

Title of Proposal - Proposed residential subdivision of 199 Range Road, Mittagong, NSW**Section 1 - Summary of your proposed action**

Provide a summary of your proposed action, including any consultations undertaken.

1.1 Project Industry Type

Residential Development

1.2 Provide a detailed description of the proposed action, including all proposed activities.

Proposed six lot residential subdivision within the residential precinct of Mittagong. Land size is 2.83ha. Each lot would be approximately 4,000m² in size, with direct access to the existing road network. Building envelopes, wastewater irrigation areas and bushfire asset protection zones are designated for each lot. There is an existing house to be retained on proposed Lot 4. Proposed future activities include (these are not part of the subdivision application, but are assumed to occur for the purpose of biodiversity assessment): construction of new driveway crossovers, construction of future dwellings on vacant allotments, thinning of trees for asset protection zones, installation of on-site wastewater management systems, installation of boundary fences and private landscaping.

1.3 What is the extent and location of your proposed action? Use the polygon tool on the map below to mark the location of your proposed action.

Area	Point	Latitude	Longitude
Lot 23 Sec 5 DP 2133	1	-34.464945390294	150.46310052237
Lot 23 Sec 5 DP 2133	2	-34.464936544663	150.46310052237
Lot 23 Sec 5 DP 2133	3	-34.464940967479	150.46309515796
Lot 23 Sec 5 DP 2133	4	-34.464940967479	150.46310588679
Lot 23 Sec 5 DP 2133	5	-34.467523851925	150.46234413943
Lot 23 Sec 5 DP 2133	6	-34.465201913201	150.46138927302
Lot 23 Sec 5 DP 2133	7	-34.464795014431	150.46108886561
Lot 23 Sec 5 DP 2133	8	-34.464945390294	150.46310052237

1.5 Provide a brief physical description of the property on which the proposed action will take place and the location of the proposed action (e.g. proximity to major towns, or for off-shore actions, shortest distance to mainland).

The property is 2.83ha in size, zoned R5 Large Lot Residential under WLEP (2010), with a minimum lot size of 4,000m². It is within the residential precinct of Mittagong, south of the main township. An existing residence is located centrally within the property, surrounded by paved and gravelled areas and mature ornamental plantings of exotic trees and shrubs.

The land is relatively level with no natural creeklines, and drains generally to the north to the Nattai River catchment. A small dam has been created in the northeast.

The property has previously been cleared of the majority of native vegetation. A discontinuous canopy of tall mature native eucalypt trees has been retained across parts of the property. The PCT is 944 (Mountain Grey Gum - Narrow Leaved Peppermint grassy woodland on shales of the Southern Highlands, within the Sydney Basin bioregion). This vegetation meets the description of Southern Highlands Shale Woodlands TEC under the NSW BC Act, and part of the vegetation meets the description and condition criteria for the equivalent community listed under the EPBC Act. There is no native shrub layer. The groundcover is highly disturbed and contains a variable mixture of native and exotic species. It is regularly mown/slashed.

1.6 What is the size of the proposed action area development footprint (or work area) including disturbance footprint and avoidance footprint (if relevant)?

2.83 ha

1.7 Is the proposed action a street address or lot?

Lot

1.7.2 Describe the lot number and title. Lot 23 Sec 5 DP 2133

1.8 Primary Jurisdiction.

New South Wales

1.9 Has the person proposing to take the action received any Australian Government grant funding to undertake this project?

No

1.10 Is the proposed action subject to local government planning approval?

Yes

1.10.1 Is there a local government area and council contact for the proposal?

No

1.11 Provide an estimated start and estimated end date for the proposed action.

Start date 04/2020

End date 06/2020

1.12 Provide details of the context, planning framework and State and/or Local government requirements.

The proposal is 100% compliant with the local planning instrument and development controls. A development application including a Biodiversity Development Assessment Report (required under the NSW Biodiversity Conservation Act 2016) was lodged with Council in January 2019. A biodiversity offset will be required under the NSW Biodiversity Off-set Scheme. Council has not yet made a determination.

1.13 Describe any public consultation that has been, is being or will be undertaken, including with Indigenous stakeholders.

Council will notify neighbours of the development application in accordance with their standard notification policy. No other public notification is required or has been undertaken.

1.14 Describe any environmental impact assessments that have been or will be carried out under Commonwealth, State or Territory legislation including relevant impacts of the project.

A Biodiversity Development Assessment Report (Hayes Environmental, Jan 2019) has been prepared under the NSW BC Act. The assessment calculates an off-set requirement of 26 credits for PCT 944, and 26 credits for the Southern Myotis *Myotis macropus*. An alternative off-set is permissible under the BC Act, being payment of \$101,662.72 into the Biodiversity Conservation Fund.

1.15 Is this action part of a staged development (or a component of a larger project)?

No

1.16 Is the proposed action related to other actions or proposals in the region?

No

Section 2 - Matters of National Environmental Significance

Describe the affected area and the likely impacts of the proposal, emphasising the relevant matters protected by the EPBC Act. Refer to relevant maps as appropriate. The [interactive map tool](#) can help determine whether matters of national environmental significance or other matters protected by the EPBC Act are likely to occur in your area of interest. Consideration of likely impacts should include both direct and indirect impacts.

Your assessment of likely impacts should consider whether a bioregional plan is relevant to your proposal. The following resources can assist you in your assessment of likely impacts:

- [Profiles of relevant species/communities](#) (where available), that will assist in the identification of whether there is likely to be a significant impact on them if the proposal proceeds;
- [Significant Impact Guidelines 1.1 – Matters of National Environmental Significance](#);
- [Significant Impact Guideline 1.2 – Actions on, or impacting upon, Commonwealth land and Actions by Commonwealth Agencies](#).

2.1 Is the proposed action likely to have ANY direct or indirect impact on the values of any World Heritage properties?

No

2.2 Is the proposed action likely to have ANY direct or indirect impact on the values of any National Heritage places?

No

2.3 Is the proposed action likely to have ANY direct or indirect impact on the ecological character of a Ramsar wetland?

No

2.4 Is the proposed action likely to have ANY direct or indirect impact on the members of any listed species or any threatened ecological community, or their habitat?

Yes

2.4.1 Impact table

Species	Impact
Southern Highlands Shale Forest and Woodland	Assumed loss of all of this community within the property, being 0.85ha of vegetation in moderate condition, and 0.71ha in poor

Species	Impact
	condition (which does not meet condition criteria for the EPBC Act listing of this community). Total loss is 1.56ha, which is ~15% of the local patch, and ~0.0016% of remnant vegetation mapped as this community at the regional scale. Note that building envelopes and wastewater areas have been designed to avoid tree loss where possible, such that some trees are likely to be retained. This is regarded as an appropriate avoidance measure, but is not relied upon in the biodiversity assessment.
Spotted-tailed Quoll <i>Dasyurus maculatus</i>	Known to forage within this habitat type in this region. No evidence for this species was found on the property during field surveys. It is not resident on the property and is not expected to occur. The property is not in an area identified as of importance in the local Quollidor conservation project. There is a theoretical loss of potential foraging habitat.
Koala <i>Phascolarctos cinereus</i>	Known to forage within this habitat type in this region. No evidence for this species was found on the property during field surveys. It is not resident on the property and is not expected to occur other than as an occasional vagrant or dispersing juvenile. The property is not part of a recognised movement corridor. There is a theoretical loss of potential foraging habitat.
Grey-headed Flying-fox <i>Pteropus poliocephalus</i>	Known to forage within this habitat type in this region. Not recorded on the property, but may utilise the tree canopy opportunistically on occasions. No camps occur on or near the property. There would be a loss of up to 1.56ha of potential foraging habitat.

2.4.2 Do you consider this impact to be significant?

Yes

2.5 Is the proposed action likely to have ANY direct or indirect impact on the members of any listed migratory species, or their habitat?

No

2.6 Is the proposed action to be undertaken in a marine environment (outside

Commonwealth marine areas)?

No

2.7 Is the proposed action to be taken on or near Commonwealth land?

No

2.8 Is the proposed action taking place in the Great Barrier Reef Marine Park?

No

2.9 Is the proposed action likely to have ANY direct or indirect impact on a water resource related to coal/gas/mining?

No

2.10 Is the proposed action a nuclear action?

No

2.11 Is the proposed action to be taken by the Commonwealth agency?

No

2.12 Is the proposed action to be undertaken in a Commonwealth Heritage Place Overseas?

No

2.13 Is the proposed action likely to have ANY direct or indirect impact on any part of the environment in the Commonwealth marine area?

No

Section 3 - Description of the project area

Provide a description of the project area and the affected area, including information about the following features (where relevant to the project area and/or affected area, and to the extent not otherwise addressed in Section 2).

3.1 Describe the flora and fauna relevant to the project area.

The property contains Southern Highlands Shale Forest and Woodlands, and potentially provides foraging habitat for the Spotted-tailed Quoll, Koala and Grey-headed Flying-fox. The property is highly disturbed, has been completely underscrubbed, and is in use as a residential property.

3.2 Describe the hydrology relevant to the project area (including water flows).

The property is located on elevated land, with no creeklines or obvious drainage lines. A small dam has been constructed in the north.

3.3 Describe the soil and vegetation characteristics relevant to the project area.

The property contains shale-derived soils, with associated remnant trees and groundcover plants from the Southern Highlands Shale Forest and Woodlands ecological community.

3.4 Describe any outstanding natural features and/or any other important or unique values relevant to the project area.

There are no notable natural features, nor important or unique values within the property.

3.5 Describe the status of native vegetation relevant to the project area.

The vegetation is listed as 'endangered' under the NSW Biodiversity Conservation Act. Some of the vegetation is also part of the 'critically endangered' listing under the Commonwealth EPBC Act.

3.6 Describe the gradient (or depth range if action is to be taken in a marine area) relevant to the project area.

Relatively level, with a gentle fall to the north.

3.7 Describe the current condition of the environment relevant to the project area.

Highly disturbed due to previous clearing, removal of all shrubs and understorey, and existing residential and recreational use.

3.8 Describe any Commonwealth Heritage Places or other places recognised as having heritage values relevant to the project area.

not applicable

3.9 Describe any Indigenous heritage values relevant to the project area.

not applicable

3.10 Describe the tenure of the action area (e.g. freehold, leasehold) relevant to the project area.

freehold, with some Council road verges included for new driveway crossovers.

3.11 Describe any existing or any proposed uses relevant to the project area.

Existing use is residential. Proposed use is an intensification of this.

Section 4 - Measures to avoid or reduce impacts

Provide a description of measures that will be implemented to avoid, reduce, manage or offset any relevant impacts of the action. Include, if appropriate, any relevant reports or technical advice relating to the feasibility and effectiveness of the proposed measures.

Examples of relevant measures to avoid or reduce impacts may include the timing of works, avoidance of important habitat, specific design measures, or adoption of specific work practices.

4.1 Describe the measures you will undertake to avoid or reduce impact from your proposed action.

It was discussed during a pre-referral meeting with Departmental Officers on 15th June 2016 that any subdivision of the property, whether a full development or partial development, would effectively destroy the integrity and functionality of all the remaining woodland. It was agreed that given the already degraded, fragmented and partly isolated nature of the vegetation, and that the property is zoned part of the residential area of Mittagong, that an efficient and acceptable approach to landuse of this property would be to subdivide to its full potential and to then off-set the impact to meet both State and Commonwealth requirements.

The development has been designed with designated building envelopes to minimise loss of trees. It is intended that trees will be retained where possible.

Indirect impacts are to be avoided/minimised by implementation of standard sediment and erosion control measures, cleaning of machinery prior to entering the site, and proper disposal of wastes, including pollutants and concrete truck washings.

4.2 For matters protected by the EPBC Act that may be affected by the proposed action, describe the proposed environmental outcomes to be achieved.

Environmental outcome would be off-sets in accordance with State and Commonwealth policies.

Section 5 – Conclusion on the likelihood of significant impacts

A checkbox tick identifies each of the matters of National Environmental Significance you identified in section 2 of this application as likely to be a significant impact.

Review the matters you have identified below. If a matter ticked below has been incorrectly identified you will need to return to Section 2 to edit.

5.1.1 World Heritage Properties

No

5.1.2 National Heritage Places

No

5.1.3 Wetlands of International Importance (declared Ramsar Wetlands)

No

5.1.4 Listed threatened species or any threatened ecological community

Listed threatened species and communities - Yes

5.1.5 Listed migratory species

No

5.1.6 Commonwealth marine environment

No

5.1.7 Protection of the environment from actions involving Commonwealth land

No

5.1.8 Great Barrier Reef Marine Park

No

5.1.9 A water resource, in relation to coal/gas/mining

No

5.1.10 Protection of the environment from nuclear actions

No

5.1.11 Protection of the environment from Commonwealth actions

No

5.1.12 Commonwealth Heritage places overseas

No

5.2 If no significant matters are identified, provide the key reasons why you think the proposed action is not likely to have a significant impact on a matter protected under the EPBC Act and therefore not a controlled action.

not applicable

Section 6 – Environmental record of the person proposing to take the action

Provide details of any proceedings under Commonwealth, State or Territory law against the person proposing to take the action that pertain to the protection of the environment or the conservation and sustainable use of natural resources.

6.1 Does the person taking the action have a satisfactory record of responsible environmental management? Please explain in further detail.

The person taking the action would be the current landowners. There are no proceedings against the landowners that pertain to protection of the environment, or the conservation and sustainable use of natural resources.

6.2 Provide details of any past or present proceedings under a Commonwealth, State or Territory law for the protection of the environment or the conservation and sustainable use of natural resources against either (a) the person proposing to take the action or, (b) if a permit has been applied for in relation to the action – the person making the application.

not applicable

6.3 If it is a corporation undertaking the action will the action be taken in accordance with the corporation's environmental policy and framework?

No

6.4 Has the person taking the action previously referred an action under the EPBC Act, or been responsible for undertaking an action referred under the EPBC Act?

No

Section 7 – Information sources

You are required to provide the references used in preparing the referral including the reliability of the source.

7.1 List references used in preparing the referral (please provide the reference source reliability and any uncertainties of source).

Reference Source	Reliability	Uncertainties
Biodiversity Development Assessment Report (Hayes Environmental, January 2019)	High	Inherent uncertainties involved with surveying and documenting the natural environment - relating to duration of survey period, climatic conditions etc. These are not regarded as of consequence to the issues being assessed in relation to the EPBC Act.

Section 8 – Proposed alternatives

You are required to complete this section if you have any feasible alternatives to taking the proposed action (including not taking the action) that were considered but not proposed.

8.0 Provide a description of the feasible alternative?

Alternatives involving partial subdivision of the site, or larger lot sizes were considered, but not deemed feasible, given that the environmental impact would not be notably lessened, yet the financial yield would be substantially less, and the project potentially not viable.

Not taking the action would have a negative financial impact on the landowners. It would also sterilise some of the land within Mittagong that has been identified to support predicted future residential growth. If this property is not developed, then development will be required elsewhere, on land not currently zoned residential.

8.1 Select the relevant alternatives related to your proposed action.

8.27 Do you have another alternative?

No

Section 9 – Contacts, signatures and declarations

Where applicable, you must provide the contact details of each of the following entities: Person Proposing the Action; Proposed Designated Proponent and; Person Preparing the Referral. You will also be required to provide signed declarations from each of the identified entities.

9.0 Is the person proposing to take the action an Organisation or an Individual?

Individual

9.1 Individual

9.1.1 Job Title

Proponent

9.1.2 First Name

David

9.1.3 Last Name

Mackie

9.1.4 E-mail

david@kirrapak.com

9.1.5 Postal Address

199 Range Road
Mittagong NSW 2575
Australia

9.1.6 I qualify for exemption from fees under section 520(4C)(e)(v) of the EPBC Act because I am:

Individual

Person proposing the action - Declaration

I, David Mackie, declare that to the best of my knowledge the information I have given on, or attached to the EPBC Act Referral is complete, current and correct. I understand that giving false or misleading information is a serious offence.

Signature:.....D. Mackie..... Date:9-4-19.....

I, David Mackie, the person proposing the action, consent to the designation of Proponent as the proponent of the purposes of the action describe in this EPBC Act Referral.

Signature:.....D. Mackie..... Date:9-4-19.....

9.3 Is the Proposed Designated Proponent an Organisation or Individual?

Individual

9.4 Individual

9.4.1 Job Title

Proponent

9.4.2 First Name

David

9.4.3 Last Name

Mackie

9.4.4 E-mail

david@kirrapak.com

Proposed designated proponent - Declaration

I, David Mackie, the proposed designated proponent, consent to the designation of myself as the proponent for the purposes of the action described in this EPBC Act Referral.

Signature:.....D. Mackie..... Date:9-4-19.....

9.6 Is the Referring Party an Organisation or Individual?

Individual

9.7 Individual

9.7.1 Job Title

Consulting Ecologist

9.7.2 First Name

Rebecca

9.7.3 Last Name

Hogan

9.7.4 E-mail

rhogan@hayesenv.com.au

Referring Party - Declaration

I, Rebecca Hogan, I declare that to the best of my knowledge the information I have given on, or attached to this EPBC Act Referral is complete, current and correct. I understand that giving false or misleading information is a serious offence.

Signature:  Date: 9th April 2019

Appendix A - Attachments

The following attachments have been supplied with this EPBC Act Referral:

1. 199 Range Road Mittagong - existing native vegetation and hbts.zip
2. Figure 1 - aerial.jpg
3. Figure 3 subdivision over aerial (dec 2018).jpg
4. Hayes Env BDAR - final - 22nd Jan 2019 - reduced size_Part1.pdf
5. Hayes Env BDAR - final - 22nd Jan 2019 - reduced size_Part2.pdf
6. Photo of constructed dam.JPG
7. SHSW - moderate condition.JPG
8. SHSW - poor condition.JPG