



Australian Government

Department of Climate Change, Energy,
the Environment and Water

Variation of conditions attached to approval

EnergyConnect NSW - Eastern Section (EPBC 2020/8766)

This decision to vary conditions of approval is made under section 143 of the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act).

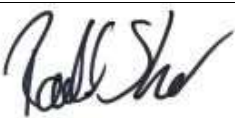
Approved action

approval holder	NSW Electricity Networks Operations Pty Limited ACN: 609 169 959
approved action	To construct and operate the eastern section of Project EnergyConnect, from Buronga to Wagga Wagga, New South Wales. [See EPBC Act referral 2020/8766]

Variation

variation of conditions attached to approval	The variation is: Delete condition 2 attached to the approval and substitute with the conditions specified in the table below. Delete definitions of Habitat for Mossgiel Daisy , Habitat for Chariot Wheels and Habitat for Slender Darling Pea attached to the approval and substitute with the definitions specified in the table below.
date of effect	This variation has effect on the date this instrument is signed.

Person authorised to make decision

name and position	Rachel Short Branch Head Environment Assessments (Vic, Tas) and Post Approvals Branch
signature	
date of decision	17 June 2024

Note: Words appearing in **bold** have the meaning assigned to them at PART C – DEFINITIONS.

PART A – CONDITIONS SPECIFIC TO THE ACTION

date of decision	conditions attached to approval
Original dated 5 December 2022	<p>1) To minimise the impacts of the action on protected matters, the approval holder must not, unless otherwise agreed to in writing by the Minister, clear more than:</p> <ul style="list-style-type: none"> a) 34.89 ha of White Box-Yellow Box-Blakely's Red Gum Grassy Woodland and Derived Native Grassland b) 17.56 ha of Grey Box (<i>Eucalyptus microcarpa</i>) Grassy Woodlands and Derived Native Grasslands of South-eastern Australia c) 101.83 ha Weeping Myall Woodlands d) 62.47 ha Natural Grasslands of the Murray Valley Plains e) 132.18 ha of habitat for Mossgiel Daisy f) 144.71 ha of habitat for Chariot Wheels g) 241.99 ha of habitat for Slender Darling Pea
As varied on the date this notice was signed	<p>2) The approval holder must not clear outside the Biodiversity Study Area unless either or both of the following are met:</p> <ul style="list-style-type: none"> a) such clearing is limited to locations with no habitat of protected matters. b) such clearing is limited to locations required to facilitate minor design or access adjustments, such as access points, minor access tracks and water supply points, and only as allowable under the State Infrastructure Approval; and <ul style="list-style-type: none"> i) a suitably qualified expert undertakes surveys of proposed clearing that supports the approval holder to verify that the total extent of clearing for the Action will not exceed the limits specified in condition 1 of this approval, and ii) all clearing is offset in accordance with the requirements of condition 8 of this approval, and iii) assessment records are submitted to the Department prior to the clearing occurring.
Original dated 5 December 2022	<p>3) The approval holder must undertake and complete pre-clearance surveys of each area where disturbance is proposed prior to commencing any clearing or ground disturbance in that area.</p>
Original dated 5 December 2022	<p>4) The approval holder must ensure that all pre-clearance surveys are developed and supervised by a suitably qualified expert.</p>

Original dated 5 December 2022	5) The approval holder must prepare a report for the pre-clearance surveys of each area where disturbance is proposed. Each report must identify the quantum of habitat (in hectares) of all protected matters in the areas where disturbance is proposed and indicate the management actions required to avoid or minimise impacts to each protected matter . Each report must be published on the website prior to commencing any clearing in that area where disturbance is proposed and each report must remain published on the website until construction of the action is completed.
Original dated 5 December 2022	6) To mitigate impacts on protected matters the approval holder must implement conditions B1, B2 and C26 of the State Infrastructure Approval , where they relate to monitoring, managing, mitigating, and avoiding impacts to protected matters .
Original dated 5 December 2022	7) To offset the impacts of the action on protected matters , the approval holder must implement condition C24 and C25 of the State Infrastructure Approval .
Original dated 5 December 2022	8) The final Biodiversity Offset Package must be submitted for approval by the Minister and must include: <ul style="list-style-type: none">a) details of the residual impact to all protected matters that will be compensated for by offsets.b) details of the credit requirements to be retired.c) a contingency plan specifying how any impacts of the Action on protected matters that are additional to the impacts specified in accordance with condition 8.a. above will be offset in accordance with the Environmental Offsets Policy to the satisfaction of the Minister
Original dated 5 December 2022	9) The approval holder must submit to the department the final Biodiversity Offset Package approved by the Secretary of the NSW Department of Planning and Environment within 5 business days of the final Biodiversity Offset Package being approved by the Secretary.
Original dated 5 December 2022	10) The approval holder must submit a credit retirement report for biodiversity credits (as specified in the Biodiversity Offset Package) to the department within 10 business days of retiring the credits and, in any case, no later than 11 September 2024.
SUBMISSION AND PUBLICATION OF PLANS	
Original dated 5 December 2022	11) The approval holder must submit all plans required by these conditions electronically to the department .

Original dated 5 December 2022	12) Unless otherwise agreed to in writing by the Minister , the approval holder must publish each plan on the website within 15 business days of the date: a) the plan is approved by the Secretary of the NSW Department of Planning and Environment as required under a state/territory government condition which must be complied with in accordance with these EPBC Act conditions.
Original dated 5 December 2022	13) The approval holder must keep all plans required by these conditions published on the website until the expiry date of this approval.
Original dated 5 December 2022	14) The approval holder is required to exclude or redact sensitive ecological data from plans published on the website or otherwise provided to a member of the public.
Original dated 5 December 2022	15) If sensitive ecological data is excluded or redacted from a plan in accordance with condition 14, the approval holder must notify the department in writing what exclusions and redactions have been made in the version published on the website .

PART B – ADMINISTRATIVE CONDITIONS

NOTIFICATION OF DATE OF COMMENCEMENT OF THE ACTION

Original dated 5 December 2022	16) The approval holder must notify the department electronically of the date of commencement of the Action, within 5 business days of commencement of the Action .
Original dated 5 December 2022	17) If the commencement of the Action does not occur within 5 years from the date of this approval, then the approval holder must not commence the Action without the prior written agreement of the Minister .

COMPLIANCE RECORDS

Original dated 5 December 2022	18) The approval holder must maintain accurate and complete compliance records .
Original dated 5 December 2022	19) If the department makes a request in writing, the approval holder must provide electronic copies of compliance records to the department within the timeframe specified in the request.
Original dated 5 December 2022	Note: Compliance records may be subject to audit by the department , or by an independent auditor in accordance with section 458 of the EPBC Act , and/or be used to verify compliance with the conditions. Summaries of the results of an audit may be published on the department's website or through the general media.

Original dated 5 December 2022	20) The approval holder must ensure that any monitoring data (including sensitive ecological data), surveys, maps, and other spatial and metadata required under the conditions of this approval are prepared in accordance with the department's Guidelines for biological survey and mapped data (2018), or any subsequent official version or as otherwise specified by the Minister in writing.
Original dated 5 December 2022	21) The approval holder must ensure that any monitoring data (including sensitive ecological data), surveys, maps, and other spatial and metadata required under the conditions of this approval are prepared in accordance with the department's Guide to providing maps and boundary data for EPBC Act projects (2021), or any subsequent official version or as otherwise specified by the Minister in writing.
Original dated 5 December 2022	22) The approval holder must submit all monitoring data (including sensitive ecological data), surveys, maps, other spatial and metadata and all species occurrence record data (sightings and evidence of presence) electronically to the department within 12 months of the approval.
<hr/> ANNUAL COMPLIANCE REPORTING <hr/>	
Original dated 5 December 2022	23) The approval holder must prepare a compliance report for each 12-month period following the date of this approval, or as otherwise agreed to in writing by the Minister .
Original dated 5 December 2022	24) Each compliance report must be consistent with the department's Annual Compliance Report Guidelines (2014), or any subsequent official version.
Original dated 5 December 2022	25) Each compliance report must include: <ul style="list-style-type: none">a) Accurate and complete details of compliance and any non-compliance with the conditions and the plans, and any incidents.b) One or more shapefile showing all clearing of any protected matters, and/or their habitat, undertaken within the 12-month period at the end of which that compliance report is prepared.c) A schedule of all plans in existence in relation to these conditions and accurate and complete details of how each plan is being implemented.
Original dated 5 December 2022	26) The approval holder must: <ul style="list-style-type: none">a) Publish each compliance report on the website within 60 business days following the end of the 12-month period for which that compliance report is required.b) Notify the department electronically, within 5 business days of the date of publication that a compliance report has been published on the website.

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- c) Provide the weblink for the **compliance report** in the notification to the department.
 - d) Keep all published **compliance reports** required by these conditions on the **website** until the expiry date of this approval.
 - e) Exclude or redact **sensitive ecological data** from **compliance reports** published on the website or otherwise provided to a member of the public.
 - f) If **sensitive ecological data** is excluded or redacted from the published version, submit the full **compliance report** to the **department** within 5 **business days** of its publication on the **website** and notify the **department** in writing what exclusions and redactions have been made in the version published on the **website**

Original
dated
5 December
2022

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

REPORTING NON-COMPLIANCE

Original
dated
5 December
2022

27) The approval holder must notify the **department** electronically, within 2 **business days** of becoming aware of any incident and/or potential non-compliance and/or actual non-compliance with the conditions or commitments made in a **plan** in relation to **protected matters**.

Original
dated
5 December
2022

28) The approval holder must specify in the notification:

- a) Any condition or commitment made in a **plan** which has been or may have been breached.
- b) A short description of the **incident** and/or potential non-compliance and/or actual non-compliance.
- c) The location (including co-ordinates), date, and time of the **incident** and/or potential non-compliance and/or actual non-compliance.

Original
dated
5 December
2022

Note: If the exact information cannot be provided, the approval holder must provide the best information available.

Original
dated
5 December
2022

29) The approval holder must provide to the **department** in writing, within 12 **business days** of becoming aware of any **incident** and/or potential non-compliance and/or actual non-compliance, the details of that **incident** and/or potential non-compliance and/or actual non-compliance with the conditions or commitments made in a **plan**. The approval holder must specify:

- a) Any corrective action or investigation which the approval holder has already taken
- b) The potential impacts of the **incident** and/or non-compliance and/or non-compliance

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- c) The method and timing of any corrective action that will be undertaken by the approval holder.
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INDEPENDENT AUDIT

Original
dated
5 December
2022

- 30) The approval holder must ensure that an **independent audit** of compliance with the conditions is conducted for every five-year period following the **commencement of the Action** until this approval expires, unless otherwise agreed to in writing by the **Minister**.
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Original
dated
5 December
2022

- 31) For each **independent audit**, the approval holder must:
- a) Provide the name and qualifications of the nominated **independent** auditor, the draft audit criteria, and proposed timeframe for submitting the **audit report** to the **department** prior to commencing the **independent audit**.
 - b) Only commence the **independent audit** once the nominated **independent** auditor, audit criteria and timeframe for submitting the **audit report** have been approved in writing by the **department**.
 - c) Submit the audit report to the department for approval within the timeframe specified and approved in writing by the department.
 - d) Publish each **audit report** on the **website** within 15 **business days** of the date of the **department's** approval of the **audit report**.
 - e) Keep every **audit report** published on the **website** until this approval expires.
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Original
dated
5 December
2022

- 32) Each **audit report** must report for the five-year period preceding that audit report.
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Original
dated
5 December
2022

- 33) . Each **audit report** must be completed to the satisfaction of the **Minister** and be consistent with the **department's** *Environment Protection and Biodiversity Conservation Act 1999 Independent Audit and Audit Report Guidelines (2019)*, or any subsequent official version.
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COMPLETION OF THE ACTION

Original
dated
5 December
2022

- 34) The approval holder must notify the **department** electronically 60 **business days** prior to the expiry date of this approval, that the approval is due to expire.
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Original
dated
5 December
2022

- 35) Within 20 **business days** after the **completion of the Action**, and, in any event, before this approval expires, the approval holder must notify the **department** electronically of the date of **completion of the Action** and provide **completion data**.
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CHANGES TO STATE INFRASTRUCTURE APPROVAL

Original dated 5 December 2022

36) The approval holder must notify the **Department** in writing of any proposed change to the **State Infrastructure Approval** that may relate to **protected matters** within 2 **business days** of formally proposing a change and within 5 **business days** of becoming aware of any proposed change.

Original dated 5 December 2022

37) The approval holder must notify the **Department** in writing of any change to the **State Infrastructure Approval** conditions that may relate to **protected matters**, within 10 **business days** of a change to conditions being finalised.

PART C – DEFINITIONS

In these conditions any bolded use of a word or term refers to the below definition of that word or term:

Original dated 5 December 2022

Audit report means a written report of compliance and fulfilment of the conditions attached to this approval, objectively evaluated against the audit criteria approved by the **department**.

Original dated 5 December 2022

Biodiversity study area means the area represented in Attachment A by the zone enclosed by the white line designated 'Biodiversity study area'

Original dated 5 December 2022

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

Original dated 5 December 2022

Clear, cleared or clearing means the cutting down, felling, thinning, logging, removing, killing, destroying, poisoning, ringbarking, uprooting, or burning of vegetation.

Original dated 5 December 2022

Commence the Action or **Commencement of the Action** means the date on which the first instance of any activity associated with the Action (including **clearing** and **construction**) is undertaken. **Commencement of the Action** does not include minor physical disturbance necessary to:

- a) Undertake pre-clearance surveys or monitoring programs.
 - b) Install signage and /or temporary fencing to prevent unapproved use of the project area.
 - c) Protect environmental and property assets from fire, weeds, and feral animals, including use of existing surface access tracks.
 - d) Install temporary site facilities for persons undertaking pre-commencement activities so long as these are located where they have no impact on any **protected matter**.
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	e) Pre-construction minor works and road upgrades (as defined in Schedule 1 of the State Infrastructure Approval) where the work does not impact protected matters .
Original dated 5 December 2022	Completion data means an environmental report and spatial data clearly detailing how the conditions of this approval have been met. The department's chosen format for spatial data is a shapefile .
Original dated 5 December 2022	Completion of the Action means the time at which all activities associated with construction have permanently ceased and requirements of conditions 3 - 11 have been fully met.
Original dated 5 December 2022	Compliance records means all documentation or other material in whatever form required to demonstrate compliance with the conditions of approval in the approval holder's possession, or that are within the approval holder's power to obtain lawfully.
Original dated 5 December 2022	Compliance report means a written report of compliance with, and fulfilment of, the conditions attached to the approval.
Original dated 5 December 2022	Construction means the erection of a building or structure that is, or is to be, fixed to the ground and wholly or partially fabricated on-site; the alteration, maintenance, repair or demolition of any building or structure; any work which involves breaking of the ground (including pile driving) or bulk earthworks; the laying of pipes and other prefabricated materials in the ground, and any associated excavation work; but excluding the installation of temporary fences and signage.
Original dated 5 December 2022	Department means the Australian Government agency responsible for administering the EPBC Act .
Original dated 5 December 2022	Environmental Offsets Policy means the Environment Protection and Biodiversity Conservation Act 1999 Environmental Offsets Policy (October 2012) including the Offsets Assessment Guide, or any subsequent official version.
Original dated 5 December 2022	EPBC Act means the <i>Environment Protection and Biodiversity Conservation Act 1999 (Cth)</i> .
Original dated 5 December 2022	Final Biodiversity Offset Package means the final version of the initial Biodiversity Offset Package (as required by the condition C24 of the State Infrastructure Approval) approved by the Secretary of the NSW Department of Planning and Environment on 31 October 2022.
Original dated 5 December 2022	Grey Box (<i>Eucalyptus microcarpa</i>) Grassy Woodlands and Derived Native Grasslands of South-eastern Australia means the EPBC Act listed threatened ecological

community Grey Box (*Eucalyptus microcarpa*) Grassy Woodlands and Derived Native Grasslands of South-eastern Australia.

As varied on the date this notice was signed

Habitat for Mossgiel Daisy means species polygons for *Brachyscome papillosa* located in Plant Community Types 13, 15, 24, 44, 45, 46, 76, 80, 157, 160, 163, 164, 216 within the meaning of the NSW Bio Net Vegetation Information System classification database as identified per the Biodiversity Assessment Method (*Department of Planning Industry and Environment 2020*).

As varied on the date this notice was signed

Habitat for Chariot Wheels means species polygons for *Maireana cheelii* located in Plant Community Types 17, 44, 46, 157, 163, 164, 216 within the meaning of the NSW Bio net Vegetation Information System classification database as identified per the Biodiversity Assessment Method (*Department of Planning Industry and Environment 2020*).

As varied on the date this notice was signed

Habitat for Slender Darling Pea means species polygons for *Swainsona murrayana* located in Plant Community Types 15, 23, 26, 28, 44, 45, 46, 76, 80, 157, 163, 164, 216 within the meaning of the NSW Bio net Vegetation Information System classification database as identified per the Biodiversity Assessment Method (*Department of Planning Industry and Environment 2020*).

Original dated 5 December 2022

Incident means any event which has the potential to, or does, impact on any **protected matter**.

Original dated 5 December 2022

Independent means a person or firm who does not have any individual, financial*, employment* or family affiliation or any conflicting interests with the project, the approval holder, or the approval holder's staff, representatives, or associated persons.

*Other than for the purpose of undertaking the role for which an independent person is required

Original dated 5 December 2022

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

Original dated 5 December 2022

Life of the approval means the period for which the approval has effect.

Original dated 5 December 2022

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

Original dated 5 December 2022	Monitoring data means the data required to be recorded under the conditions of this approval.
Original dated 5 December 2022	Natural Grasslands of the Murray Valley Plains means the EPBC Act listed threatened ecological community <i>Natural Grasslands of the Murray Valley Plains</i> .
Original dated 5 December 2022	Plan means any action management plan or strategy that the approval holder is required by these conditions to implement.
Original dated 5 December 2022	Protected matter means a matter protected under a controlling provision in Part 3 of the EPBC Act for which this approval has effect.
Original dated 5 December 2022	Sensitive ecological data means data as defined in the Australian Government Department of the Environment Sensitive Ecological Data – Access and Management Policy V1.0 (2016), or any subsequent official version.
Original dated 5 December 2022	Shapefile(s) means location and attribute information about the Action provided in an Esri shapefile format. Shapefiles must contain '.shp', '.shx', '.dbf' files and a '.prj' file that specifies the projection/geographic coordinate system used. Shapefiles must also include an '.xml' metadata file that describes the shapefile for discovery and identification purposes.
Original dated 5 December 2022	State Infrastructure Approval means the NSW Government State Significant Infrastructure: Conditions of Approval for Project EnergyConnect (NSW – Eastern section), made under Section 5.19 of the <i>Environmental Planning & Assessment Act 1979</i> , for application number SSI - 9172452, dated 2 September 2022.
Original dated 5 December 2022	Suitably qualified expert (for the purpose of undertaking environmental surveys) means a person who has relevant professional qualifications and at least 3 years of work experience designing and implementing surveys for flora species and ecological communities in SouthEastern Australia and can give an authoritative assessment and advice on the presence of protected matters using relevant protocols, standards, methods and/or literature.
Original dated 5 December 2022	Suitably qualified person means a person who has professional qualifications, training, skills and/or experience related to the nominated subject matter and can give authoritative independent assessment, advice, and analysis on performance relative to the subject matter using the relevant protocols, standards, methods and/or literature.
Original dated 5 December 2022	Website means a set of related web pages located under a single domain name attributed to the approval holder and available to the public.

Original
dated
5 December
2022

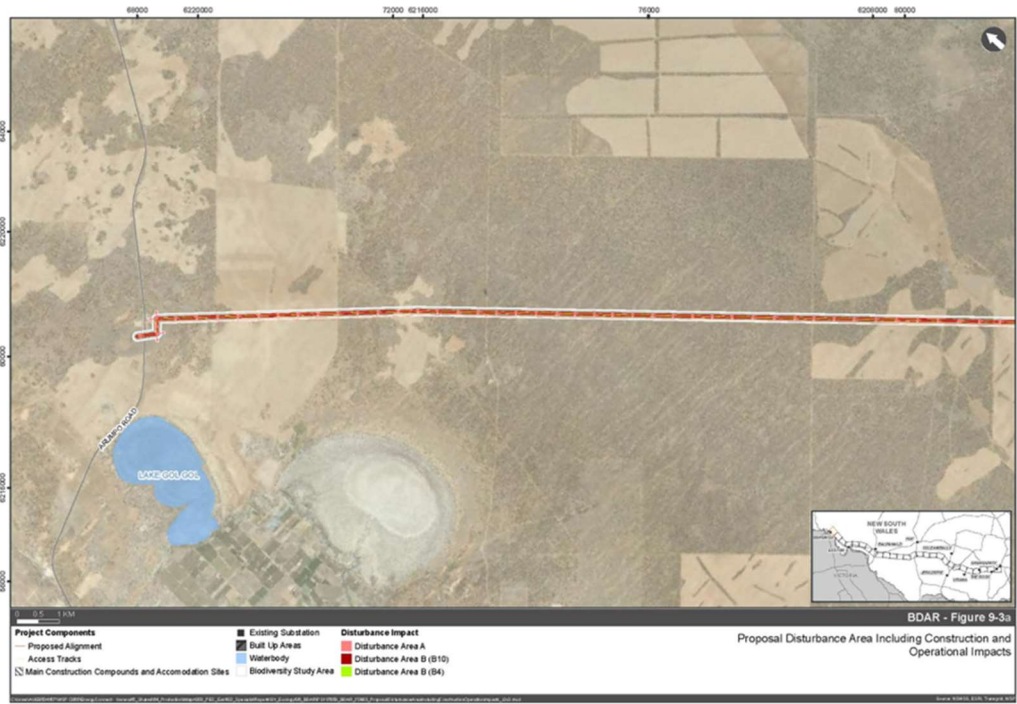
Weeping Myall Woodlands means the EPBC Act listed threatened ecological community *Weeping Myall Woodlands*.

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5 December
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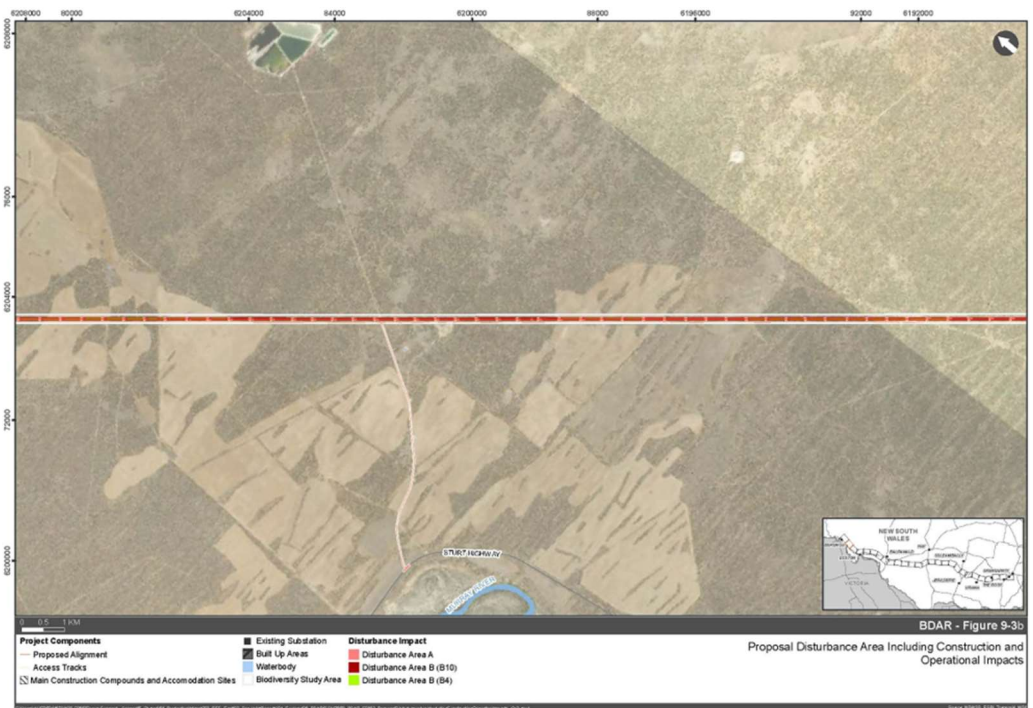
White Box-Yellow Box-Blakely's Red Gum Grassy Woodland and Derived Native Grassland means the EPBC Act listed threatened ecological community *White Box-Yellow Box-Blakely's Red Gum Grassy Woodland and Derived Native Grassland*.

Attachment A – Proposed disturbance area

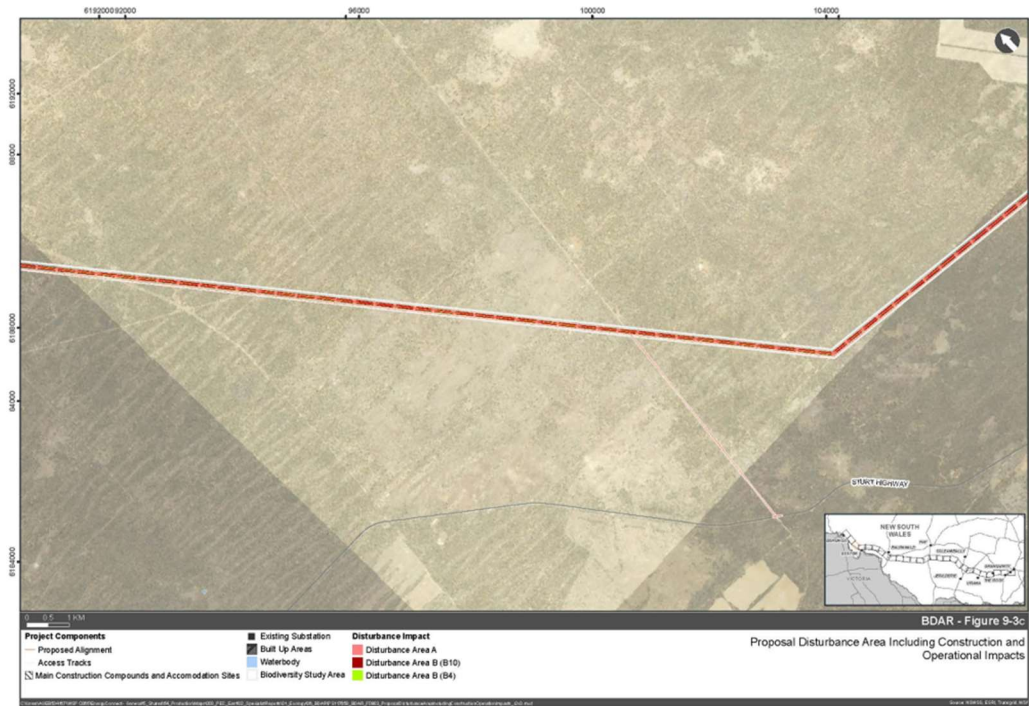
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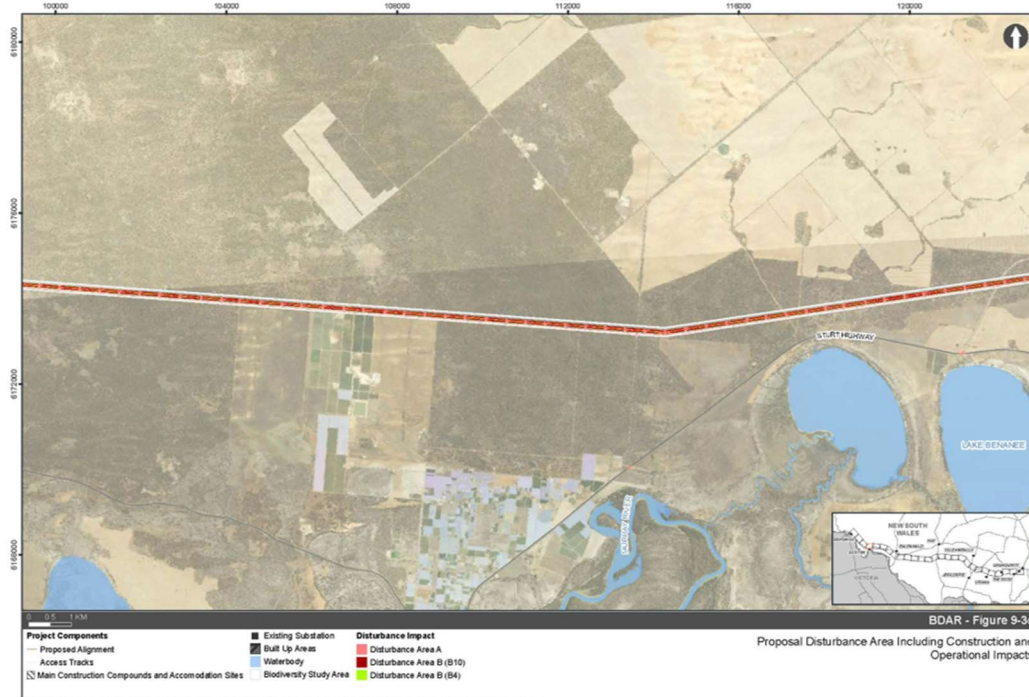
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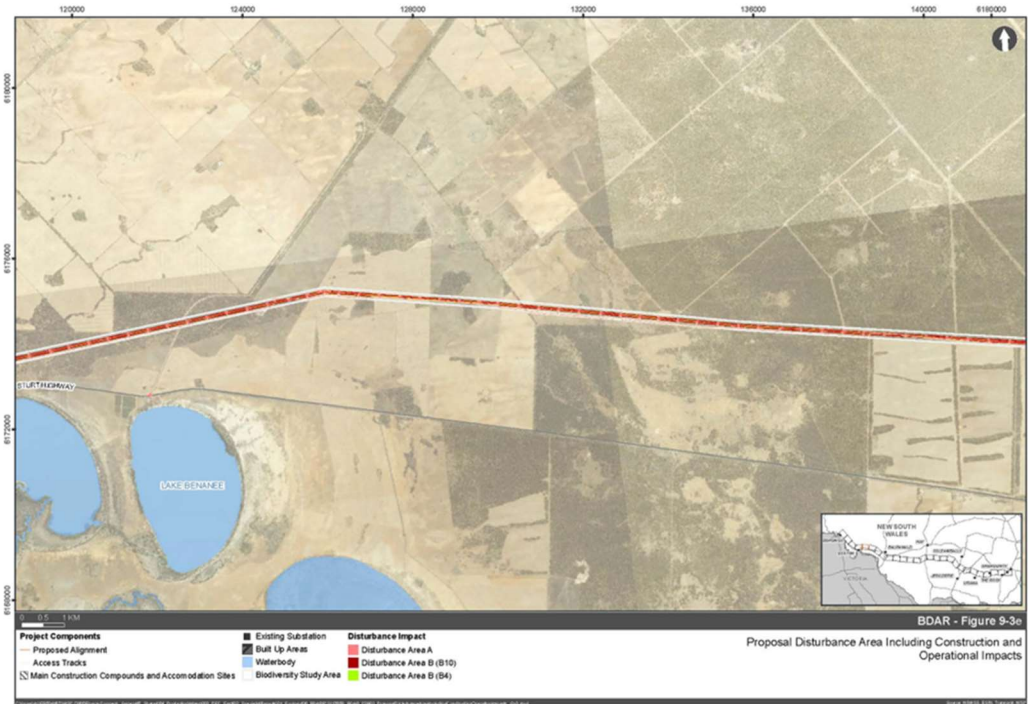
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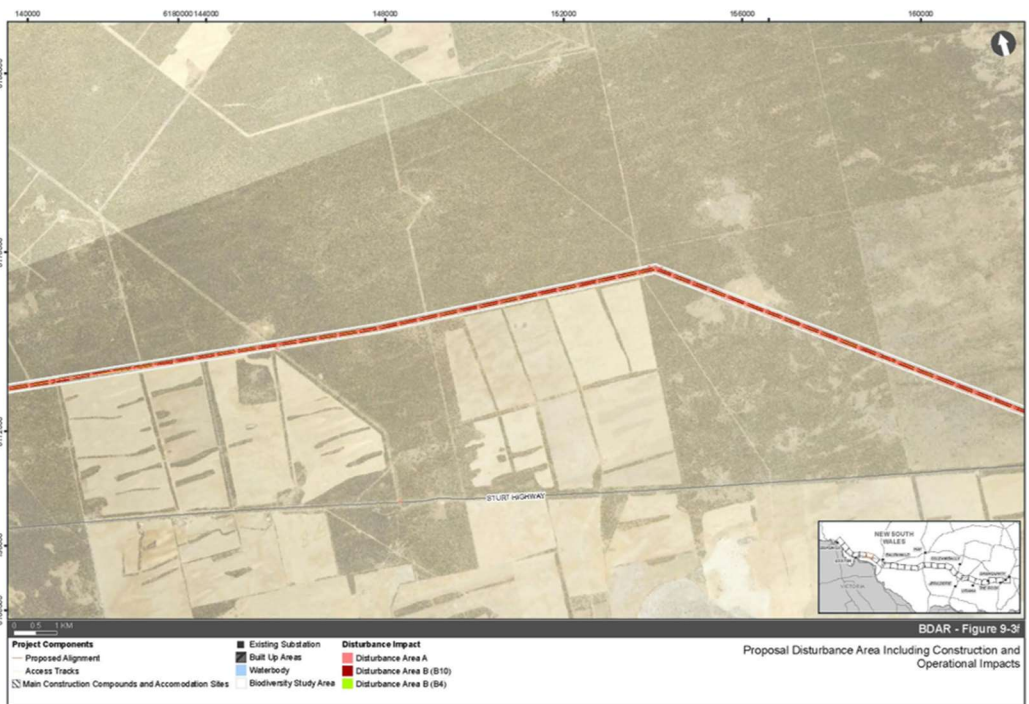
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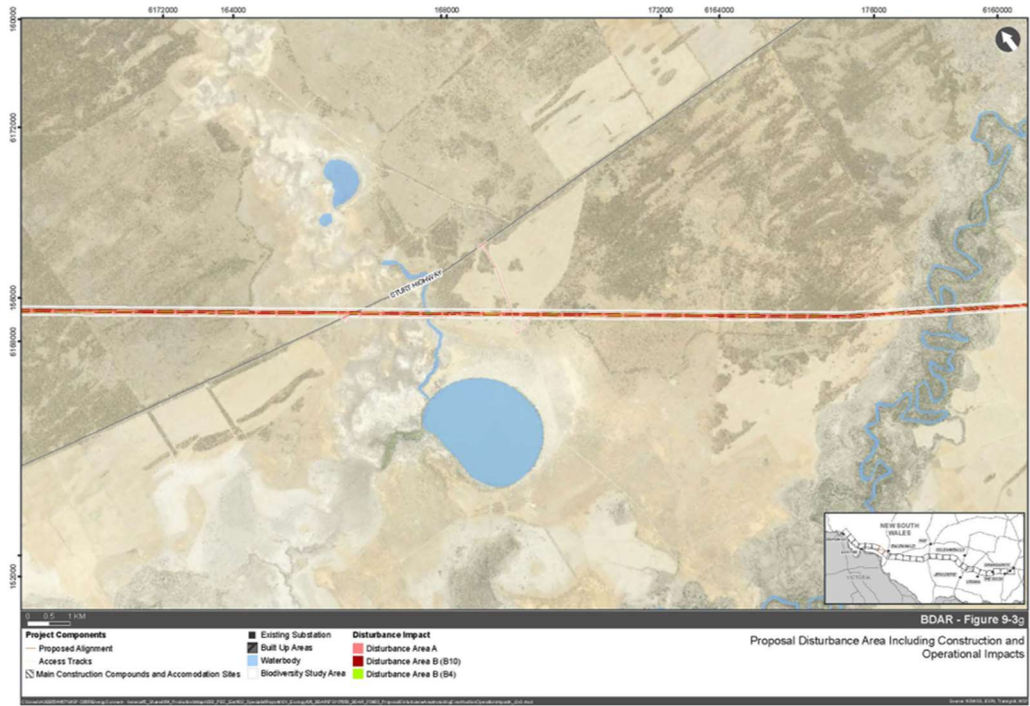
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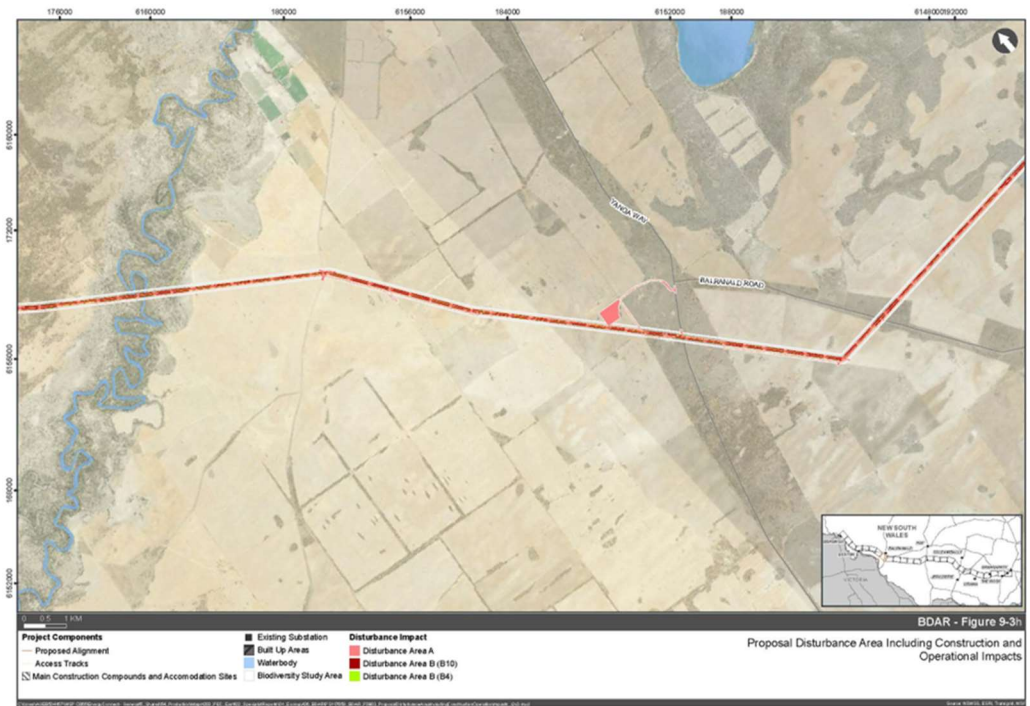
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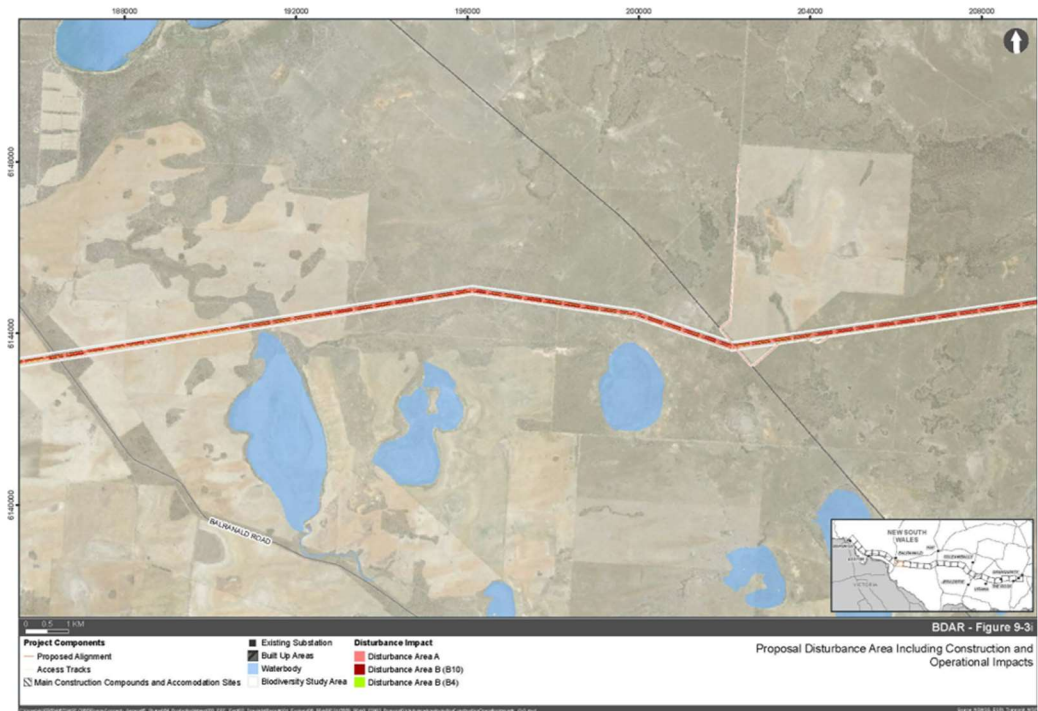
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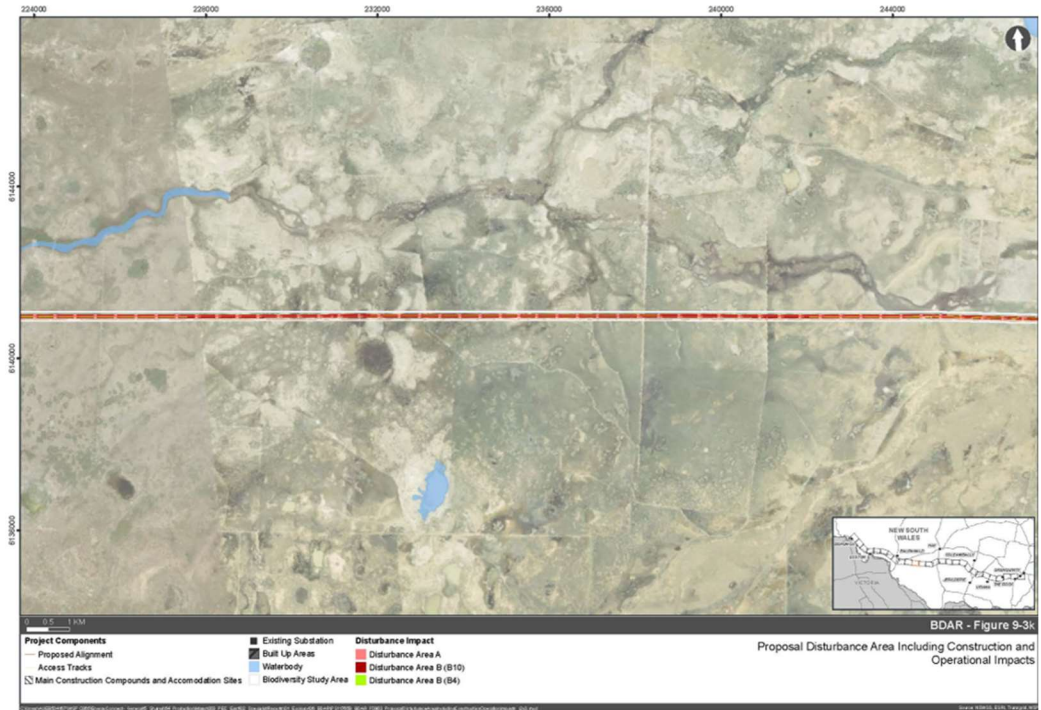
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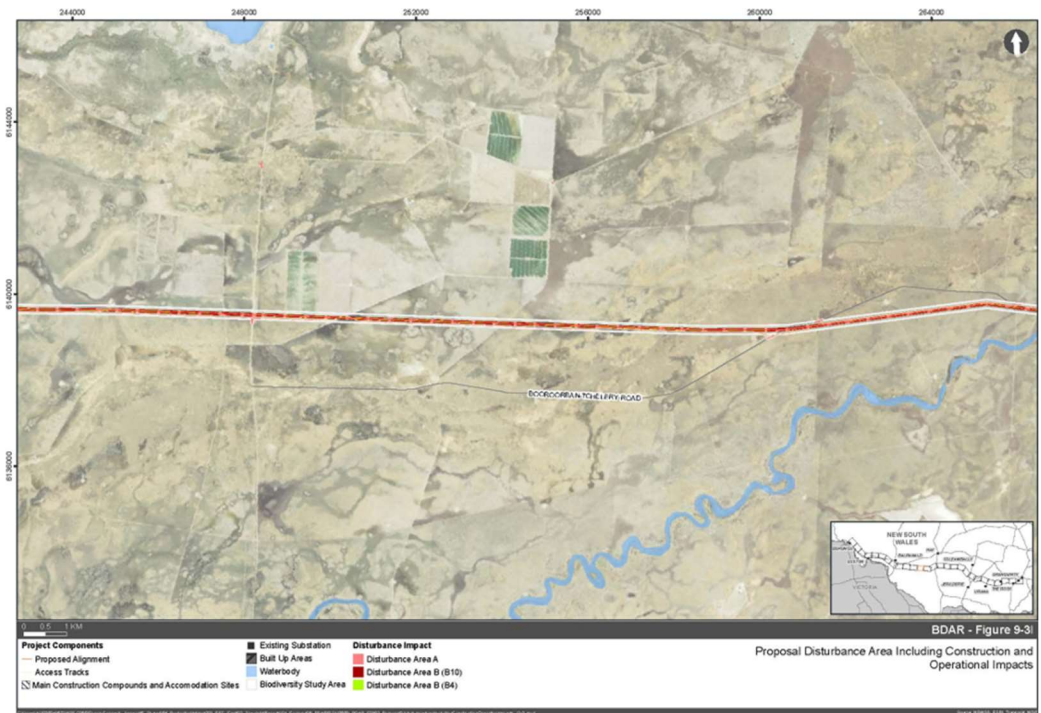
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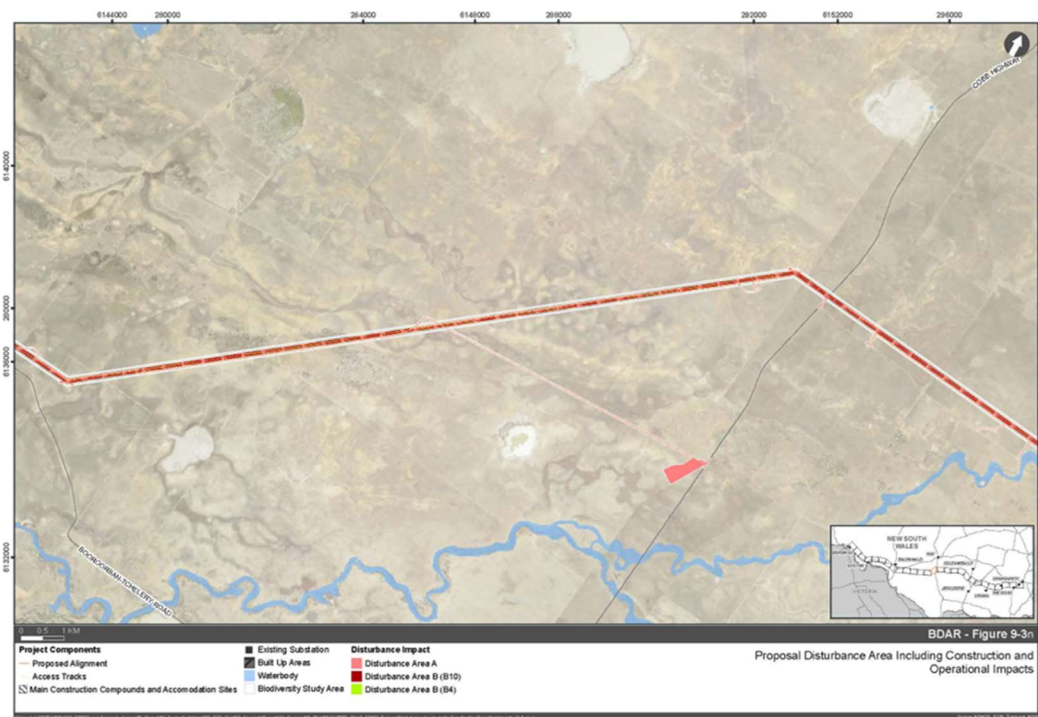
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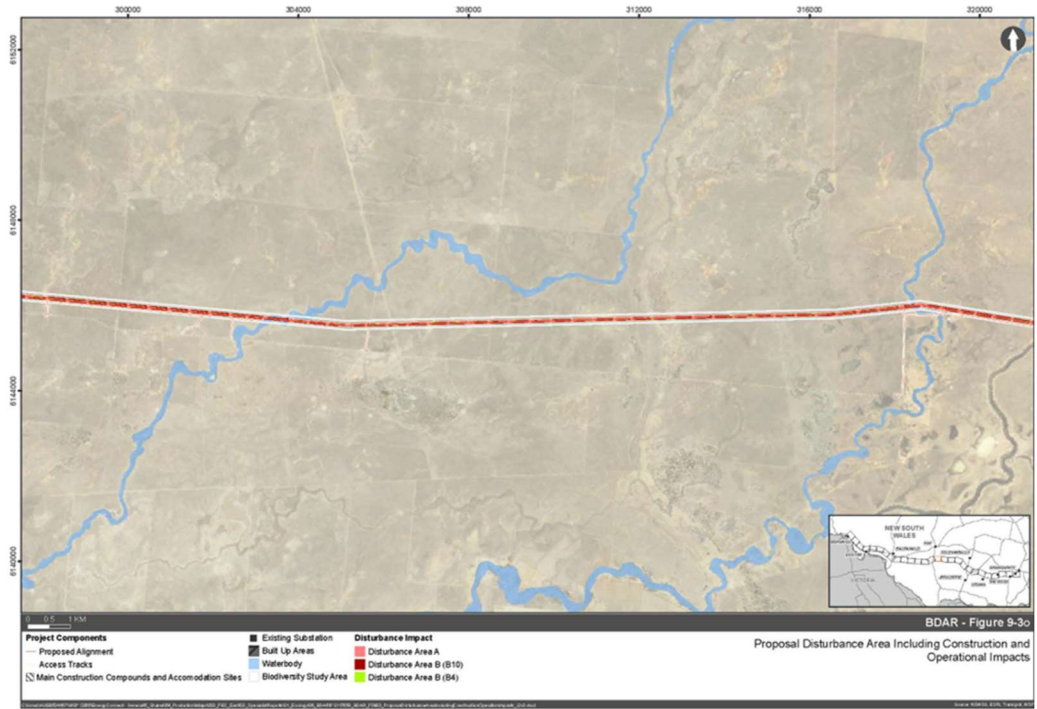
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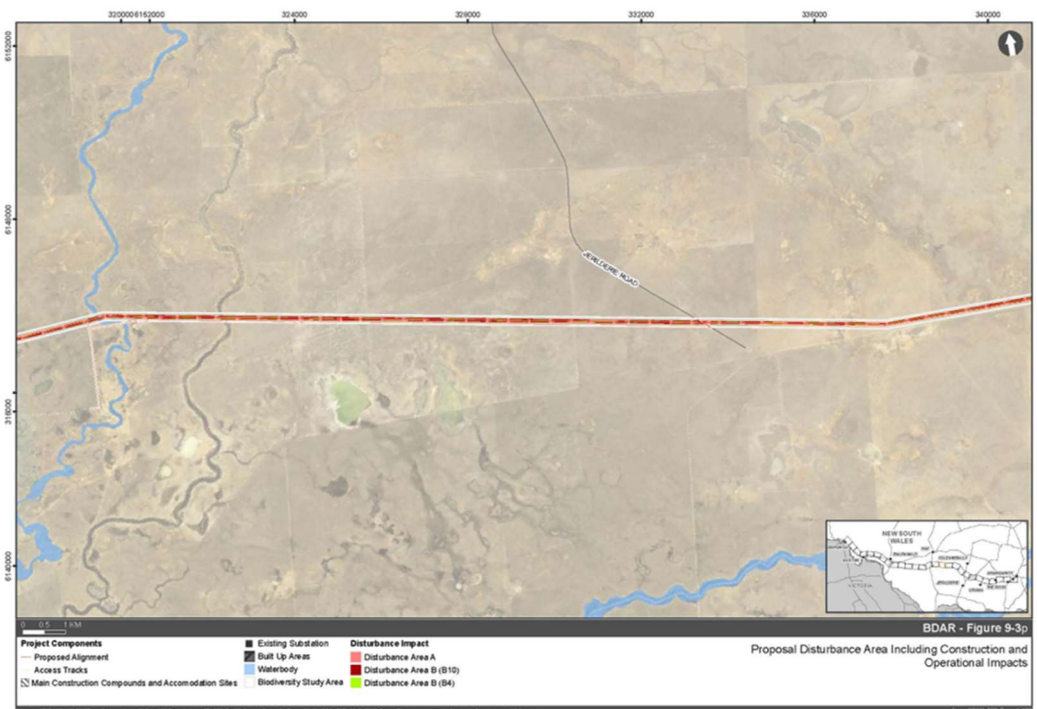
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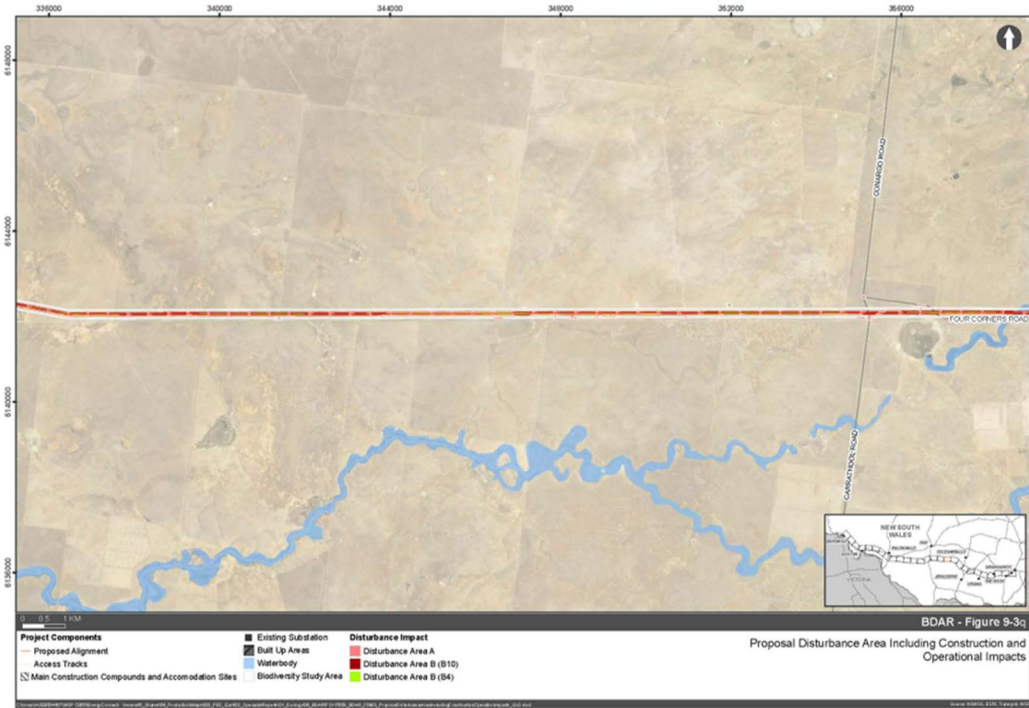
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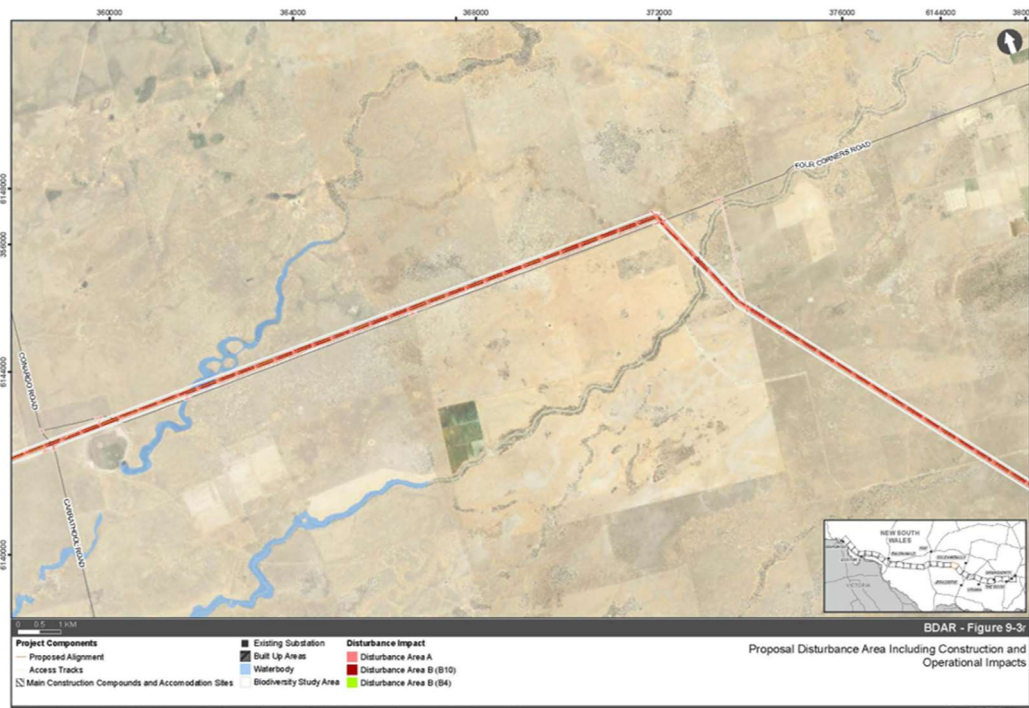
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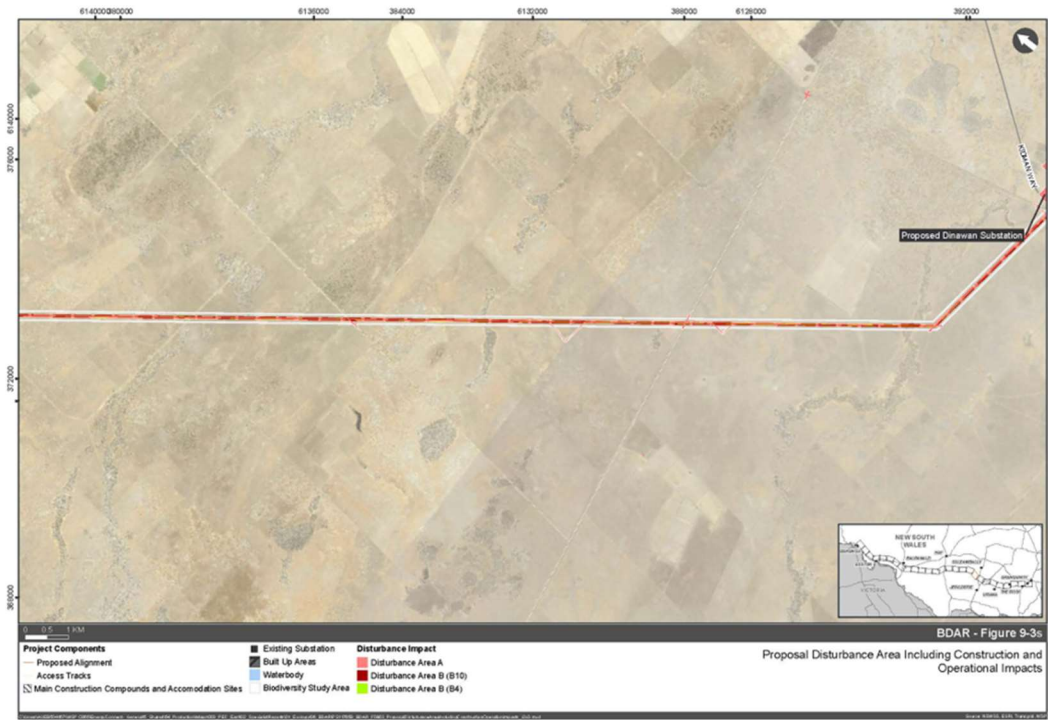
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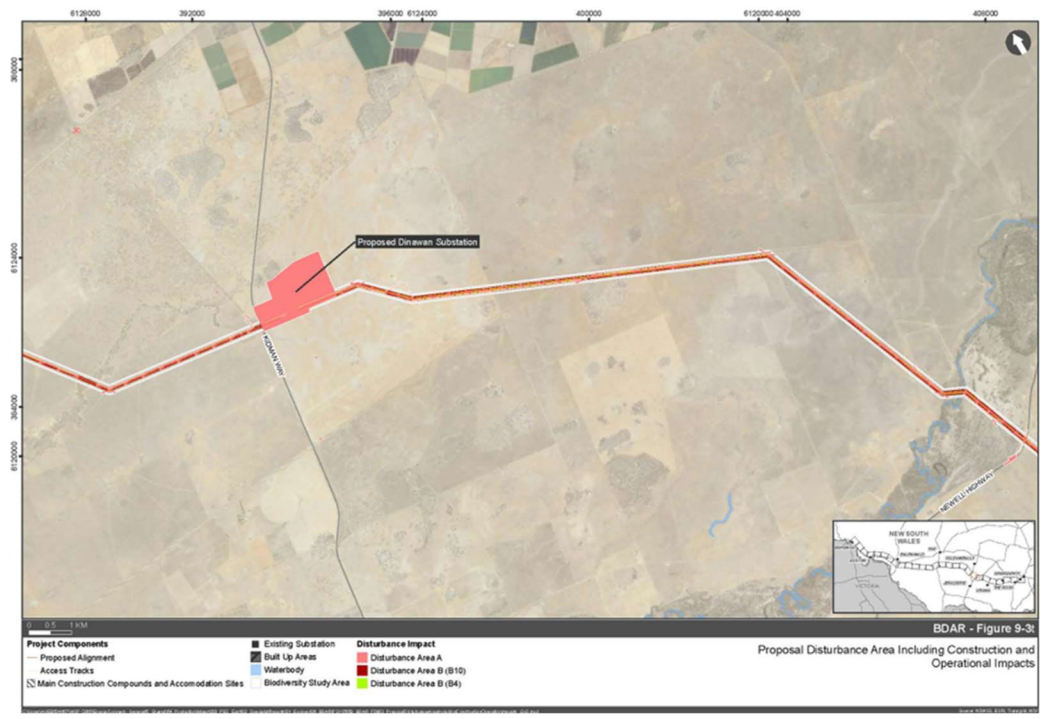
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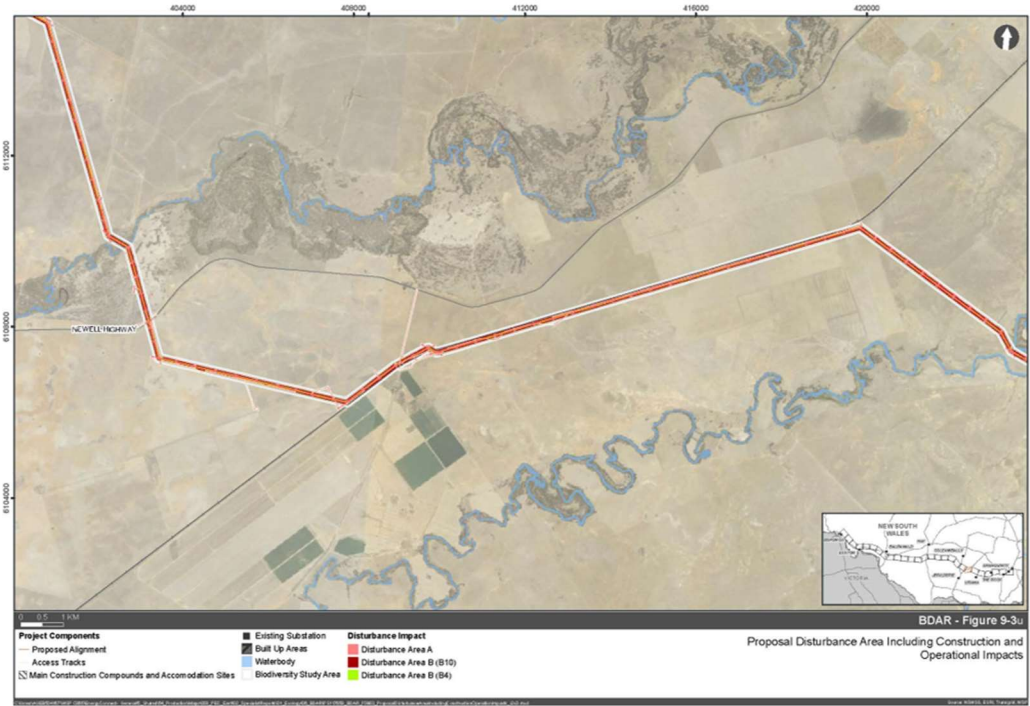
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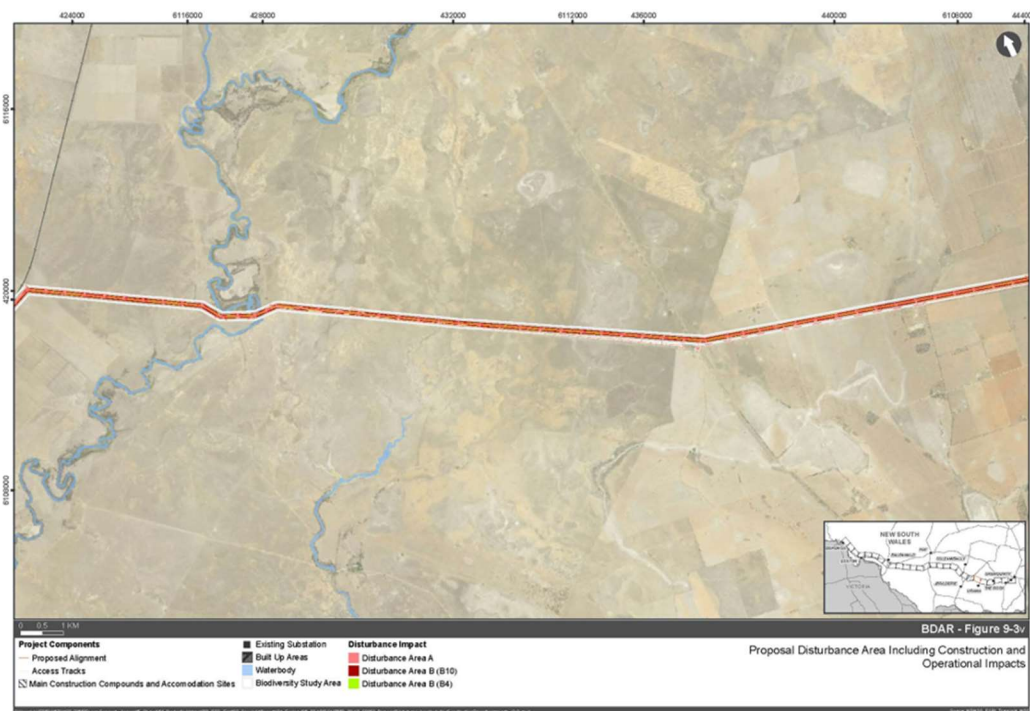
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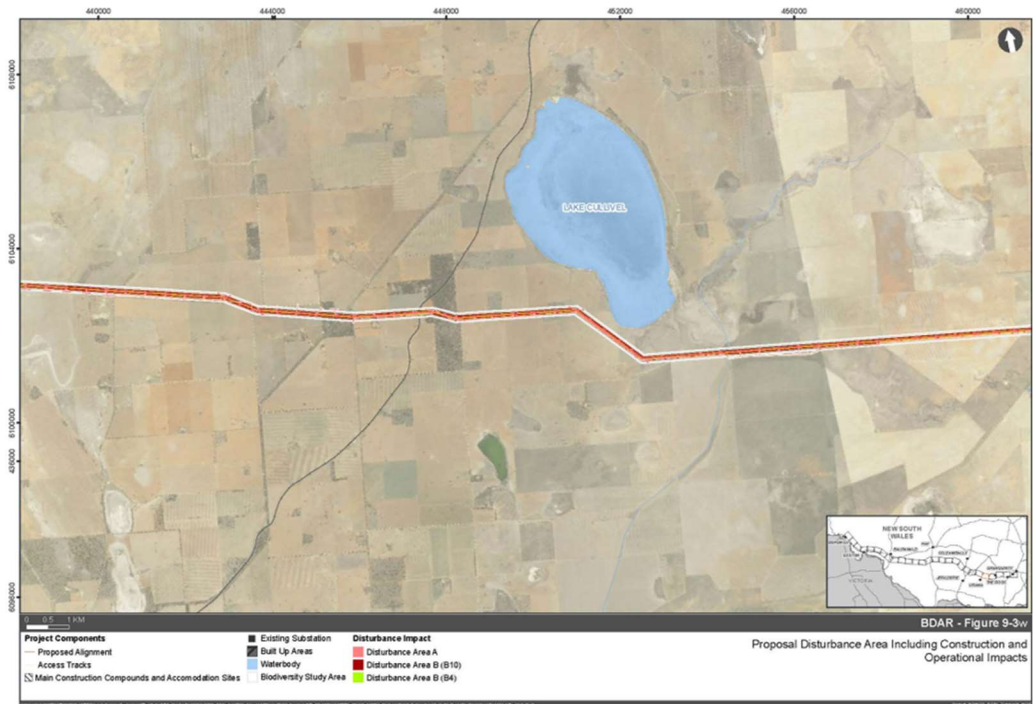
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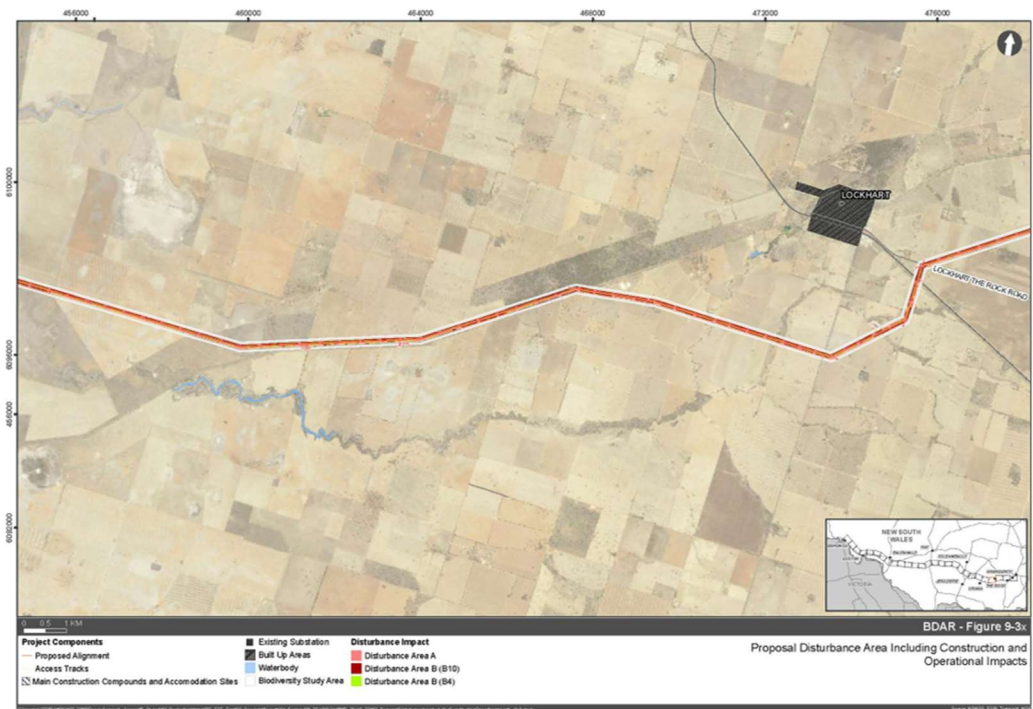
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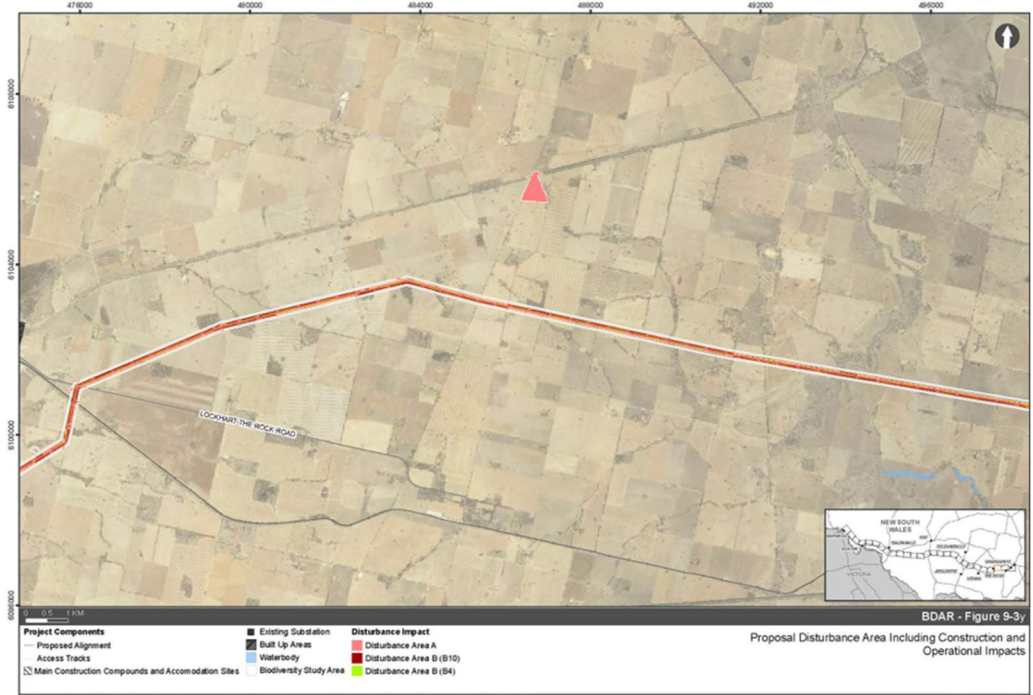
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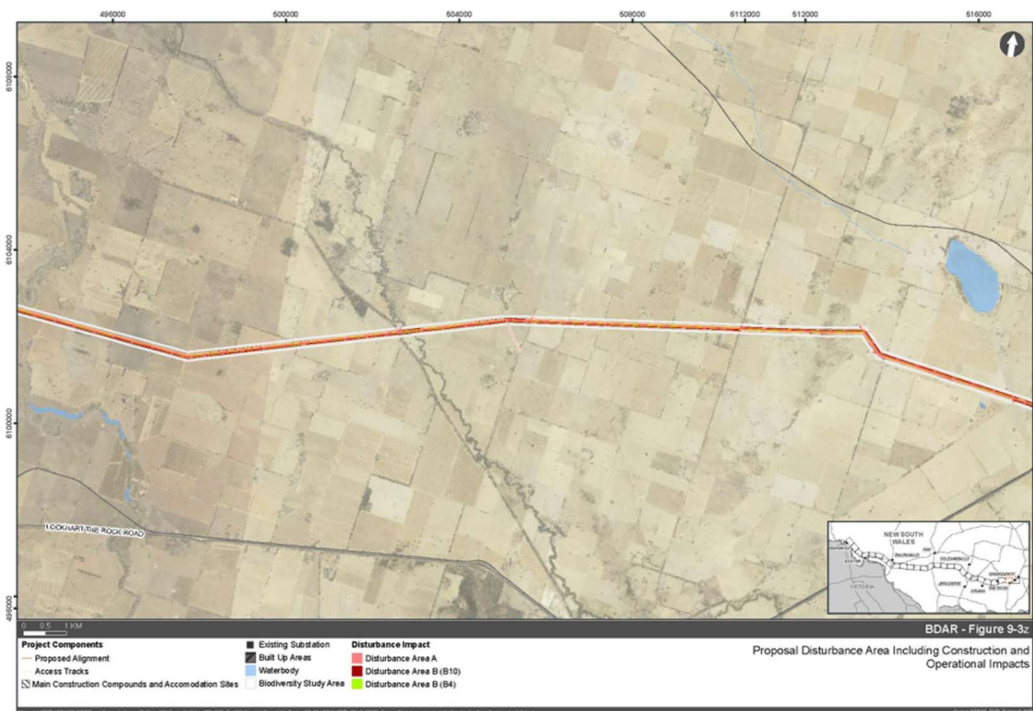
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