

EPBC Act referral



Australian Government

Department of Agriculture, Water and the Environment

Note: PDF may contain fields not relevant to your application. These fields will appear blank or unticked. Please disregard these fields.

Title of proposal	2020/8738 - Sawtell Catholic Care of the Aged NSW
Section 1	
Summary of your proposed action	
1.1 Project industry type	Residential Development
1.2 Provide a detailed description of the proposed action, including all proposed activities	
<p>The proposed development consists of eight two-storey townhouse apartments with underground car parking and strata subdivision, including demolition of existing dwelling, consolidation and re-subdivision of land Lot 21 DP 20607, Lot 20 DP 20607, Lot 1 Sec 23 DP 19360.</p> <p>Construction activities will consist of:</p> <ul style="list-style-type: none">- removal of vegetation on the site- demolition of existing dwelling- construction of residences including underground parking and connection to services- half road construction, including kerb and gutter construction and replacement of the existing field inlet pit along the frontage on Honeysuckle Street with a Kerb Inlet Pit- 1.5m wide pedestrian path along the full site frontage- stormwater drainage, including detention and Water Sensitive Urban Design requirements- driveway and access works- landscaping and street tree planting- car parking areas- sedimentation and erosion control	
1.3 What is the extent and location of your proposed action?	
See Appendix B	
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)	
<p>The subject land is approximately 7 km south of the regional centre of Coffs Harbour on the NSW mid north coast. The entire site is approximately 0.22 ha in area and located in a residential area zoned R3 Medium Density Residential. The site is bordered by Honeysuckle Road and East street and currently consists of a church building with lawn surrounds occupying just under half of the lot in the northern portion, the remainder of the site is vegetated. A coastal dune reserve is located approximately 50 m to the east of the site containing littoral rainforest and coastal headland heath vegetation. Bonville Creek estuary is located approximately 400 metres to the south.</p>	
1.6 What is the size of the proposed action area development footprint (or work area) including disturbance footprint and avoidance footprint (if relevant)?	
<p>The proposed action area development footprint covers Lot 21 on DP 20607, being approximately 0.22 hectares. Given the small size of the project site it is considered that the entire area will constitute the disturbance footprint.</p>	
1.7 Proposed action location	
Lot - Lot 21 on DP 20607	
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?	
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
1.10 Is the proposed action subject to local government planning approval?	
<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	



Note: PDF may contain fields not relevant to your application. These fields will appear blank or unticked. Please disregard these fields.

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

☒ Yes ☐ No

1.10.1.0 Council contact officer details

1.10.1.1 Name of relevant council contact officer	Sally Whitelaw
1.10.1.2 E-mail	sally.whitelaw@chcc.nsw.gov.au
1.10.1.3 Telephone Number	66484673

1.11 Provide an estimated start and estimated end date for the proposed action	Start Date	31/01/2021
	End Date	31/03/2022

1.12 Provide details of the context, planning framework and state and/or local Government requirements

Commonwealth Legislation

Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act): A search of the Commonwealth protected Matters Search Tool indicates that there are no World Heritage or National Heritage areas or items within the proposal site boundary. Search results also returned no Wetlands of International Importance that occur within 10 km. The proposed development is not likely to impact Commonwealth land. The search results identified three listed threatened ecological communities, 70 threatened species and 56 migratory species within 10 km of the proposal site.

Given that a threatened ecological community (listed as critically endangered under the EPBC Act) occurs on site and is proposed to be removed, a potential significant impact is considered likely. This referral has therefore been prepared and submitted to allow early identification of matters required to be addressed by the Commonwealth for an EPBC Act approval.

New South Wales Legislation

A Biodiversity Development Assessment Report has been prepared in accordance with the Biodiversity Conservation Act 2016 (BC Act) and the Project (Development Application No. 0419/19DA) was approved by Coffs Harbour City Council on 14 May 2020. The BC Act, together with the Biodiversity Conservation Regulation 2017, outlines the framework for addressing impacts on biodiversity from development and clearing. It establishes a framework to avoid, minimise and offset impacts on biodiversity from development through the Biodiversity Offsets Scheme.

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

No formal public consultation has been carried out in relation to this project.

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

Ecological assessment - The Biodiversity Conservation Regulation 2017 sets out threshold levels for when the Biodiversity Offset Scheme (BOS) is triggered. The BOS thresholds were not triggered and an ecological assessment, including a test of significance (five-part test), was conducted to determine whether the development would have a significant impact on threatened species, their habitats and threatened ecological communities (TEC). It was determined that removal of the littoral rainforest TEC as a result of the development would have a direct impact due to an overall reduction in the extent of the ecological community.

Biodiversity Development Assessment Report (streamlined assessment) (BDAR) - A BDAR was prepared which assessed impacts on the littoral rainforest TEC, as a result of the development. The BDAR concluded that impacts could not be avoided or sufficiently mitigated due to the small size of the site and that impacts to the TEC would be offset under the BC Act.

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

☐ Yes ☒ No

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

☐ Yes ☒ No



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Section 2

Matters of national environmental significance

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

☐ Yes ☒ No

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

☐ Yes ☒ No

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

☐ Yes ☒ 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 ☐ No

Species or threatened ecological community

Littoral Rainforest and Coastal Vine Thickets of Eastern Australia (EPBC Act)

Littoral Rainforest in the New South Wales North Coast, Sydney Basin and South East Corner Bioregions (BC Act)

Impact

The area of TEC proposed for removal exists as a discrete patch of approximately 0.13 ha, which has established on the spoil of excavations associated with construction of the original Catholic church, approximately 60 years ago.

Littoral rainforest TEC on site contains 24 native species of which 18 species are characteristic of this ecological community in the NSW North Coast Bioregion (identified in Attachment A of listing advice_species list). The patch retains mature upper stratum and mid-storey species, including some large individuals of old growth coastal banksia. A reduced shrub layer occurs with evidence of regenerating tree species and the ground layer which has previously been significantly modified retains indicative native species. Biodiversity Assessment Method (BAM) plot data generated a vegetation integrity score of 76% from the BAM calculator, indicating a relatively healthy and representative, although somewhat modified, remnant.

The proposed activity would result in the removal of the total 0.13 hectares of TEC. In the case of a threatened ecological community:

- i) The activity is likely to contribute to an adverse effect on the extent of the community and its local occurrence
- ii) The activity will remove mature specimens of canopy and mid-storey species associated with the TEC which will substantially modify the composition of the TEC
- iii) The activity is likely to substantially modify the ecological composition such that the local occurrence of the TEC would be more prone to extinction.
- iv) The activity will result in an overall reduction in the extent of the TEC within the Coffs Harbour LGA and the broader area.

Clearing of native vegetation is listed as a Key Threatening Process (KTP) by the NSW Threatened Species Scientific Committee under Schedule 4 of the Biodiversity Conservation Act, with clearing of littoral rainforest proposed as part of this development.

As the TEC currently occurs as a discrete patch with no direct connectivity to other native vegetation, its removal as a result of the proposed development will not result in further fragmentation of this patch or the TEC within its broader context.

2.4.2 Do you consider this impact to be significant?

☒ Yes ☐ No

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?

☐ Yes ☒ No

2.6 Is the proposed action to be undertaken in a marine environment (outside Commonwealth marine areas)?

☐ Yes ☒ No



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2.7 Is the proposed action likely to be taken on or near Commonwealth land? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
2.8 Is the proposed action taking place in the Great Barrier Reef Marine Park? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
2.9 Is the proposed action likely to have any direct or indirect impact on a water resource from coal seam gas or large coal mining development? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
2.10 Is the proposed action a nuclear action? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
2.11 Is the proposed action to be taken by a Commonwealth agency? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
2.12 Is the proposed action to be undertaken in a Commonwealth Heritage place overseas? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> 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? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No



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Section 3

Description of the project area

3.1 Describe the flora and fauna relevant to the project area

Vegetation on the site was found to correspond with plant community type (PCT) 751, Brush Box – Tuckerroo littoral rainforest on coastal headlands of the NSW North Coast Bioregion. This vegetation is associated with the Threatened Ecological Community of, Littoral Rainforest in the New South Wales North Coast, Sydney Basin and South East Corner Bioregions, listed as endangered in NSW and is listed as critically endangered under Commonwealth legislation.

Indicative flora species for the TEC in the north coast bioregion, occur in all stratum. The canopy is the most intact layer with four large coastal banksia (*Banksia integrifolia* subsp. *integrifolia*) of greater than 50 diameter at breast height (DBH). Dominant tree species include tuckerroo (*Cupaniopsis anacardioides*), three-veined laurel (*Cryptocarya triplinervis*), Logan apple (*Acronychia imperforata*) and guioa (*Guioa semiglaucula*). The mid-storey has a reduced number of shrub species and cover including coffee bush (*Breynia oblongifolia*) and orangethorn (*Pittosporum multiflorum*) with regeneration of tree species including Logan apple, three-veined laurel and cheese tree (*Glochidion ferdinandi*). The ground layer is highly modified with evidence of human use over time including mowing and clearing. An undetermined period since active human intervention is allowing indicative species including blue flax lily (*Dianella caerulea*), *Commelina diffusa*, creeping beard grass (*Oplismenus imbecilis*) and a significant area of *Cyperus haspan*, to establish. Vines and climbers are present including native sarsparilla (*Smilax australis*), scrambling lily (*Geitonoplesium cymosum*), guinea flower (*Hibbertia scandens*) and slender grape (*Cayratia clematidea*).

Weed species presence is very low including ground asparagus (*Asparagus aethiopicus*), Mickey-Mouse plant (*Ochna serrulata*) and bitou bush (*Chrysanthemoides monilifera*).

Nineteen candidate threatened species were generated by the BAM calculator. Habitat constraints such as lack of breeding habitat, or lack of habitat features such as cliffs or rocky outcrops, or degraded habitat, resulted in the exclusion of 11 species. Seven species required survey and resulted in an assessment that they were not present. The site was assessed as providing suitable habitat for the southern myotis (*Myotis macropus*), listed as vulnerable in NSW. This is based on the presence of hollow bearing trees within 200 metres of the Bonville Creek estuary.

No threatened species were recorded during field surveys.

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

Based on mapping provided in the NSW Hydrography dataset, a natural watercourse (Middle Arm Creek) occurring west of the site constitutes an 8th order creek (hydroline) which flows into Bonville Creek a 2nd order named (large scale) watercourse.

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

The site sits behind a dune system within 200 metres of the ocean. The substrate is composed of predominantly sand derived from the underlying rocks and a topsoil layer of loam, soil derived from nutrient accumulation and soil brought in as a result of previous development. The site consists of open grass area and an intact isolated patch of vegetation that potentially regenerated on spoil, following construction of the church located in the northern portion of the lot. The vegetation is a closed forest community, the canopy has some small gaps and is less than 20 m tall. It contains large diameter native trees with a modified shrub and ground cover layer and low weed presence. Coastal vegetation mapped as littoral rainforest, occurs 50 metres to the east of the site and constitutes the native vegetation of the area, of which the vegetation on site is classified.

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

According to the State Environmental Planning Policy (SEPP) (Coastal Management) 2018 map, the site is located within the mapped proximity area for littoral rainforest, with littoral rainforest vegetation located within 50 metres. This forms part of a greater extent of somewhat continuous littoral rainforest to the north and south and along the margins of Bongil-Bongil creek to the south.

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

Littoral rainforest, as identified on the site, is rare across its range with a limited coastal distribution, often persisting in small stands. In total, it comprises less than one percent of the total area of rainforest in NSW. This vegetation is associated with the Threatened Ecological Community of 'Littoral Rainforest in the New South Wales North Coast, Sydney Basin and South East Corner Bioregions', listed as endangered in NSW. Habitat loss and clearing and fragmentation of stands not protected by the Coastal Management SEPP (2018) are key threats to the viability of the TEC. Under the federal EPBC Act, this community is recognised as 'Littoral Rainforest and Coastal Vine Thickets of Eastern Australia' and is listed as critically endangered.

The extent of this plant community on the project area is an isolated patch of 0.13 hectares separated by a road and row of houses (50 m) from an intact remnant of littoral rainforest, greater than 6 hectares in area.

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



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The site is a predominantly flat parcel of land below 10 metres above sea level.

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

The site is in a residential area with associated development and roading. There is a well maintained building on the subject land with surrounding grass areas being managed with regular mowing. The vegetation on site generated a vegetation integrity score of 76% in the Biodiversity Assessment Method calculator, indicating a functioning plant community representative of PCT 751 - Brush Box – Tuckeroo littoral rainforest on coastal headlands of the NSW North Coast Bioregion. Site observations recorded evidence of past modification of the vegetation from active management by way of vegetation removal and pruning. There is evidence of human use (logs placed in a seating arrangement) and maintenance mowing occurring within the vegetation, which appear not to have been occurring recently. There is a low presence of weed species which may be partly due to the above mentioned activities.

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

The site does not contain any Commonwealth Heritage places.

3.9 Describe any Indigenous heritage values relevant to the project area

No Indigenous sites are recorded and no Indigenous places have been declared in or near the project location.

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

The associated Lot is freehold

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

The site is currently used as a place of worship by the Catholic faith community.



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Section 4

Measures to avoid or reduce impacts

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

The proposed development design requires utilisation of the entire lot which is approximately 0.22 ha (0.13 ha of vegetation). There is insufficient area available to accommodate both the proposed development and avoid impacts to vegetation. The following measures aimed at impact minimisation will be employed:

- the NSW Biodiversity Offset Scheme will be utilised to offset development impacts
- the landscape design plan will utilise some species associated with the littoral rainforest Threatened Ecological Community
- staged vegetation clearing and employment of a qualified fauna spotter-catcher.

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

The desired environmental outcome is to offset the impact of vegetation removal. Under NSW legislation, the Biodiversity Offset Scheme utilises the Biodiversity Assessment Method to calculate the number and type of biodiversity credits that will be impacted as a result of a proposed action. The proponent must offset the equivalent number and type of credits by purchasing and retiring like for like credits in the open market, fund a biodiversity conservation action that benefits the entity impacted or pay a pre-determined figure into the Biodiversity Conservation Fund. This financial transaction will fund specific conservation actions where identified biodiversity values are managed in-perpetuity.



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Section 5

Conclusion on the likelihood of significant impacts

5.1 You indicated the below ticked items to be of significant impact and therefore you consider the action to be a controlled action

- ☐ World Heritage properties
- ☐ National Heritage places
- ☐ Wetlands of international importance (declared Ramsar wetlands)
- ☒ Listed threatened species or any threatened ecological community
- ☐ Listed migratory species
- ☐ Marine environment outside Commonwealth marine areas
- ☐ Protection of the environment from actions involving Commonwealth land
- ☐ Great Barrier Reef Marine Park
- ☐ A water resource, in relation to coal seam gas development and large coal mining development
- ☐ Protection of the environment from nuclear actions
- ☐ Protection of the environment from Commonwealth actions
- ☐ Commonwealth Heritage places overseas
- ☐ Commonwealth marine areas

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

N/A



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Section 6

Environmental record of the person proposing to take the action

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

Sawtell Parish of the Catholic Church has been involved in a number of development applications and community projects in the period from September 2017 to present. It is understood that all consent conditions placed on these projects in relation to environmental outcomes have been met. This has included planting of native trees, protection of existing trees during construction, engaging qualified contractors for professional works and preparation of environmental management plans, as required. Their approach has resulted in minimising impacts of the activity and in certain instances resulted in improvements for the immediate environment and community amenity. Consistent compliance with environmental regulations reflect a track record of responsible environmental management.

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

None.

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?

☐ Yes ☒ 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?

☐ Yes ☒ No



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Section 7
Information sources
Reference source Department of Planning Industry and Environment (NSW) Threatened Biodiversity Database Collection and BioNet Atlas.
Reliability High
Uncertainties None
Reference source Department of Agriculture, Water and the Environment Species Profiles and Threats Database, approved conservation advices, recovery plans, listing advices, draft referral guidelines, etc. Peer reviewed scientific literature.
Reliability High
Uncertainties None
Reference source Sawtell Catholic Care of the Aged Biodiversity Development Assessment Report prepared by Ecosure Pty Ltd, 2020. This report includes additional references, and is provided as an attachment in two parts (PR4921-RE.BDAR.R3.report only & PR4921-RE.BDAR.R3.appendices)
Reliability High
Uncertainties Flora and fauna surveys have been undertaken by suitably qualified personnel. There are always some uncertainties with ecological surveys. The survey limitations are presented in the report (PR4921-RE.BDAR.R3.report only & PR4921-RE.BDAR.R3.appendices)



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Section 8
Proposed alternatives
Do you have any feasible alternatives to taking the proposed action? Yes <input checked="" type="checkbox"/> No



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Section 9

Person proposing the action

9.1.1 Is the person proposing the action a member of an organisation?

☒ Yes ☐ No

Organisation

Organisation name	CATHOLIC PARISH OF MARY HELP OF CHRISTIANS SAWTELL
Business name	
ABN	46236864875
ACN	
Business address	44 Boronia St, Sawtell, 2452, NSW, Australia
Postal address	
Main Phone number	02 6658 3544
Fax	
Primary email address	sawtell@bigpond.net.au
Secondary email address	

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

☐ Small business
☒ Not applicable

9.1.2.2 I would like to apply for a waiver of full or partial fees under Schedule 1, 5.21A of the EPBC Regulations *

☐ Yes ☒ No

9.1.3 Contact

First name	Steve
Last name	Laidley
Job title	Asset Manager
Phone	0407470923
Mobile	0407470923
Fax	
Email	stevelaydley@scca.net.au
Primary address	1 Marian Place, Toormina, 2452, New South Wales, Australia
Address	

Declaration: Person proposing the action

I, Steve Laidley, 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. I declare that I am not taking the action on behalf or for the benefit of any other person or entity.

Signature: Steve Laidley Date: 28/07/2020

I, Steve Laidley, the person proposing the action, consent to the designation of Steve Laidley as the proponent for the purposes of the action described in this EPBC Act Referral.

Signature: Steve Laidley Date: 28/07/2020



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Proposed designated proponent

9.2.1 Is the proposed designated proponent a member of an organisation?

☒ Yes ☐ No

Organisation

Organisation name	CATHOLIC PARISH OF MARY HELP OF CHRISTIANS SAWTELL
Business name	
ABN	46236864875
ACN	
Business address	44 Boronia Street, Sawtell, 2452, New South Wales, Australia
Postal address	
Main Phone number	02 6658 3544
Fax	
Primary email address	sawtell@bigpond.net.au
Secondary email address	

9.2.2 Contact

First name	Steve
Last name	Laidley
Job title	Asset Manager
Phone	0407470923
Mobile	0407470923
Fax	
Email	stevelaidley@scca.net.au
Primary address	1 Marian Place, Toormina, 2452, New South Wales, Australia
Address	

Declaration: Proposed Designated Proponent

I, Steve Laidley, 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: Steve Laidley Date: 28/07/2020



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Referring party (person preparing the information)**9.3.1 Is the referring party (person preparing the information) a member of an organisation?**

☒ Yes ☐ No

Organisation

Organisation name	Ecosure Pty Ltd
Business name	ECOSURE
ABN	63106067976
ACN	
Business address	PO Box 4370, Coffs Harbour Jetty, 2450, New South Wales, Australia
Postal address	
Main Phone number	1300 112 021
Fax	
Primary email address	ncotsell@ecosure.com.au
Secondary email address	

9.3.2 Contact

First name	Nigel
Last name	Cotsell
Job title	Senior Ecologist
Phone	1300 112 021
Mobile	
Fax	
Email	ncotsell@ecosure.com.au
Primary address	PO Box 4370, Coffs Harbour Jetty, 2450, New South Wales, Australia

Address**Declaration: Referring party (person preparing the information)**

I, Nigel Cotsell, 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: 28/07/2020



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Appendix A	
Attachment	
Document Type	File Name
action_area_images	PR4921-MP2.SiteMap.pdf
govt_approval_conditions	Statement of Environmental Effects.pdf
localgov_approval_consent	001 ECM_6930974_v3_Notice of Determination - Approval 0419 19DA docx.pdf
flora_fauna_investigation	PR4921-RE.Test of Significance.pdf
flora_fauna_investigation	PR4921-RE.BDAR.R3.report only.pdf
flora_fauna_investigation	PR4921-RE.BDAR.R3.appendices.pdf

Appendix B
Coordinates
Area 1
-30.36979538634,153.10104235968
-30.370022173476,153.1014929708
-30.370022173476,153.1014929708
-30.370489631017,153.10158416591
-30.370531285541,153.10114428363
-30.36979538634,153.10104235968