

Mirador Residential Development Stages 8 & 9 and 13

Application Number: 02072

Commencement Date:
18/10/2023

Status: Locked

1. About the project

1.1 Project details

1.1.1 Project title *

Mirador Residential Development Stages 8 & 9 and 13

1.1.2 Project industry type *

Residential Development

1.1.3 Project industry sub-type

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1.1.4 Estimated start date *

31/01/2025

1.1.4 Estimated end date *

31/01/2028

1.2 Proposed Action details

1.2.1 Provide an overview of the proposed action, including all proposed activities. *

The proposed action is Stages 8 & 9 and 13 of a residential development (Appendix A, Figure 1, Page 1), which is anticipated to accommodate a population of between 126 and 252 residents upon completion. The proposed action area is located within the suburb of Mirador, New South Wales (NSW) within the Bega Valley Shire Local Government Area (LGA), approximately 20 km north of Eden and 16 km southwest of Tathra. The suburb of Mirador is located directly south of Tura Beach, and to the north of Berrambool and Merimbula (Appendix A, Figure 1, Page 1).

The proposed action area covers 21.39 ha in total, which currently comprises predominantly remnant native vegetation, with small areas of cleared land such as walking trails and vehicle access tracks. The proposed action area is located within a 52.50 ha portion of land, Lot 1087 Deposited Plan (DP) 1240676 (the project area) (Appendix A, Figure 1, Page 1), wholly owned by RCL Merimbula Pty Ltd. Stages 8 & 9 and 13 exist as two separate areas, Stages 8 & 9 as an 11.65 ha area of land in the south-eastern portion of the lot and Stage 13, a 9.74 ha area in the northwestern portion of the lot (Appendix A, Figure 1, Page 1). Both portions of land are zoned as R2 Low Density Residential and are surrounded by land zoned C2 Environmental conservation.

The proposed action includes the following activities:

- Clearing approximately 21.39 ha of native vegetation (the proposed action area) to facilitate future development, including the creation of Asset Protection Zones (APZs).
- Avoiding 31.11 ha of native vegetation surrounding the proposed action area, including the riparian zone of Pages Creek, a 2nd Order Stream (Appendix A, Figure 2, Page 2).
- Avoiding and managing an additional 1.7 ha of native vegetation to be established as a public bushland reserve within the centre of the Stage 8 & 9 proposed action area which will include the implementation of a vegetation management plan (VMP). The tenure of the proposed Bushland Reserve will remain as Freehold land in the ownership of RCL Merimbula Pty Ltd who will be responsible for the implementation of a 5-year VMP.
- Earthworks to establish required levels and prepare the site for construction.
- Construction of new roads, including all lead in/lead out roads, internal roads, drainage works, footpaths, kerbs, and gutters.
- Construction and installation of utility services (water, sewer electricity, telecommunications and stormwater management).
- Subdivision of the proposed action area to create residential allotments and the subsequent construction of housing on those allotments.
- Detailed designs as to the layout and locations of residential allotments, roads and ancillary infrastructure have not yet been completed, however, they will be developed within the Stage 8 & 9 and Stage 13 action area boundaries shown in Appendix A, Figure 2, Page 2 and provided as shapefiles in Section 2 of this EPBC Act Referral. An indicative development layout is shown in Appendix A, Figure 2, Page 2, however, this is for demonstrative purposes only and may not reflect the final development layout.

1.2.2 Is the project action part of a staged development or related to other actions or proposals in the region?

Yes

1.2.3 Is the proposed action the first stage of a staged development (or a larger project)?

No

1.2.4 Related referral(s)

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1.2.5 Provide information about the staged development (or relevant larger project).

Stages 8 & 9 and 13 are a component of a 14-part staged residential development. The Mirador residential development received original development approval (DA) in 1989 and development commenced not long after, with this area of residential development from 1989 to 2013 shown as 'Residual Mirador Development' on Appendix A, Figure 2, Page 2. RCL Merimbula Pty Ltd has fully controlled the balance of the Mirador

Development since 2013 and has delivered 75 lots in three stages (Stages 10, 11 and 12 - see Appendix A, Figure 2, Page 2) on approximately 7 ha of land. These three completed stages provide homes for 240 - 280 people.

RCL Merimbula Pty Ltd also own and are proposing the development of Stages 3D and 14 of the Mirador Residential Development, also located within Lot 1087 DP 1240676. Stage 3D is a 0.7 ha area located west of Stage 13, whilst Stage 14 is a 1.3 ha area located south-west of Stage 8 & 9 (Appendix A, Figure 2, Page 2). Matters of National Environmental Significance (MNES) in the form of listed species are relevant to both Stages 8 & 9 and 13, and also Stages 3D and 14 as they are known or have the potential to occur across both areas.

A split referral for Stages 8 & 9 and 13, and Stages 3D and 14 is proposed as the existing local development approval applies to Stages 8 & 9 and 13 only. A separate DA would therefore be required for Stages 3D and 14 and as such, the two separate Stages are not co-dependant and unlikely to operate under a consistent timeframe, as is typical of staged residential developments. Additionally, whilst all Stages are located within the same lot, they occur on separate parcels of land, separated by public roads and private landholdings.

1.2.6 What Commonwealth or state legislation, planning frameworks or policy documents are relevant to the proposed action, and how are they relevant? *

The following items of legislation are relevant to the proposed action:

Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act)

The EPBC Act aims to protect Matters of National Environmental Significance (MNES) including wetlands of international importance, threatened species and communities, and listed migratory species. An action that may or is likely to have a significant impact on MNES should be referred to the Commonwealth to determine whether it is a Controlled Action that requires approval from the Commonwealth.

MNES have been identified on the site. This referral has been prepared, consistent with the requirements of the EPBC Act, to provide an assessment of the likelihood of a significant impact to MNES from the proposed action.

Environmental Planning and Assessment Act 1979 (EP&A Act)

The DA which covers the proposed action area of Stages 8 & 9 and 13 was approved under the NSW *Environmental Planning and Assessment Act 1979* (EP&A Act), which is the principal planning legislation in NSW relevant to the proposed action. The EP&A Act provides a framework for the overall environmental planning and assessment of the proposed action. Various legislative instruments such as the NSW *Biodiversity Conservation Act 2016* (BC Act), *Water Management Act 2000* (WM Act) and *Rural Fires Act 1997* are integrated with the EP&A Act.

State Environmental Planning Policy (SEPP) (Resilience and Hazards) 2021

The south-east portion of the proposed action area coincides with both the Coastal Use Area and Coastal Environment Area mapping in Chapter 2 Coastal Management of the SEPP.

State Environmental Planning Policy (Biodiversity and Conservation) 2021

Bega Valley Local Government Area (:GA) is listed as an applicable LGA under Schedule 2, Chapter 4 Koala Habitat Protection of the SEPP and as such, applies to the proposed action area.

Bega Valley Local Environmental Plan (LEP) 2013

The proposed Stage 8 & 9 and 13 action area is located entirely within land zones as R2 Low Density Residential, whilst the remainder of the project area is zoned C2 Environmental conservation. The proposed action area also coincides with the Terrestrial Biodiversity land mapping under Part 6 of the LEP.

There are no other environmental assessments for the proposed action that are being carried out or planned under other State, Territory, or Commonwealth legislation.

1.2.7 Describe any public consultation that has been, is being or will be undertaken regarding the project area, including with Indigenous stakeholders. Attach any completed consultation documentations, if relevant. *

A higher density development was applied for on Stage 13 as an amendment to the original DA. Consultation with Council in 2021 indicated that the proposed development was not generally in accordance with the existing DA and that a new DA would, therefore, be required. The current proposed development plan was then prepared and submitted to Council and accepted as generally in accordance with the existing DA. No further consultation has occurred regarding the Stages 8 & 9 and 13.

1.3.1 Identity: Referring party

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1.3.1.1 Is Referring party an organisation or business? *

Yes

Referring party organisation details	
ABN/ACN	87096512088
Organisation name	ECO LOGICAL AUSTRALIA PTY LTD
Organisation address	Level 13, 420 George Street, Sydney NSW 2000
Referring party details	
Name	Tomas Kelly
Job title	
Phone	0435541994
Email	tomask@ecoaus.com.au
Address	

1.3.2 Identity: Person proposing to take the action

1.3.2.1 Are the Person proposing to take the action details the same as the Referring party details? *

No

1.3.2.2 Is Person proposing to take the action an organisation or business? *

Yes

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Person proposing to take the action organisation details

ABN/ACN 68164331677

Organisation name RCL MERIMBULA PTY LTD

Organisation address Suite 201, 3-5 Claremont Street South Yarra, VIC 3141

Person proposing to take the action details

Name David Finney

Job title Development Manager

Phone 0400 081 243

Email david.finney@rclgroup.com.au

Address Suite 201, 3-5 Claremont Street South Yarra, VIC 3141

1.3.2.14 Are you proposing the action as part of a Joint Venture? *

No

1.3.2.15 Are you proposing the action as part of a Trust? *

No

1.3.2.17 Describe the Person proposing the action's history of responsible environmental management including details of any proceedings under a Commonwealth, State or Territory law for the protection of the environment or the conservation and sustainable use of natural resources against the Person proposing to take the action. *

RCL Merimbula Pty Ltd has a successful record of developing the Mirador residential development for over 10 years. RCL Merimbula Pty Ltd does not have any historical or current proceedings under Commonwealth, State or Territory law regarding the protection of the environment or the conservation and sustainable use of natural resources.

1.3.2.18 If the person proposing to take the action is a corporation, provide details of the corporation's environmental policy and planning framework

RCL Merimbula Pty Ltd does not have an environmental policy and/or planning framework.

1.3.3 Identity: Proposed designated proponent

1.3.3.1 Are the Proposed designated proponent details the same as the Person proposing to take the action? *

Yes

Proposed designated proponent organisation details

ABN/ACN	68164331677
Organisation name	RCL MERIMBULA PTY LTD
Organisation address	Suite 201, 3-5 Claremont Street South Yarra, VIC 3141

Proposed designated proponent details

Name	David Finney
Job title	Development Manager
Phone	0400 081 243
Email	david.finney@rclgroup.com.au

Address

Suite 201, 3-5 Claremont Street South Yarra, VIC 3141

1.3.4 Identity: Summary of allocation

✔ Confirmed Referring party's identity

The Referring party is the person preparing the information in this referral.

ABN/ACN	87096512088
Organisation name	ECO LOGICAL AUSTRALIA PTY LTD
Organisation address	Level 13, 420 George Street, Sydney NSW 2000
Representative's name	Tomas Kelly
Representative's job title	
Phone	0435541994
Email	tomask@ecoaus.com.au
Address	

✔ Confirmed Person proposing to take the action's identity

The Person proposing to take the action is the individual, business, government agency or trustee that will be responsible for the proposed action.

ABN/ACN	68164331677
Organisation name	RCL MERIMBULA PTY LTD
Organisation address	Suite 201, 3-5 Claremont Street South Yarra, VIC 3141
Representative's name	David Finney
Representative's job title	Development Manager
Phone	0400 081 243
Email	david.finney@rclgroup.com.au
Address	Suite 201, 3-5 Claremont Street South Yarra, VIC 3141

✔ Confirmed Proposed designated proponent's identity

The Person proposing to take the action is the individual or organisation proposed to be responsible for meeting the requirements of the EPBC Act during the assessment process, if the Minister decides that this project is a controlled action.

Same as Person proposing to take the action information.

1.4 Payment details: Payment exemption and fee waiver

1.4.1 Do you qualify for an exemption from fees under EPBC Regulation 5.23 (1) (a)? *

No

1.4.3 Have you applied for or been granted a waiver for full or partial fees under Regulation 5.21A? *

No

1.4.5 Are you going to apply for a waiver of full or partial fees under EPBC Regulation 5.21A?

No

1.4.7 Has the department issued you with a credit note? *

No

1.4.9 Would you like to add a purchase order number to your invoice? *

No

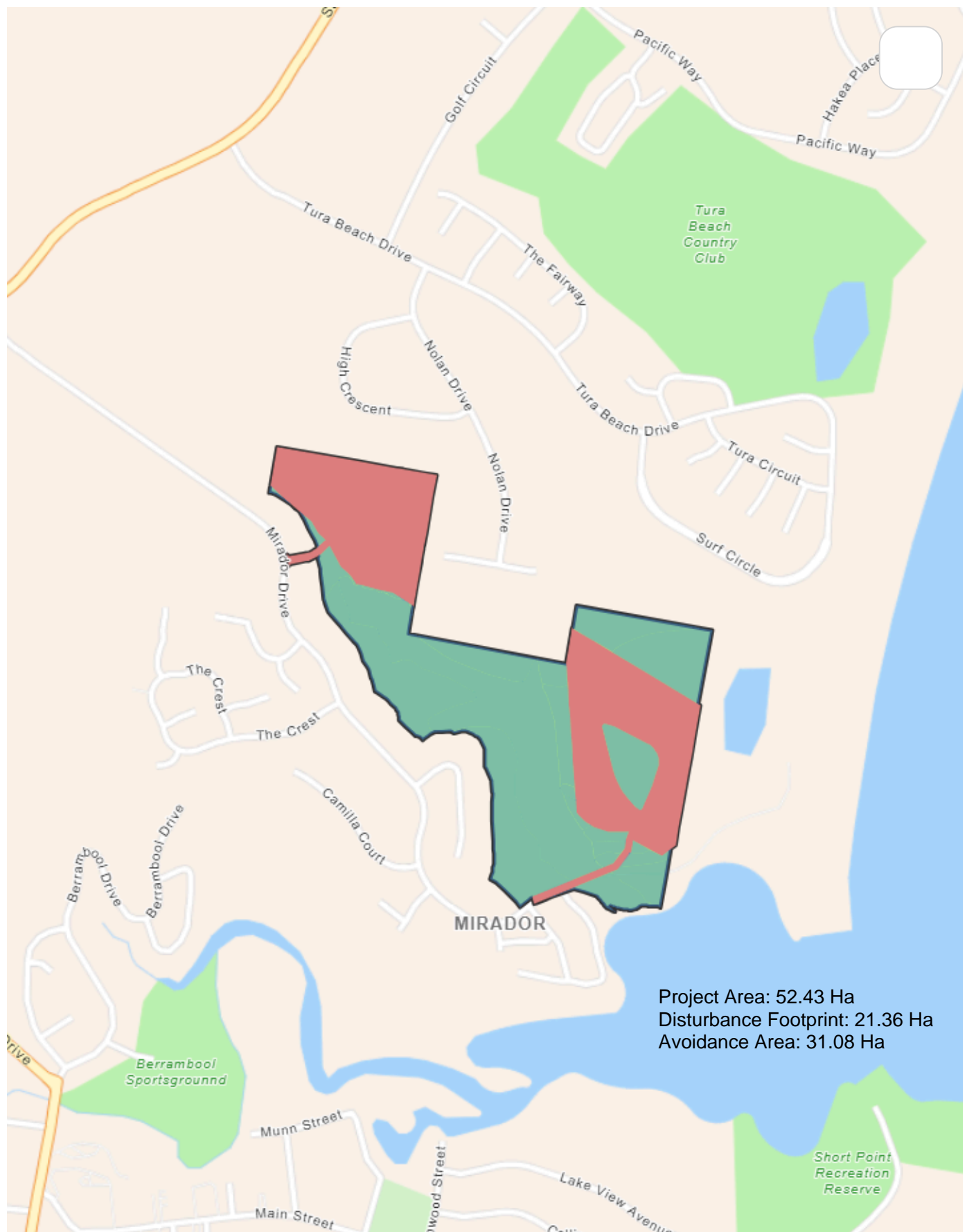
1.4 Payment details: Payment allocation

1.4.11 Who would you like to allocate as the entity responsible for payment? *

Person proposing to take the action

2. Location

2.1 Project footprint



2.2 Footprint details

2.2.1 What is the address of the proposed action? *

East of Mirador Drive, Mirador NSW 2548 (Appendix A, Figure 1, Page 1).

2.2.2 Where is the primary jurisdiction of the proposed action? *

New South Wales

2.2.3 Is there a secondary jurisdiction for this proposed action? *

No

2.2.5 What is the tenure of the action area relevant to the project area? *

Freehold land.

3. Existing environment

3.1 Physical description

3.1.1 Describe the current condition of the project area's environment.

The project area (52.50 ha total area) currently comprises predominantly remnant native vegetation, located within the suburb of Mirador and directly south of the suburb of Tura Beach. Both Mirador and Tura Beach are existing residential developments within an area otherwise characterised by remnant native vegetation to the north of the Merimbula township and urban centre. This remnant vegetation extends east of the project area to Short Point Beach and the Pacific Ocean, south to Back Lagoon and Merimbula Creek and west to Bega Aboriginal Land Council land, which continues further west into Bournda Nature Reserve (Appendix A, Figure 1, Page 1).

The vegetation condition within the project area varies from low condition (predominantly cleared / under-scrubbed) on the fringe of existing residential development, moderate condition (partially cleared / disturbed) where large trees have been selectively logged and existing human disturbance occurs (e.g. walking trails and vehicle access tracks), and good condition vegetation (native floristic and structural diversity) in areas largely free from human disturbance, such as slopes and Pages Creek gully. Some areas of good and moderate condition vegetation show evidence of fire within the last 10 years.

3.1.2 Describe any existing or proposed uses for the project area.

The project area currently comprises remnant native vegetation, with several walking trails and vehicle access tracks located within and are currently used for no specific purpose other than recreation. A powerline and approximate 20 m-wide easement are located alongside the vehicle access track which bisects the proposed Stage 13 action area, running east to west and connecting the existing residential developments of Mirador Drive, Mirador and Casuarina Place, Tura Beach. The proposed action is for residential development and associated infrastructure to meet a need for additional housing in the local area and accommodate a population of 126 to 252 people upon completion. The project area (Lot 1087 DP 1240676) includes land zoned as R2 (Low Density Residential) and C2 (Environmental conservation) under the Bega Valley Local Environmental Plan (LEP) 2013. The proposed Stage 8 & 9 and 13 action area is located entirely within the R2 (Low Density Residential) zoned portion of the project area. The proposed action areas are to include APZs to separate the remnant vegetation from adjacent residential developments.

3.1.3 Describe any outstanding natural features and/or any other important or unique values that applies to the project area.

The project area does not contain any outstanding natural features or unique values. Whilst not unique in the surrounding area, the project area contains remnant native vegetation which provides habitat for a range of flora and fauna species. This habitat forms part of an important east-west corridor which connects coastal vegetation in the east, with native forests in the west, including Bournda Nature Reserve.

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

The project area varies in elevation from 0 m ASL at the southern boundary adjacent to Back Lagoon, through to 120 m ASL in the north-west portion of the site. Pages Creek, a 2nd Order Stream runs north-south through the project area and forms a gully with gentle to moderate slopes. These slopes rise to the north towards the Stage 13 proposed action area, to the east towards the Stage 8 & 9 proposed action area and to the west towards the existing Mirador residential development (Appendix A, Figure 1, Page 1). A gully is also located in the north-east corner of the project area formed by a 1st Order Stream which runs east towards the coastline.

3.2 Flora and fauna

3.2.1 Describe the flora and fauna within the affected area and attach any investigations of surveys if applicable.

Biodiversity assessments have been undertaken within the project area and Stage 8 & 9 and 13 proposed action area since 2014. Assessments have included both desktop assessments and field surveys, with desktop assessment including reviews of available databases and field surveys including plant community type (PCT) mapping, vegetation integrity (VI) plot surveys and targeted threatened flora and fauna surveys and habitat mapping. During field surveys, all ecological features, including instances of PCTs, flora, fauna and their habitats were identified and recorded. A summary of the flora and fauna species recorded within the project area and proposed action area is provided below.

Flora Description

A diverse range of native and exotic flora species have been recorded during PCT mapping, VI plot surveys and targeted threatened flora surveys, with a combined total of 205 flora species (185 native and 20 exotic) recorded across 2014 and 2023 flora surveys (Appendix F, Table 1, Page 1-5). 106 native flora species and 14 exotic flora species were recorded within VI plots completed across the project area during 2023, with the location of plots shown in Appendix A, Figure 3, Page 3. The flora species present within the project area are representative of Dry Sclerophyll Forests (Shrubby sub-formation) and Wet Sclerophyll Forests (Shrubby sub-formation) on the NSW south coast. A total of three PCTs were mapped across both the project area and proposed action area and are further detailed in Section 3.2.2 below.

The Protected Matters Search Tool (PMST) database returned a total of seven threatened flora species listed under the EPBC Act (Appendix B, Table 1, Page 1). An additional three EPBC Act listed threatened flora species were returned by the NSW BioNet Atlas search, as occurring within a 10 km buffer of the project area (Appendix A, Figure 4, Page 4). Targeted threatened flora surveys were undertaken in the proposed action area during November 2023, with no threatened flora species listed under the EPBC Act recorded. The targeted threatened flora survey effort completed within the proposed action area is provided in Appendix A, Figure 3, Page 3.

A population of *Astrotricha* sp. Wallagaraugh (Merimbula Star Hair), a threatened plant listed as Endangered under the NSW *Biodiversity Conservation Act 2016* (BC Act) (though not listed under the EPBC Act), was recorded within both the proposed action area and wider project area and surrounding vegetation.

Fauna Description

A combined total of 92 fauna species (88 native and 4 exotic/introduced) recorded across 2014 and 2023-24 fauna surveys (Appendix F, Table 1, Page 6-8). 79 native fauna species and three exotic/introduced fauna species were recorded during field surveys completed from November 2023 to May 2024. Native fauna species recorded during 2023-24 surveys includes 62 bird, two reptile, fourteen mammal and one monotreme species, whilst two exotic mammal and one exotic bird species was recorded.

The PMST database returned a total of 69 threatened fauna species listed under the EPBC Act (Appendix B, Table 1, Page 1). An additional one EPBC Act listed threatened fauna species (*Limosa limosa* – Black-tailed Godwit) was returned by the NSW BioNet Atlas search, as occurring within a 10 km buffer of the project area (Appendix A, Figure 4, Page 4). A likelihood of occurrence assessment for these species has been undertaken, where relevant, (Appendix C, Table 1, Page 1) to determine those species either known, likely or with the potential to occur in the proposed action area and thus, require assessment under the EPBC Act significant impact guidelines (Section 4.1.1). Given the proposed action area is entirely above the mean high-water mark and marine habitat is therefore absent, marine dependent species returned by the PMST including fish, sharks, turtles and seabirds were excluded from the likelihood of occurrence assessment and are not considered further in this referral.

Targeted threatened fauna surveys were completed for species with the potential, likely or known to occur in the proposed action area as a result of the initial likelihood of occurrence assessment. The survey methodology and effort undertaken for these targeted surveys are detailed in the for each species below.

Threatened Birds

Callocephalon fimbriatum (Gang-gang Cockatoo) - Endangered

Search for and mapping of hollows greater than 7 cm diameter and 3 m above ground. Four 1-hour diurnal searches in the breeding season in the first or last two hours of daylight to confirm a breeding tree, targeting potential nesting trees during surveys. November 2023 and January 2024

Calyptorhynchus lathami lathami (Glossy Black-Cockatoo (south-eastern)) - Vulnerable

Search for and mapping of hollows >15 cm diameter in stems >30 cm in diameter and at least 45 degree angle and 8 m above ground. Eight 1-hour diurnal searches in the breeding season in the first or last two hours of daylight to confirm a breeding tree, targeting potential nesting trees during surveys. April – May 2024

Lathamus discolor (Swift Parrot) - Critically Endangered

Area based searches between March and July for 2.5 hours per day in the morning and afternoon for a total of 8 days. April – May 2024

Threatened Mammals

Pteropus poliocephalus

(Grey-headed Flying-fox) - Vulnerable

Vegetation mapping surveys confirmed presence of potential foraging habitat but absence of potential roosting habitat. Search National Flying-fox Camp Monitoring database to identify local camps. Spotlighting surveys from dusk for 1 hour over a total of 9 nights. January – May 2024

Petauroides volans (Southern Greater Glider) - Endangered

Spotlighting surveys from dusk for 1 hour over a total of 9 nights on walked transects and stag watching of suitable HBTs. January – May 2024

Petaurus australis australis (Yellow-bellied Glider (south-eastern)) - Vulnerable

Spotlighting surveys from dusk for 1 hour over a total of 9 nights on walked transects and stag watching of suitable HBTs. January – May 2024

Phascolarctos cinereus (Koala (combined populations of QLD, NSW, ACT)) - Endangered

Spot Assessment Technique (SAT) of 30 trees based on a 150 m grid, repeated across 10 locations. Spotlighting surveys from dusk for 1 hr over a total of 9 nights. January – May 2024

Potorous tridactylus tridactylus (Long-nosed Potoroo (southern)) - Vulnerable

A total of 44 baited cameras (peanut butter, oats, truffle oil) set for four weeks, with re-baiting after two weeks. Spotlighting surveys from dusk for 1 hour over a total of 9 nights. January – May 2024

Dasyurus maculatus maculatus (Spotted-tailed Quoll (SE mainland population)) - Endangered

A total of 44 baited cameras (sardines, oil, flour) set for four weeks, with re-baiting after two weeks. Spotlighting surveys from dusk for 1 hr over a total of 9 nights. January – May 2024.

The following five EPBC Act listed threatened fauna species were recorded in the greater area during surveys:

- *Callocephalon fimbriatum* (Gang-gang Cockatoo) - Endangered
- *Pteropus poliocephalus* (Grey-headed Flying-fox) - Vulnerable
- *Petaurus australis australis* (Yellow-bellied Glider (south-eastern)) - Vulnerable
- *Potorous tridactylus trisulcatus* (Long-nosed Potoroo (southern mainland)) - Vulnerable
- *Calyptrorhynchus lathamii lathamii* (South-eastern Glossy Black-Cockatoo) - Vulnerable.

Additionally, two species listed as Migratory and Marine, and one species listed as Marine, were also recorded in the greater area during surveys:

- *Pandion haliaetus* (Osprey) - Migratory; Marine
- *Rhipidura rufifrons* (Rufous Fantail) - Migratory; Marine
- *Haliaeetus leucogaster* (White-bellied Sea-Eagle) - Marine.

The location of EPBC Act listed species recorded within the surrounding region (10 km buffer) is provided in Appendix A, Figure 4, Page 4 and the location of EPBC Act listed species recorded within the project area and surrounds is provided in Appendix A, Figure 5, Page 5.

Maps displaying the targeted threatened fauna survey effort completed within the project area are also provided in Appendix A as follows:

- Diurnal bird and nocturnal bird and mammal targeted surveys for Gang-gang Cockatoo, Glossy Black-Cockatoo (south-eastern), Swift Parrot, Grey-headed Flying-fox, Southern Greater Glider, Yellow-bellied Glider (south-eastern), Koala, Long-nosed Potoroo (southern) and Spotted-tailed Quoll (SE mainland population) - Appendix A, Figure 6, Page 6.
- Spot Assessment Technique (SAT) targeted surveys for Koala - Appendix A, Figure 7, Page 7.
- Baited Remote Camera targeted surveys for Long-nosed Potoroo (southern) and Spotted-tailed Quoll (SE mainland population) and echolocation detector targeted surveys for threatened microbats (general) - Appendix A, Figure 8, Page 8.

3.2.2 Describe the vegetation (including the status of native vegetation and soil) within the project area.

Vegetation

The project area contains predominantly remnant native vegetation, with small areas of cleared land in the form of walking trails, vehicle access tracks and a powerline easement. Vegetation condition within the project area varies from low condition (predominantly cleared / under-scrubbed) on the fringe of existing residential development, moderate condition (partially cleared / disturbed) where large trees have been selectively logged and existing human disturbance occurs (e.g. walking trails and vehicle access tracks), and good condition

vegetation (native floristic and structural diversity) in areas largely free from human disturbance, such as slopes and Pages Creek gully (Appendix A, Figure 9, Page 9). Some areas of good and moderate condition vegetation show evidence of fire within the last 10 years.

Three native plant community types (PCTs) have been identified and mapped across the project area (Appendix A, Figure 9, Page 9). The respective condition classes and area of each PCT in both the project area and proposed action area are detailed below.

PCT 3189 - South Coast Gully Shrub Forest (Good condition)

Action Area (ha): 0.17

Project Area (ha): 11.46

PCT 3662 - Southeast Foothills Stringybark Shrub Forest (Low condition)

Action Area (ha): 0.61

Project Area (ha): 0.61

PCT 3662 - Southeast Foothills Stringybark Shrub Forest (Moderate condition)

Action Area (ha): 10.11

Project Area (ha): 14.27

PCT 3663 - South Coast Lowland Blackbutt Forest (Low condition)

Action Area (ha): 0.08

Project Area (ha): 0.08

PCT 3663 - South Coast Lowland Blackbutt Forest (Moderate condition)

Action Area (ha): 6.07

Project Area (ha): 8.63

PCT: 3663 - South Coast Lowland Blackbutt Forest (Good condition)

Action Area (ha): 4.36

Project Area (ha): 17.45

A total of three Threatened Ecological Communities (TECs) listed under the EPBC Act were returned by the PMST database (Appendix B, Table 1, Page 1). The PCTs present within the project area do not correspond with any TEC listed under the EPBC Act, as confirmed by the results of field surveys and the finalised likelihood of occurrence assessment (Appendix C, Table 1, Page 1). As such, TECs are not considered further in this referral. A map displaying the locations of PCTs within both the project area and proposed action area is provided in Appendix A, Figure 9, Page 9.

Soils

The project area occurs within the Yellow Pinch soil landscape (eSPADE - DPE 2023) (Appendix A, Figure 12, Page 12). This soil landscape occurs in the Murrah-Timbillica Coastal Ranges physiographic region on rolling to steep hills where conglomerates, sandstones and siltstones occur. On the crests to mid-slopes the soil comprises of moderately deep, moderately well-drained to imperfectly drained yellow Soloths and Yellow Podzolic Soils. Moderately deep to deep, moderately well-drained to imperfectly drained Yellow Soloths can be found on the lower slopes of the project area. Earthy Sands or Brown Earths can also be found on colluvial slopes (eSPADE -DPE 2023).

A small area in the northern portion of Stage 13 occurs on Pambula soil landscapes (eSPADE -DPE 2023) (Appendix A, Figure 12, Page 12). This soil landscape can be found on undulating rises to rolling low hills on Tertiary sediments in the Bermagui–Nadgee Coastal Zone physiogeographic region. Landform features include

undulating rises to rolling low hills and widely-spaced to sparse drainage lines. The dominant soil types are characterised by brownish black loose sand, bleached greyish hardsetting clayey sand, dull yellowish-brown sandy clay loam, bright brown mottled clay and dull yellow–orange silty clay (eSPADE - DPE 2023).

3.3 Heritage

3.3.1 Describe any Commonwealth heritage places overseas or other places recognised as having heritage values that apply to the project area.

The PMST returned no results for heritage related MNES including World Heritage Properties, National Heritage Places or Commonwealth Heritage Places.

3.3.2 Describe any Indigenous heritage values that apply to the project area.

No Indigenous heritage assessment has been undertaken for the project area and it is unknown as to whether any Indigenous heritage values are present.

3.4 Hydrology

3.4.1 Describe the hydrology characteristics that apply to the project area and attach any hydrological investigations or surveys if applicable. *

The project area contains no permanent flowing streams or creeks, however, Pages Creek a 2nd Order Stream occurs as an intermittent / ephemeral stream that contains a chain of small ponds which are aligned north-south and run downslope into Back Lagoon (Appendix A, Figure 1, Page 1). Back Lagoon is the closest permanent waterbody, located directly south of the project area. Pages Creek is formed at the confluence of two of the 1st Order streams which begin in the north of the project area and flow in a southerly direction, before joining to become a 2nd Order Stream (Pages Creek) in the centre of the project area (Appendix A, Figure 1, Page 1). A third 1st order stream begins in the north-east portion of the project area and flows to the east into a coastal lagoon located approximately 180 m outside of the project area.

4. Impacts and mitigation

4.1 Impact details

Potential Matters of National Environmental Significance (MNES) relevant to your proposed action area.

EPBC Act section	Controlling provision	Impacted	Reviewed
S12	World Heritage	No	Yes
S15B	National Heritage	No	Yes
S16	Ramsar Wetland	No	Yes
S18	Threatened Species and Ecological Communities	Yes	Yes
S20	Migratory Species	Yes	Yes
S21	Nuclear	No	Yes
S23	Commonwealth Marine Area	No	Yes
S24B	Great Barrier Reef	No	Yes
S24D	Water resource in relation to large coal mining development or coal seam gas	No	Yes
S26	Commonwealth Land	No	Yes

EPBC Act section	Controlling provision	Impacted	Reviewed
S27B	Commonwealth Heritage Places Overseas	No	Yes
S28	Commonwealth or Commonwealth Agency	No	Yes

4.1.1 World Heritage

You have identified your proposed action will likely directly and/or indirectly impact the following protected matters.

A direct impact is a direct consequence of an action taken – for example, clearing of habitat for a threatened species or permanent shading on an ecological community as the result of installing solar panels.

An indirect impact is an 'indirect consequence' such as a downstream impact or a facilitated third-party action.

—

4.1.1.1 Is the proposed action likely to have any direct and/or indirect impact on any of these protected matters? *

No

4.1.1.3 Briefly describe why your action is unlikely to have a direct and/or indirect impact. *

There are no world heritage properties within the proposed action area.

4.1.2 National Heritage

You have identified your proposed action will likely directly and/or indirectly impact the following protected matters.

A direct impact is a direct consequence of an action taken – for example, clearing of habitat for a threatened species or permanent shading on an ecological community as the result of installing solar panels.

An indirect impact is an 'indirect consequence' such as a downstream impact or a facilitated third-party action.

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4.1.2.1 Is the proposed action likely to have any direct and/or indirect impact on any of these protected matters? *

No

4.1.2.3 Briefly describe why your action is unlikely to have a direct and/or indirect impact. *

There are no national heritage properties within the proposed action area.

4.1.3 Ramsar Wetland

You have identified your proposed action will likely directly and/or indirectly impact the following protected matters.

A direct impact is a direct consequence of an action taken – for example, clearing of habitat for a threatened species or permanent shading on an ecological community as the result of installing solar panels.

An indirect impact is an 'indirect consequence' such as a downstream impact or a facilitated third-party action.

4.1.3.1 Is the proposed action likely to have any direct and/or indirect impact on any of these protected matters? *

No

4.1.3.3 Briefly describe why your action is unlikely to have a direct and/or indirect impact. *

There are no Ramsar Wetland Areas within the proposed action area.

4.1.4 Threatened Species and Ecological Communities

You have identified your proposed action will likely directly and/or indirectly impact the following protected matters.

A direct impact is a direct consequence of an action taken – for example, clearing of habitat for a threatened species or permanent shading on an ecological community as the result of installing solar panels.

An indirect impact is an 'indirect consequence' such as a downstream impact or a facilitated third-party action.

Threatened species

Direct impact	Indirect impact	Species	Common name
No	No	<i>Anthochaera phrygia</i>	Regent Honeyeater
No	No	<i>Aphelocephala leucopsis</i>	Southern Whiteface
No	No	<i>Ardenna grisea</i>	Sooty Shearwater
No	No	<i>Balaenoptera musculus</i>	Blue Whale
No	No	<i>Botaurus poiciloptilus</i>	Australasian Bittern
No	No	<i>Caladenia tessellata</i>	Thick-lipped Spider-orchid, Daddy Long-legs
No	No	<i>Calidris acuminata</i>	Sharp-tailed Sandpiper
No	No	<i>Calidris canutus</i>	Red Knot, Knot
No	No	<i>Calidris ferruginea</i>	Curlew Sandpiper
Yes	Yes	<i>Callocephalon fimbriatum</i>	Gang-gang Cockatoo
No	No	<i>Calochilus pulchellus</i>	Pretty Beard Orchid, Pretty Beard-orchid
Yes	Yes	<i>Calyptorhynchus lathami lathami</i>	South-eastern Glossy Black-Cockatoo
No	No	<i>Carcharias taurus</i> (east coast population)	Grey Nurse Shark (east coast population)
No	No	<i>Carcharodon carcharias</i>	White Shark, Great White Shark
No	No	<i>Caretta caretta</i>	Loggerhead Turtle
No	No	<i>Chelonia mydas</i>	Green Turtle
No	No	<i>Climacteris picumnus victoriae</i>	Brown Treecreeper (south-eastern)
No	No	<i>Correa baeuerlenii</i>	Chef's Cap
No	No	<i>Cryptostylis hunteriana</i>	Leafless Tongue-orchid
No	No	<i>Dasyornis brachypterus</i>	Eastern Bristlebird
No	No	<i>Dasyurus maculatus maculatus</i> (SE mainland population)	Spot-tailed Quoll, Spotted-tail Quoll, Tiger Quoll (southeastern mainland population)
No	No	<i>Dermochelys coriacea</i>	Leatherback Turtle, Leathery Turtle, Luth
No	No	<i>Diomedea antipodensis</i>	Antipodean Albatross
No	No	<i>Diomedea antipodensis gibsoni</i>	Gibson's Albatross
No	No	<i>Diomedea epomophora</i>	Southern Royal Albatross

Direct impact	Indirect impact	Species	Common name
No	No	<i>Diomedea exulans</i>	Wandering Albatross
No	No	<i>Diomedea sanfordi</i>	Northern Royal Albatross
No	No	<i>Epinephelus daemeli</i>	Black Rockcod, Black Cod, Saddled Rockcod
No	No	<i>Eretmochelys imbricata</i>	Hawksbill Turtle
No	No	<i>Eubalaena australis</i>	Southern Right Whale
No	No	<i>Falco hypoleucos</i>	Grey Falcon
No	No	<i>Fregetta grallaria grallaria</i>	White-bellied Storm-Petrel (Tasman Sea), White-bellied Storm-Petrel (Australasian)
No	No	<i>Gallinago hardwickii</i>	Latham's Snipe, Japanese Snipe
No	No	<i>Grantiella picta</i>	Painted Honeyeater
No	No	<i>Heleioporus australiacus</i>	Giant Burrowing Frog
Yes	Yes	<i>Hirundapus caudacutus</i>	White-throated Needletail
No	No	<i>Isodon obesulus obesulus</i>	Southern Brown Bandicoot (eastern), Southern Brown Bandicoot (south-eastern)
Yes	Yes	<i>Lathamus discolor</i>	Swift Parrot
No	No	<i>Limosa lapponica baueri</i>	Nunivak Bar-tailed Godwit, Western Alaskan Bar-tailed Godwit
No	No	<i>Litoria aurea</i>	Green and Golden Bell Frog
No	No	<i>Litoria watsoni</i>	Watson's Tree Frog
No	No	<i>Macronectes giganteus</i>	Southern Giant-Petrel, Southern Giant Petrel
No	No	<i>Macronectes halli</i>	Northern Giant Petrel
No	No	<i>Melanodryas cucullata cucullata</i>	South-eastern Hooded Robin, Hooded Robin (south-eastern)
No	No	<i>Natator depressus</i>	Flatback Turtle
No	No	<i>Neophema chrysogaster</i>	Orange-bellied Parrot
No	No	<i>Neophema chrysostoma</i>	Blue-winged Parrot
No	No	<i>Numenius madagascariensis</i>	Eastern Curlew, Far Eastern Curlew
No	No	<i>Pachyptila turtur subantarctica</i>	Fairy Prion (southern)
No	No	<i>Persicaria elatior</i>	Knotweed, Tall Knotweed

Direct impact	Indirect impact	Species	Common name
No	No	Petauroides volans	Greater Glider (southern and central)
Yes	Yes	Petaurus australis australis	Yellow-bellied Glider (south-eastern)
No	No	Phascolarctos cinereus (combined populations of Qld, NSW and the ACT)	Koala (combined populations of Queensland, New South Wales and the Australian Capital Territory)
No	No	Pomaderris cotoneaster	Cotoneaster Pomaderris
Yes	Yes	Potorous tridactylus trisulcatus	Long-nosed Potoroo (southern mainland)
No	No	Prototroctes maraena	Australian Grayling
No	No	Pseudomys fumeus	Smoky Mouse, Konoom
No	No	Pseudomys novaehollandiae	New Holland Mouse, Pookila
Yes	Yes	Pteropus poliocephalus	Grey-headed Flying-fox
No	No	Pycnoptilus floccosus	Pilotbird
No	No	Rhincodon typus	Whale Shark
No	No	Rostratula australis	Australian Painted Snipe
No	No	Seriolella brama	Blue Warehou
No	No	Stagonopleura guttata	Diamond Firetail
No	No	Sternula nereis nereis	Australian Fairy Tern
No	No	Thalassarche bulleri	Buller's Albatross, Pacific Albatross
No	No	Thalassarche bulleri platei	Northern Buller's Albatross, Pacific Albatross
No	No	Thalassarche carteri	Indian Yellow-nosed Albatross
No	No	Thalassarche eremita	Chatham Albatross
No	No	Thalassarche impavida	Campbell Albatross, Campbell Black-browed Albatross
No	No	Thalassarche melanophris	Black-browed Albatross
No	No	Thalassarche salvini	Salvin's Albatross
No	No	Thalassarche steadi	White-capped Albatross
No	No	Thesium australe	Austral Toadflax, Toadflax
No	No	Thinornis cucullatus cucullatus	Eastern Hooded Plover, Eastern Hooded Plover

Direct impact	Indirect impact	Species	Common name
No	No	Thunnus maccoyii	Southern Bluefin Tuna
No	No	Tringa nebularia	Common Greenshank, Greenshank

Ecological communities

Direct impact	Indirect impact	Ecological community
No	No	Brogo Vine Forest of the South East Corner Bioregion
No	No	Lowland Grassy Woodland in the South East Corner Bioregion
No	No	River-flat eucalypt forest on coastal floodplains of southern New South Wales and eastern Victoria

4.1.4.1 Is the proposed action likely to have any direct and/or indirect impact on any of these protected matters? *

Yes

4.1.4.2 Briefly describe why your action has a direct and/or indirect impact on these protected matters. *

The proposed action would directly impact 21.39 ha of confirmed habitat for the following threatened MNES, through the removal of vegetation:

- *Callocephalon fimbriatum* (Gang-gang Cockatoo) – Endangered
- *Petaurus australis* (Yellow-bellied Glider) – Vulnerable
- *Potorous tridactylus trisulcatus* (Long-nosed Potoroo (southern)) – Vulnerable.

The proposed action would directly impact 21.39 ha of potential habitat for the following threatened MNES, through the removal of vegetation:

- *Calyptorhynchus lathami lathami* (South-eastern Glossy Black-Cockatoo) – Vulnerable
- *Hirundapus caudacutus caudacutus* (White-throated Needletail) – Vulnerable
- *Lathamus discolor* (Swift Parrot) – Critically Endangered
- *Pteropus poliocephalus* (Grey-headed Flying-fox) – Vulnerable.

The proposed action also has the potential to cause indirect impacts to the MNES as a result from increased bushfire risk, increased human and domestic animal access, increased and/or new invasive species incursion, light, noise and dust pollution and other construction activity impacts.

4.1.4.4 Do you consider this likely direct and/or indirect impact to be a Significant Impact? *

Yes

4.1.4.5 Describe why you consider this to be a Significant Impact. *

An assessment against the EPBC Act significant impact criteria was undertaken for each relevant threatened species (Appendix D), with the following providing a summary of this significant impact assessment for the two species below, considered likely to be significantly impacted by the proposed action.

Yellow-bellied Glider Impact summary (Appendix D, Table 5, Page 11-13)

The proposed action will result in the removal of a total of 21.39 ha of potential Yellow-bellied Glider foraging habitat, in the form of Dry and Wet Sclerophyll Forest (Shrubby sub-formation) Vegetation Formations, whilst a total of 31.11 ha is to be retained within the wider project area. The potential foraging habitat constitutes habitat critical to the survival of the species. A total of 16 hollow-bearing trees which form suitable breeding habitat for the species, will be removed as part of the proposed action.

The 21.39 ha to be removed represents approximately 0.17% of the predominant foraging habitat (Dry and Wet Sclerophyll Forest (Shrubby sub-formation) Vegetation Formations – see Appendix A, Figure 10, Page 10) within a 10 km buffer (approximate area of 314 km²) of the proposed action area, which was not impacted from the 2019-20 bushfires (Appendix A, Figure 11, Page 11). The proposed action area is located within an east-west habitat corridor utilised by the species, with field survey and database records (NSW DCCEEW 2024) of the species, located across this habitat corridor. The proposed action has the potential to isolate and reduce the availability of additional areas of habitat within this wildlife corridor, through further limiting the already limited dispersal capabilities (Goldingay 1994) of the species.

Overall, the proposed action is likely to have a significant impact on the Yellow-bellied Glider given the following:

- the proposed action area contains an important population of the species, and the proposed action will remove confirmed foraging and suitable breeding habitat for the population.
- the proposed action has the potential to fragment an important population due to its location in a habitat corridor utilised by the population. The proposed action will reduce the size and possible function of the habitat corridor utilised by an important population.
- the proposed action would adversely affect habitat critical to the survival of a species, with the habitat containing several required critical attributes listed in the Yellow-bellied Glider approved conservation advice (DAWE 2022b).
- the proposed action may disrupt the breeding cycle of an important population due to direct impacts to suitable breeding habitat and potential indirect impacts to adjacent breeding activity.
- the proposed action would directly remove 21.39 ha of habitat and would isolate and decrease the availability of additional habitat within the wider habitat corridor, which combined may result in some level of decline to the species.

Long-nosed Potoroo (southern mainland) Impact summary (Appendix D, Table 6, Page 13-15)

The proposed action will remove of a total of 21.39 ha of Long-nosed Potoroo (southern mainland) foraging and breeding habitat, in the form of Dry and Wet Sclerophyll Forest Vegetation Formations, whilst a total of 31.11 ha is to be retained within the wider project area.

The 21.39 ha to be removed represents approximately 0.17% of the predominant foraging habitat Vegetation Formation for the species within a 10 km buffer (approximate area of 314 km²) of the proposed action area, which was not impacted from the 2019-20 bushfires (Appendix A, Figure 11, Page 11). The proposed action area is located within an east-west habitat corridor utilised by the species, with field survey and database records (NSW DCCEEW 2024) of the species, located across this habitat corridor. The proposed action has the potential to isolate and reduce the availability of additional areas of habitat within this habitat corridor through further limiting the already limited dispersal capabilities (Frankham et al. 2014) of the species.

Overall, the proposed action is likely to have a significant impact on the Long-nosed Potoroo (southern mainland) given the following:

- the proposed action area contains an important population of the species, and the proposed action will remove both foraging and breeding habitat for the existing important population.
- the proposed action has the potential to fragment an important population due to its location in a habitat corridor utilised by the species. The proposed action will reduce the size and possible function of the corridor.

- the proposed action would adversely affect habitat critical to the survival of a species, as it as it comprises occupied forested habitats larger than 0.1 km² in extent (DAWE 2022c).
- the proposed action may disrupt the breeding cycle of an important population due to the direct removal of breeding habitat and potential impacts to the dispersal capabilities of mature breeding individuals and their young.
- the proposed action would directly remove 21.39 ha of habitat and would potentially isolate and decrease the availability of additional habitat within the wider habitat corridor, which combined may result in some level of decline to the species.
- the proposed action has the potential to interfere substantially with the recovery of the species as the action includes components that are contrary to the primary conservation and recovery priority of the species, namely; avoiding further loss and fragmentation of habitat, including the loss of vegetation connecting areas of habitat for the species, or the creation or increase of barriers to movement between subpopulations (DAWE 2022c).

An assessment against the EPBC Act significant impact criteria was undertaken for each relevant threatened species (Appendix D), with the following species considered unlikely to be significantly impacted by the proposed action. A summary of the significant impact criteria assessment has not been provided below due to word limitation, however, the relevant pages for each species assessment in Appendix D has been provided below.

Swift Parrot Impact summary (Appendix D, Table 2, Page 6-8)

Gang-gang Cockatoo [Impact summary](#) (Appendix D, Table 3, Page 8-9)

South-eastern Glossy Black-Cockatoo [Impact summary](#) (Appendix D, Table 7, Page 15-17)

White-throated Needletail [Impact summary](#) (Appendix D, Table 8, Page 17-19)

Grey-headed Flying-fox [Impact summary](#) (Appendix D, Table 4, Page 9-11).

4.1.4.7 Do you think your proposed action is a controlled action? *

Yes

4.1.4.8 Please elaborate why you think your proposed action is a controlled action. *

The EPBC Act significant impact criteria assessment found that there is the potential of a significant impact to two MNES (Yellow-bellied Glider (south-eastern) and Long-nosed Potoroo (southern mainland)) as a result of the proposed action and therefore, it would constitute a controlled action.

4.1.4.10 Please describe any avoidance or mitigation measures proposed for this action and attach any supporting documentation for these avoidance and mitigation measures. *

Avoidance

The wider project area is 52.50 ha in size and comprises mostly remnant native vegetation. Approximately 31.11 ha (59%) of this native vegetation within project area has been avoided as part of the proposed action (Appendix A, Figure 2, Page 2).

The area to be avoided includes the Pages Creek riparian zone and the riparian zone of the 1st Order Stream to the north of Stage 8 & 9 (Appendix A, Figure 2, Page 2). The majority of these avoided areas comprise good condition class PCTs and associated habitats.

Mitigation

The below mitigation measures are relevant to the proposed action and would be implemented as part of environmental management plans (e.g. Construction Environmental Management Plan, Vegetation Management Plan) to be developed specific to the proposed action.

Vegetation Clearance and Construction

- Ensure Construction Activity Zones are clearly delineated, including identified entry and exit points.
- Clearance zones are to be restricted to those identified on site plans and that approved under the vegetation clearance advice (to be obtained).
- Stockpiles should be appropriately positioned in previously cleared/bare areas wherever possible.
- Where possible, topsoil is to be appropriately stockpiled for reinstatement post construction.
- Investigate alternative work methods to avoid/minimise the need for vegetation removal.
- Ensure construction activity has measures in place to control and suppress dust, noise and light pollution, as well as construction vibration.

Weed Control

All listed weeds will require treatment prior to vegetation removal. Some secondary weed treatments and follow up treatment of weed regrowth may be required if vegetation removal is delayed or staged. During these weed control activities, care must be taken to avoid impacting on retained biodiversity values.

A weed management plan would be prepared to manage landscaped areas and avoid and mitigate impacts to retained biodiversity both within and on the outside edge of the proposed action area. Specific information regarding weed management and control is provided in Appendix E, Table 2, Page 7-9.

Pest species and Pedestrian Control

- Habitat friendly fences are to be constructed to reduce pest and domestic animal access to retained habitat, whilst still allowing terrestrial and arboreal animals to enter and leave without restriction or interruption.
- Gates positioned at appropriate locations around the fence perimeter would be constructed consistent with advice from the relevant bushfire authority.

4.1.4.11 Please describe any proposed offsets and attach any supporting documentation relevant to these measures. *

RCL Merimbula Pty Ltd currently have no proposed offsets, however, have the capacity to explore offsetting options in the 34.88 ha retained portion of the project area, should offsets be required for any residual unavoidable impacts.

4.1.5 Migratory Species

You have identified your proposed action will likely directly and/or indirectly impact the following protected matters.

A direct impact is a direct consequence of an action taken – for example, clearing of habitat for a threatened species or permanent shading on an ecological community as the result of installing solar panels.

An indirect impact is an 'indirect consequence' such as a downstream impact or a facilitated third-party action.

Direct impact	Indirect impact	Species	Common name
No	No	<i>Actitis hypoleucos</i>	Common Sandpiper
Yes	Yes	<i>Apus pacificus</i>	Fork-tailed Swift
No	No	<i>Ardenna carneipes</i>	Flesh-footed Shearwater, Fleshy-footed Shearwater
No	No	<i>Ardenna grisea</i>	Sooty Shearwater
No	No	<i>Balaenoptera edeni</i>	Bryde's Whale
No	No	<i>Balaenoptera musculus</i>	Blue Whale
No	No	<i>Calidris acuminata</i>	Sharp-tailed Sandpiper
No	No	<i>Calidris canutus</i>	Red Knot, Knot
No	No	<i>Calidris ferruginea</i>	Curlew Sandpiper
No	No	<i>Calidris melanotos</i>	Pectoral Sandpiper
No	No	<i>Caperea marginata</i>	Pygmy Right Whale
No	No	<i>Carcharhinus longimanus</i>	Oceanic Whitetip Shark
No	No	<i>Carcharias taurus</i>	Grey Nurse Shark
No	No	<i>Carcharodon carcharias</i>	White Shark, Great White Shark
No	No	<i>Caretta caretta</i>	Loggerhead Turtle
No	No	<i>Chelonia mydas</i>	Green Turtle
No	No	<i>Cuculus optatus</i>	Oriental Cuckoo, Horsfield's Cuckoo
No	No	<i>Dermochelys coriacea</i>	Leatherback Turtle, Leathery Turtle, Luth
No	No	<i>Diomedea antipodensis</i>	Antipodean Albatross
No	No	<i>Diomedea epomophora</i>	Southern Royal Albatross
No	No	<i>Diomedea exulans</i>	Wandering Albatross
No	No	<i>Diomedea sanfordi</i>	Northern Royal Albatross

Direct impact	Indirect impact	Species	Common name
No	No	Eretmochelys imbricata	Hawksbill Turtle
No	No	Eubalaena australis	Southern Right Whale
No	No	Gallinago hardwickii	Latham's Snipe, Japanese Snipe
No	No	Gallinago megala	Swinhoe's Snipe
No	No	Gallinago stenura	Pin-tailed Snipe
Yes	Yes	Hirundapus caudacutus	White-throated Needletail
No	No	Lagenorhynchus obscurus	Dusky Dolphin
No	No	Lamna nasus	Porbeagle, Mackerel Shark
No	No	Limosa lapponica	Bar-tailed Godwit
No	No	Macronectes giganteus	Southern Giant-Petrel, Southern Giant Petrel
No	No	Macronectes halli	Northern Giant Petrel
No	No	Megaptera novaeangliae	Humpback Whale
No	No	Monarcha melanopsis	Black-faced Monarch
No	No	Myiagra cyanoleuca	Satin Flycatcher
No	No	Natator depressus	Flatback Turtle
No	No	Numenius madagascariensis	Eastern Curlew, Far Eastern Curlew
No	No	Numenius minutus	Little Curlew, Little Whimbrel
No	No	Orcinus orca	Killer Whale, Orca
No	No	Pandion haliaetus	Osprey
No	No	Rhincodon typus	Whale Shark
Yes	Yes	Rhipidura rufifrons	Rufous Fantail
No	No	Sternula albifrons	Little Tern
No	No	Thalassarche bulleri	Buller's Albatross, Pacific Albatross
No	No	Thalassarche carteri	Indian Yellow-nosed Albatross
No	No	Thalassarche eremita	Chatham Albatross
No	No	Thalassarche impavida	Campbell Albatross, Campbell Black-browed Albatross

Direct impact	Indirect impact	Species	Common name
No	No	<i>Thalassarche melanophris</i>	Black-browed Albatross
No	No	<i>Thalassarche salvini</i>	Salvin's Albatross
No	No	<i>Thalassarche steadi</i>	White-capped Albatross
No	No	<i>Tringa nebularia</i>	Common Greenshank, Greenshank

4.1.5.1 Is the proposed action likely to have any direct and/or indirect impact on any of these protected matters? *

Yes

4.1.5.2 Briefly describe why your action has a direct and/or indirect impact on these protected matters. *

The proposed action would directly impact 21.39 ha of potential habitat for the following migratory MNES, through the removal of vegetation:

- *Apus pacificus* (Fork-tailed Swift)
- *Hirundapus caudacutus caudacutus* (White-throated Needletail)
- *Rhipidura rufifrons* (Rufous Fantail).

A single adult individual of the Migratory listed *Pandion haliaetus* (Osprey) was also recorded flying outside but adjacent to the proposed action area during field surveys. The proposed action is not considered likely to directly or indirectly impact upon this species however, due to the absence of this species' foraging and breeding habitat within the proposed action area.

4.1.5.4 Do you consider this likely direct and/or indirect impact to be a Significant Impact? *

No

4.1.5.6 Describe why you do not consider this to be a Significant Impact. *

The proposed action is unlikely to result in a significant impact to the Fork-tailed Swift, White-throated Needletail and Rufous Fantail due to the following:

- the absence of the species breeding habitat in the proposed action area
- the relatively minor extent of potential foraging habitat to be removed, relatively to the extensive amount of habitat available to these mobile species, outside of the proposed action area
- the minor extent of the proposed action relative to the species mobility and extensive range is unlikely to fragment populations of the species
- due to the migratory nature of these species, their potential occurrence within the proposed action area only covers a portion of their total lifecycle.

4.1.5.7 Do you think your proposed action is a controlled action? *

No

4.1.5.9 Please elaborate why you do not think your proposed action is a controlled action. *

Given that a potential significant impact on the above Migratory species is unlikely to occur as a result of the proposed action, it would therefore, not constitute a controlled action.

4.1.5.10 Please describe any avoidance or mitigation measures proposed for this action and attach any supporting documentation for these avoidance and mitigation measures. *

The avoidance and mitigation measures proposed in Section 4.1.4.10 to reduce potential impacts on listed threatened species are also applicable to the above Migratory species.

4.1.5.11 Please describe any proposed offsets and attach any supporting documentation relevant to these measures. *

Given the proposed action is unlikely to result in any significant impacts to the above Migratory species, offsets are not proposed.

4.1.6 Nuclear

4.1.6.1 Is the proposed action likely to have any direct and/or indirect impact on this protected matter? *

No

4.1.6.3 Briefly describe why your action is unlikely to have a direct and/or indirect impact. *

There are no nuclear sites located or impacted on within or around the Proposed action area.

4.1.7 Commonwealth Marine Area

You have identified your proposed action will likely directly and/or indirectly impact the following protected matters.

A direct impact is a direct consequence of an action taken – for example, clearing of habitat for a threatened species or permanent shading on an ecological community as the result of installing solar panels.

An indirect impact is an 'indirect consequence' such as a downstream impact or a facilitated third-party action.

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4.1.7.1 Is the proposed action likely to have any direct and/or indirect impact on any of these protected matters? *

No

4.1.7.3 Briefly describe why your action is unlikely to have a direct and/or indirect impact. *

No Commonwealth Marine Areas are located or will be impacted within the Proposed action area.

4.1.8 Great Barrier Reef

4.1.8.1 Is the proposed action likely to have any direct and/or indirect impact on this protected matter? *

No

4.1.8.3 Briefly describe why your action is unlikely to have a direct and/or indirect impact. *

There are no Great Barrier Reef sites located within proximity to the Proposed action area.

4.1.9 Water resource in relation to large coal mining development or coal seam gas

4.1.9.1 Is the proposed action likely to have any direct and/or indirect impact on this protected matter? *

No

4.1.9.3 Briefly describe why your action is unlikely to have a direct and/or indirect impact. *

The proposed action area is not related to coal seam gas or coal mining development.

4.1.10 Commonwealth Land

You have identified your proposed action will likely directly and/or indirectly impact the following protected matters.

A direct impact is a direct consequence of an action taken – for example, clearing of habitat for a threatened species or permanent shading on an ecological community as the result of installing solar panels.

An indirect impact is an 'indirect consequence' such as a downstream impact or a facilitated third-party action.

Direct impact	Indirect impact	Commonwealth land area
No	No	Commonwealth Land - Australian Telecommunications Commission

4.1.10.1 Is the proposed action likely to have any direct and/or indirect impact on any of these protected matters? *

No

4.1.10.3 Briefly describe why your action is unlikely to have a direct and/or indirect impact. *

The proposed action area is not located on Commonwealth land which will therefore, not be directly or indirectly affected by the proposed action.

4.1.11 Commonwealth Heritage Places Overseas

You have identified your proposed action will likely directly and/or indirectly impact the following protected matters.

A direct impact is a direct consequence of an action taken – for example, clearing of habitat for a threatened species or permanent shading on an ecological community as the result of installing solar panels.

An indirect impact is an 'indirect consequence' such as a downstream impact or a facilitated third-party action.

—

4.1.11.1 Is the proposed action likely to have any direct and/or indirect impact on any of these protected matters? *

No

4.1.11.3 Briefly describe why your action is unlikely to have a direct and/or indirect impact. *

There are no Commonwealth heritage places within the proposed action area.

4.1.12 Commonwealth or Commonwealth Agency

4.1.12.1 Is the proposed action to be taken by the Commonwealth or a Commonwealth Agency? *

No

4.2 Impact summary

Conclusion on the likelihood of significant impacts

You have indicated that the proposed action will likely have a significant impact on the following Matters of National Environmental Significance:

- Threatened Species and Ecological Communities (S18)

Conclusion on the likelihood of unlikely significant impacts

You have indicated that the proposed action will unlikely have a significant impact on the following Matters of National Environmental Significance:

- World Heritage (S12)
- National Heritage (S15B)
- Ramsar Wetland (S16)
- Migratory Species (S20)
- Nuclear (S21)
- Commonwealth Marine Area (S23)
- Great Barrier Reef (S24B)
- Water resource in relation to large coal mining development or coal seam gas (S24D)
- Commonwealth Land (S26)
- Commonwealth Heritage Places Overseas (S27B)

- Commonwealth or Commonwealth Agency (S28)

4.3 Alternatives

4.3.1 Do you have any possible alternatives for your proposed action to be considered as part of your referral? *

No

4.3.8 Describe why alternatives for your proposed action were not possible. *

The proposed locations for Stage 8 & 9 and 13 are extensions of existing residential areas from earlier stages of the Mirador Residential Development and there are no alternative parcels of land connected to these owned by RCL Merimbula Pty Ltd (RCL Group). The development in Stages 8 & 9 and 13 have received local Council approval, as part of the larger staged development.

5. Lodgement

5.1 Attachments

1.2.1 Overview of the proposed action

Type	Name	Date	Sensitivity	Confidence
#1. Document	Appendix A_v2.pdf Map package with the following Figures: Figure 1: Location of Proposed Project Areas and Action Area; Figure 2: Indicative development footprint for Stage 8 & 9 and 13, and Stage 3D and 14 and proposed Avoided Area and previously completed stages; Figure 3: Vegetation mapping and flora survey effort; Figure 4: EPBC Act listed threatened species records within 10 km buffer; Figure 5: EPBC Act listed threatened species within proposed project area and surrounds; Figure 6: Remote Camera and Anabat detector targeted survey effort;	19/11/2024	No	High

Figure 7: Diurnal and nocturnal bird and mammal survey effort; Figure 8: Koala SAT survey effort; Figure 9: PCT and condition class mapping; Figure 10: Vegetation Formation habitat type mapping within surrounding IBRA Region; Figure 11: Fire Extent Severity Mapping within surrounding IBRA Region, Figure 12: Soil Landscapes mapping

3.2.1 Flora and fauna within the affected area

	Type	Name	Date	Sensitivity	Confidence
#1.	Document	Appendix B_v1.pdf Protected Matter Search Tool results	19/11/2024	No	High
#2.	Document	Appendix C_v1.pdf EPBC Act Threatened Ecological Communities, Flora and Fauna Likelihood of Occurrence assessment	19/11/2024	No	High
#3.	Document	Appendix F_v1.pdf Flora and fauna species list recorded from field surveys	19/11/2024	No	High
#4.	Document	Threatened_Flora_Fauna_Records_10km_v2a.jpg Threatened species records within 10 km buffer of the Project Area, including sensitive species (not for public exhibition)	19/11/2024	Yes	High
#5.	Document	Threatened_Flora_Fauna_Records_ProjectSite_v2a.jpg Threatened species records within and adjacent to the Project Area, including sensitive species (not for public exhibition)	19/11/2024	Yes	High

4.1.4.5 (Threatened Species and Ecological Communities) Why you consider the direct and/or indirect impact to be a Significant Impact

	Type	Name	Date	Sensitivity	Confidence
#1.	Document	Appendix D_v2.pdf EPBC Act Significant Impact Criteria assessment	19/11/2024	No	High

4.1.4.10 (Threatened Species and Ecological Communities) Avoidance or mitigation measures proposed for this action

	Type	Name	Date	Sensitivity	Confidence
#1.	Document	Appendix E_v2.pdf Proposed Avoidance and Mitigation Measures	19/11/2024	No	High

5.2 Declarations

☒ Completed Referring party's declaration

The Referring party is the person preparing the information in this referral.

Organisation name	ECO LOGICAL AUSTRALIA PTY LTD
Organisation address	Level 13, 420 George Street, Sydney NSW 2000
Representative's name	Tomas Kelly
Representative's job title	
Phone	0435541994
Email	tomask@ecoaus.com.au
Address	

- ☒ Check this box to indicate you have read the referral form. *
- ☒ I would like to receive notifications and track the referral progress through the EPBC portal. *
- ☒ By checking this box, I, **Tomas Kelly of ECO LOGICAL AUSTRALIA PTY LTD**, 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. *
- ☒ I would like to receive notifications and track the referral progress through the EPBC portal. *

☒ Completed Person proposing to take the action's declaration

The Person proposing to take the action is the individual, business, government agency or trustee that will be responsible for the proposed action.

ABN/ACN	68164331677
Organisation name	RCL MERIMBULA PTY LTD
Organisation address	Suite 201, 3-5 Claremont Street South Yarra, VIC 3141
Representative's name	David Finney
Representative's job title	Development Manager
Phone	0400 081 243
Email	david.finney@rclgroup.com.au
Address	Suite 201, 3-5 Claremont Street South Yarra, VIC 3141

- ☒ Check this box to indicate you have read the referral form. *
- ☒ I would like to receive notifications and track the referral progress through the EPBC portal. *

☒ I, **David Finney of RCL MERIMBULA PTY LTD**, 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. *

☒ I would like to receive notifications and track the referral progress through the EPBC portal. *

☒ **Completed Proposed designated proponent's declaration**

The Proposed designated proponent is the individual or organisation proposed to be responsible for meeting the requirements of the EPBC Act during the assessment process, if the Minister decides that this project is a controlled action.

Same as Person proposing to take the action information.

☒ Check this box to indicate you have read the referral form. *

☒ I would like to receive notifications and track the referral progress through the EPBC portal. *

☒ I, **David Finney of RCL MERIMBULA PTY LTD**, the Proposed designated proponent, consent to the designation of myself as the Proposed designated proponent for the purposes of the action described in this EPBC Act Referral. *

☐ I would like to receive notifications and track the referral progress through the EPBC portal. *