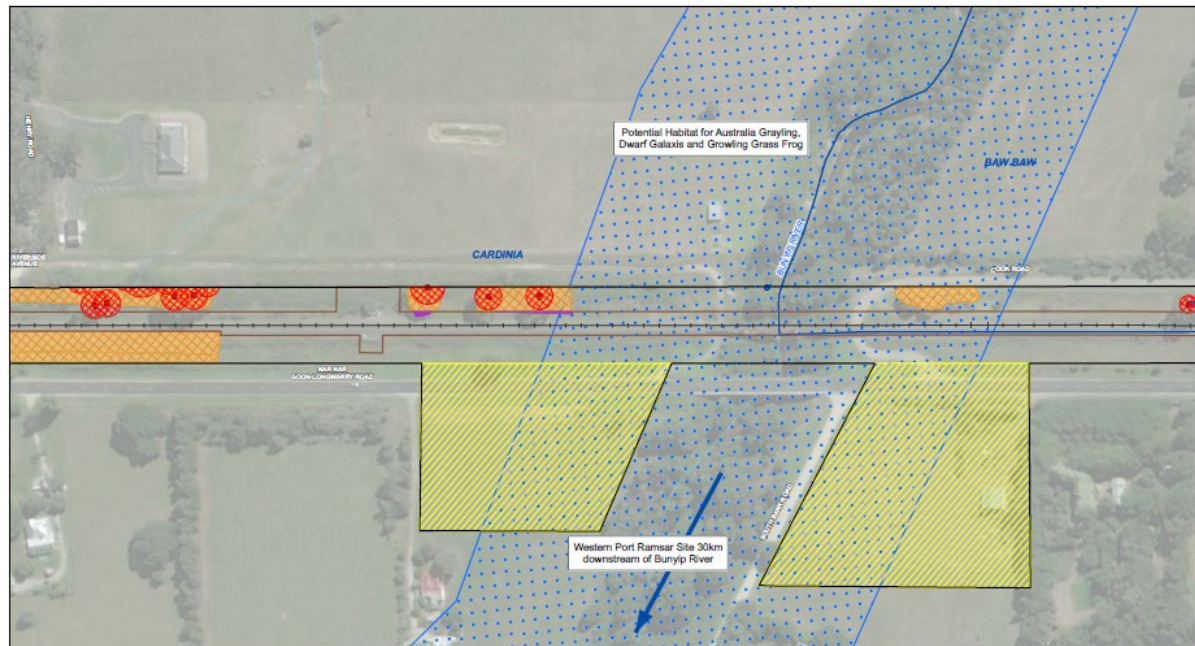
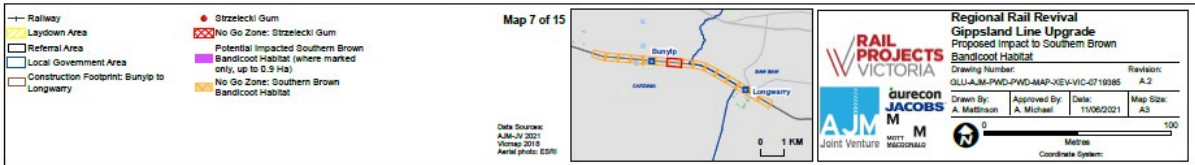
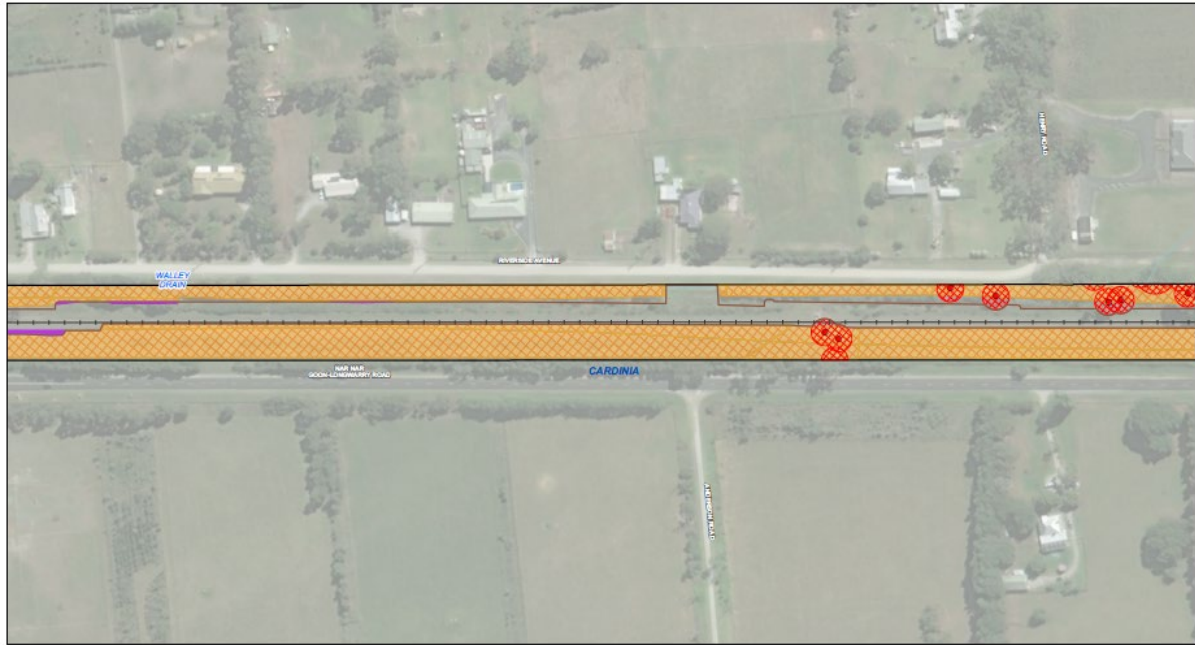
1. Attachment A – Action area

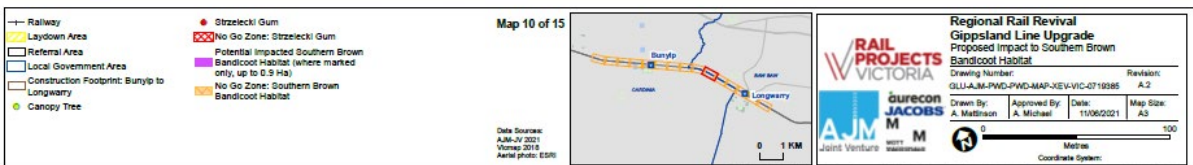
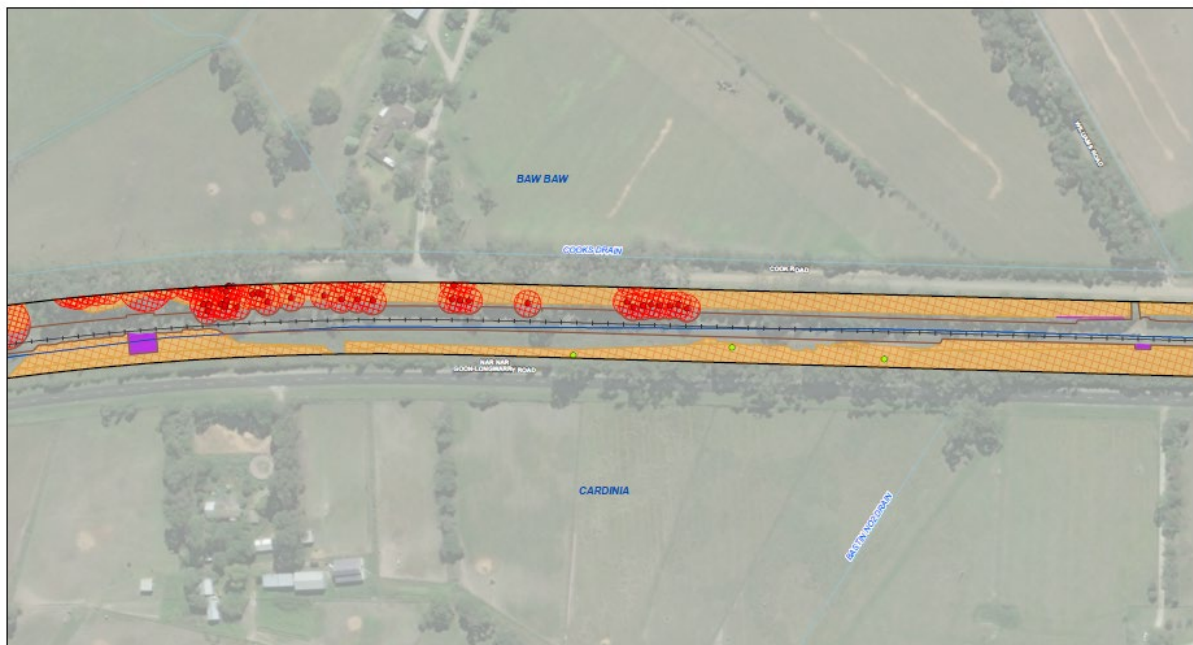
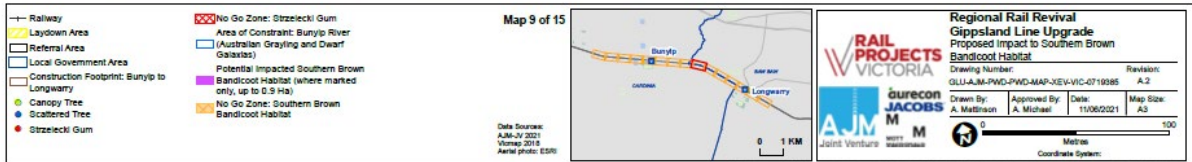


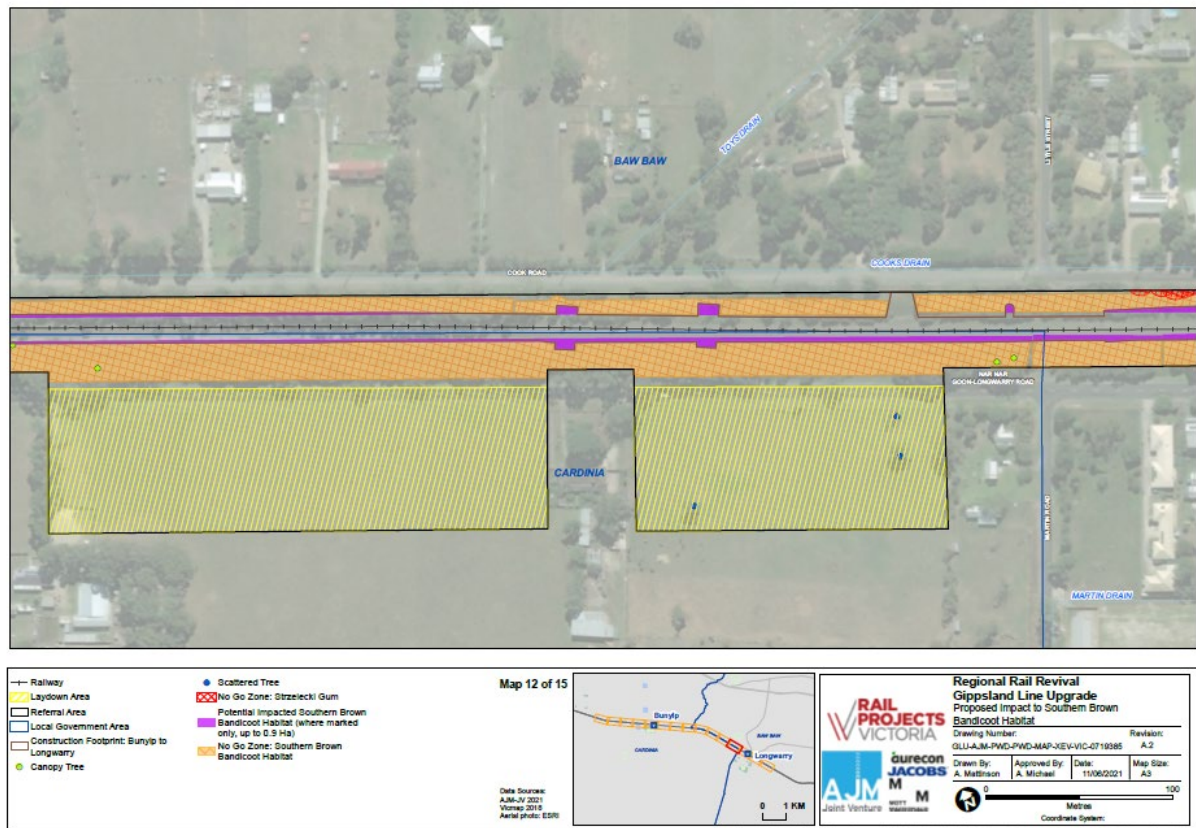
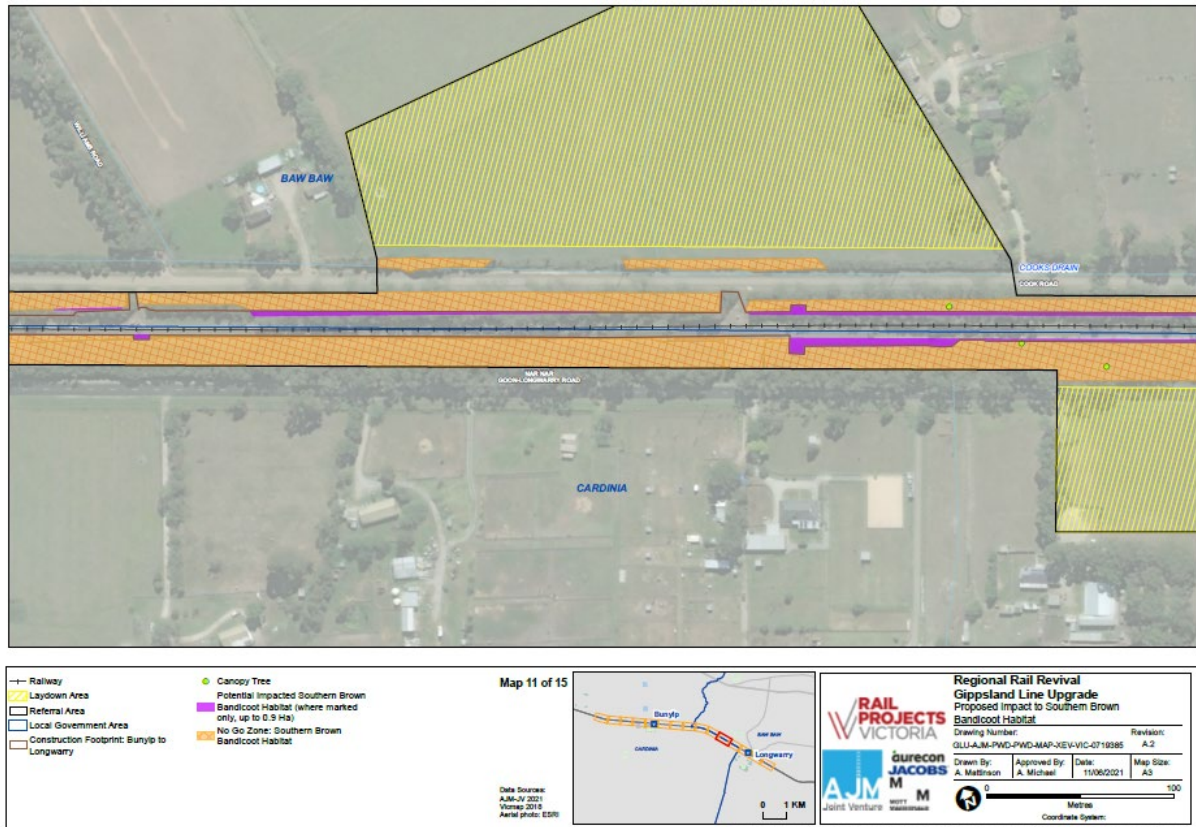


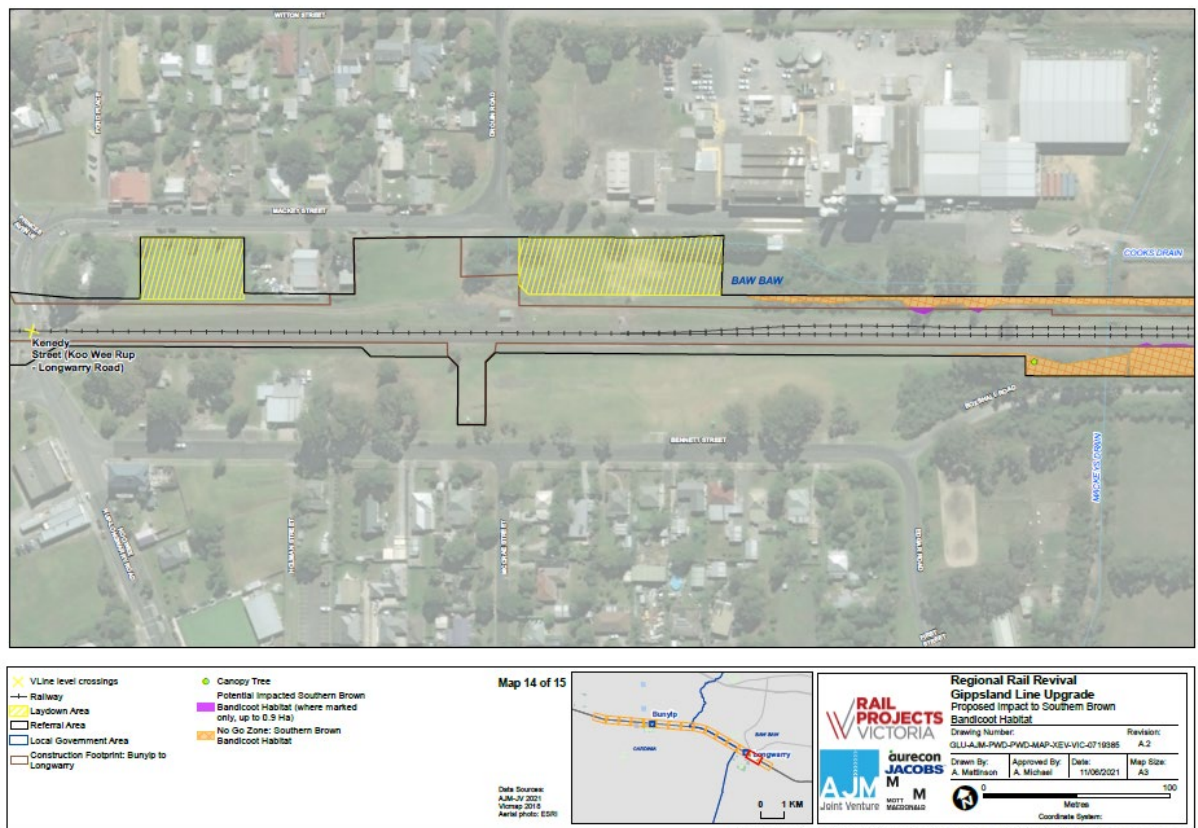
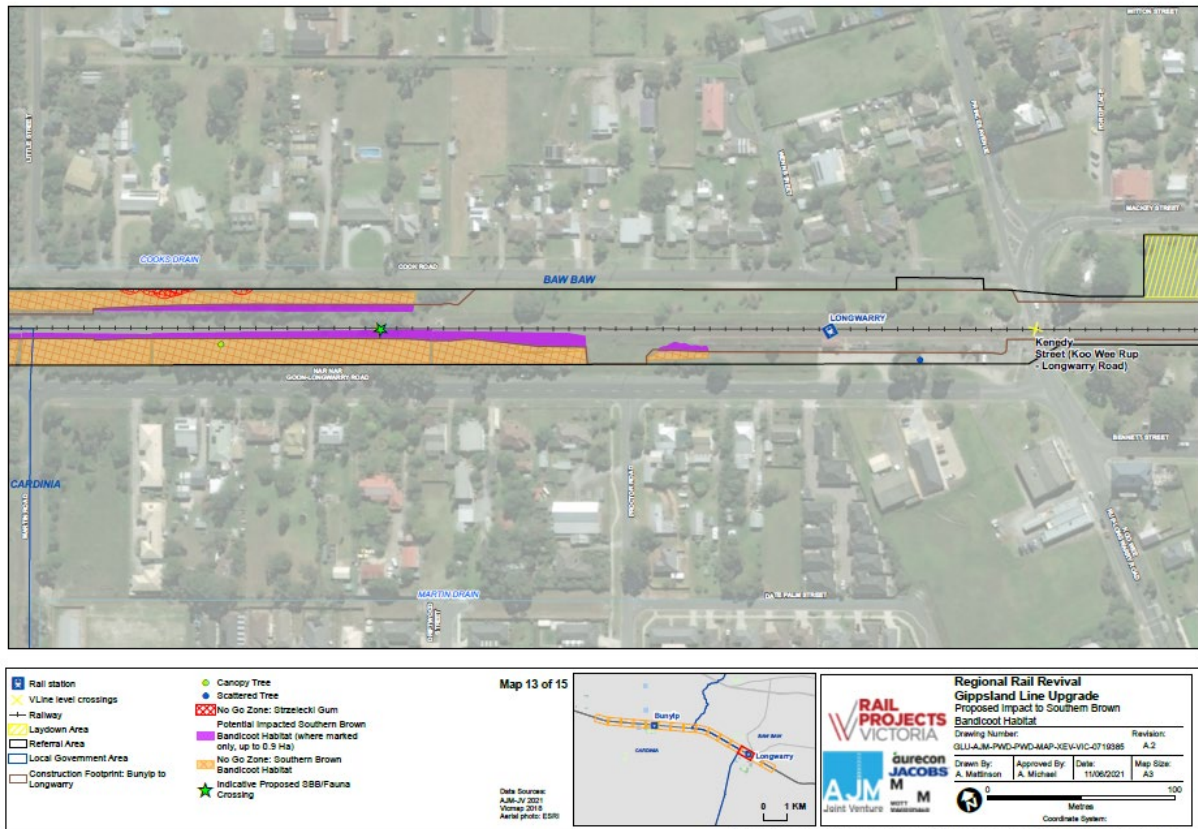


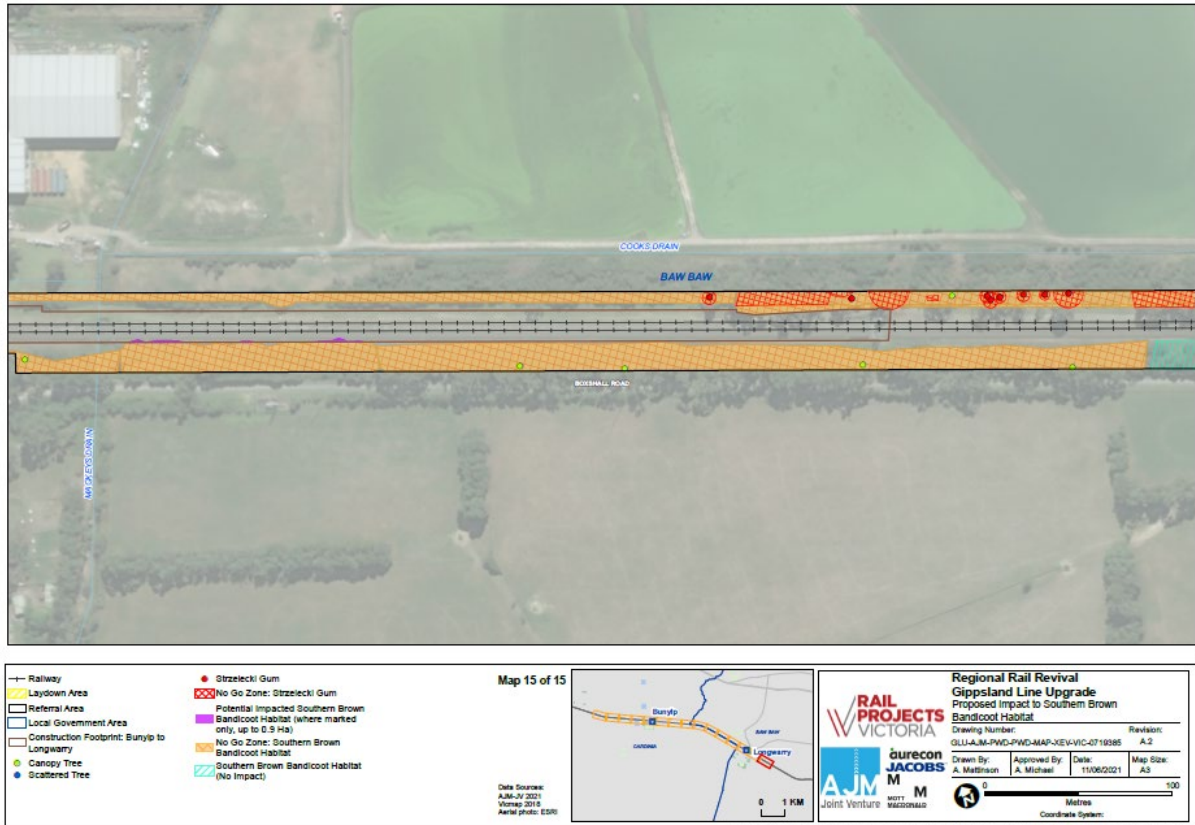












2. Attachment B - Offset area

