

Modification of Development Consent

Section 4.55(2) of the *Environmental Planning and Assessment Act 1979*

The Independent Planning Commission (the Commission), as the declared consent authority under clause 8A of the *State Environmental Planning Policy (State and Regional Development) 2011* and section 4.5(a) of the *Environmental Planning and Assessment Act 1979*, approves the modification of the project approval referred to in Schedule 1, subject to the conditions in Schedule 2.

Alan Coutts (Chair)
Member of the Commission

Professor Alice Clark
Member of the Commission

Professor Chris Fell AM
Member of the Commission

Sydney

22 August 2019

SCHEDULE 1

The project approval (MP 08_0252) for the Flyers Creek Wind Farm, granted by the Planning Assessment Commission, as delegate of the Minister for Planning and Infrastructure, on 14 March 2014.

SCHEDULE 2

1. In Schedule A, in the description of 'Land', delete 'Approximately 20 kilometres south of Orange in the Blayney local government area' and insert 'The land defined in Appendix 1'.
2. In Schedule A, in the description of 'Project', delete '.' at the end of the last point and insert the following:
 - ; and
 - a 132 kilovolt transmission line and switching station to connect the project to the grid

3. Update the **TABLE OF CONTENTS** of Schedule 1 as follows:

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4. In Schedule A, in the Definitions, delete the definitions for 'CL&W', 'Council', 'Decommissioning', 'Department', 'DPI', 'Material harm to the environment', 'Site', 'TSC Act' and insert the following in alphabetical order:

BC Act	<i>Biodiversity Conservation Act 2016</i>
CASA	Civil Aviation Safety Authority
CCC	Community Consultative Committee
Councils	Blayney Shire Council and Cabonne Council
Decommissioning	The deconstruction and removal of wind turbines and any associated above ground ancillary infrastructure

Department	Department of Planning, Industry and Environment
Dol – L&W	Department of Industry – Lands and Water
EP&A Regulation	<i>Environmental Planning and Assessment Regulation 2000</i>
ha	Hectares
Material harm to the environment	Is harm that: involves actual or potential harm to the health and safety of human beings or to the ecosystems that is not trivial; or results in actual or potential loss of property damage or amounts in aggregate, exceeding \$10,000 (such loss includes the reasonable costs and expenses that would be incurred in taking all reasonable and practicable measures to prevent, mitigate or make good harm to the environment)
Mitigation	Activities associated with reducing the impacts of the project
MW	Megawatt
NP&W Act	<i>National Parks and Wildlife Act 1974</i>
POEO Act	<i>Protection of the Environment Operations Act 1997</i>
Site	The land defined in Appendix 1
132 kV transmission line infrastructure	All infrastructure associated with the 132 kV transmission line and switching station located between the on-site substation and the Orange North to Cadia Mine transmission line.

5. In the definition of 'Ancillary infrastructure' of Schedule A, after 'electricity transmission lines' insert ', wind monitoring masts'.
6. In the definition of 'Construction' of Schedule A, delete 'development' and replace with 'project'.
7. In the definition of 'EA' of Schedule A, delete '.' at the end of the last point and insert the following:
 - (c) ; and
 - (d) the documents submitted in support of the fourth application to modify the approval, including the *Environmental Assessment* dated July 2018, the *Response to Submissions* dated October 2018 and the *Response to Submissions* addendums dated November 2018 and December 2018.
8. In the definition of 'EEC' of Schedule A, delete 'TSC' and replace with 'BC'.
9. In the definition of 'Non-associated residence' of Schedule A, delete all references to 'development' and replace with 'project'.
10. In the definition of 'Operation' of Schedule A, delete 'development' and replace with 'project'.
11. In the definition of 'Pre-construction minor works' of Schedule A, after 'enabling works' insert ', wind monitoring masts'.
12. In the definition of 'Proponent' of Schedule A, delete 'development' and replace with 'project'.
13. In the definition of "Residence" of Schedule A, delete 'development consent' and replace with 'project approval'.
14. In the definition of 'Surveyor General' of Schedule A, before 'of New South Wales' insert 'Surveyor General'.
15. In Schedules B to H, delete all references to 'CL&W' and replace with 'Dol – L&W'.
16. In condition C11 of Schedule C, delete 'development' at the end of the Note and replace with 'project'.
17. In condition D1 of Schedule D, in (a), after 'ensure that no' insert 'more than 3.7 ha of'.
18. In condition D3 of Schedule D, after 'No more than' insert '26' and after 'shall be removed' insert 'for the project'.
19. In condition D4 of Schedule D, after 'Prior to the commencement of' delete 'construction' and replace with 'operations'.
20. In condition D5 of Schedule D, delete (b) and replace with the following:
 - (b) calculate the biodiversity offset credit liabilities for the project in accordance with the *Biodiversity Assessment Methodology* under the *NSW Biodiversity Offsets Scheme*,
21. In condition D6 of Schedule D:
 - delete '*NSW Biodiversity Offsets Policy for Major Projects*' and replace with '*NSW Biodiversity Offsets Scheme*'; and
 - delete points (a) to (c), and replace with:
 - (a) acquiring or retiring 'biodiversity credits' within the meaning of the *Biodiversity Conservation Act 2016*;
 - (b) making payments to the Biodiversity Conservation Fund; or

- (c) funding a biodiversity conservation action that benefits the entity impacted and is listed in the ancillary rules of the biodiversity offset scheme.

22. Delete condition D12 of Schedule D and replace with the following:

D12. Prior to the construction of any wind turbine or wind monitoring mast, the Proponent must provide the following information to CASA and Airservices Australia (together the authorities):

- (a) co-ordinates in latitude and longitude of each wind turbine and mast;
- (b) the final height of each wind turbine and mast in Australian Height Datum;
- (c) ground level at the base of each wind turbine and mast in Australian Height Datum;
- (d) confirmation of compliance with any OLS; and
- (e) details of any proposed aviation hazard lighting.

23. After condition D12 of Schedule D, insert the following:

D12A. Within 30 days of the installation of any wind turbine or mast, the Proponent must:

- (a) provide confirmation to the authorities that the information that was previously provided remains accurate; or
- (b) update the information previously provided.

24. In condition D20 of Schedule D, delete 'development' and replace with 'project'.

25. In condition D22 of Schedule D, delete 'development' and replace with 'project'.

26. In condition D23 of Schedule D, after 'annum at any' insert 'non-associated'.

27. After condition D24 of Schedule D, insert the following:

D24A. Prior to the commencement of the construction of the switching station, the Proponent must submit a copy of the final layout plan for the switching station to the Secretary for approval. This plan must outline the proposed measures to minimise the visual impacts of the switching station on any non-associated residences in the vicinity of the switching station, including retaining existing vegetation buffers in and adjoining the forest to screen views of the switching station or planting additional screening around the switching station.

The Proponent must not construct the switching station before this plan has been approved by the Secretary.

28. In condition D25 of Schedule D:

- delete 'Civil Aviation Safety Authority' and replace with 'CASA'; and
- after 'in relation to the wind turbines.' insert 'The Proponent shall ensure any aviation hazard lighting installed utilises an aircraft detection lighting system unless otherwise agreed by CASA.'

29. In condition D26 of Schedule D, delete 'Council' and replace with 'the Councils'.

30. Delete condition E6 of Schedule E, and the sub-heading 'Incident Reporting' and insert the following:

Incident Notification

E6. The Department must be notified in writing to compliance@planning.nsw.gov.au immediately after the Proponent becomes aware of the incident. The notification must identify the project, including the project application number and the name of the project, and set out the location and nature of the incident.

31. Delete condition E7 of Schedule E and replace with the following:

Non-Compliance Notification

E7. The Department must be notified in writing to compliance@planning.nsw.gov.au within 7 days after the Proponent becomes aware of any non-compliance with the conditions of this approval. The notification must identify the project and the application number for it, set out the condition of approval that the project is non-compliant with, the way in which it does not comply and the reasons for the non-compliance (if known) and what actions have been done, or will be undertaken, to address the non-compliance.

32. In condition E8 of Schedule E:

- delete all references to 'development' and replace with 'project'; and
- after 'This audit must:' insert the following:

- (a1) be prepared in accordance with the relevant Independent Audit Post Approval Requirements (DPE 2018, or its latest version);

- in (c), delete 'and assess whether it is complying with the requirements in this consent and any relevant EPL/s' and replace with ', and whether it complies with the relevant requirements in this approval.
33. In condition F3 of Schedule F, at the beginning of the condition, delete 'C' and insert 'Unless the Secretary agrees otherwise, c'.
34. In condition F12 of Schedule F, after '(Landcom, 2004)' insert ', or its latest version'.
35. Delete condition F15 of Schedule F and replace with the following:

Designated Heavy and Over-Dimensional Vehicle Routes

F15. Unless otherwise agreed by the Secretary, prior to the commencement of construction, the Proponent must commission an independent, qualified person(s) to identify the proposed transport routes for all heavy and over-dimensional vehicle access to and from the site, and agree on these routes in writing with the relevant road authority.

Note: These routes will form part of the haulage route to be surveyed as required by condition F16

36. After condition F15 of Schedule F, insert the following:

Road Upgrades

F15A. Unless otherwise agreed by the Secretary, the Proponent must:

- (a) prior to the commencement of construction, in consultation with the relevant roads authority, prepare a report with specific details of the public road works required to facilitate the safe access of construction vehicles to the site (including any over-size and/or over-mass general construction vehicles), excluding any wider works required to facilitate delivery of the over-size and over-mass wind turbine components. The report must also detail public road works and traffic management that must be undertaken during the construction phase as part of the ongoing construction works (as agreed with the relevant roads authority). Where improvements or changes to the proposed route are required as identified in the report as having to be completed prior to the commencement of construction, the Proponent must implement these to the satisfaction of the relevant roads authority, prior to the commencement of construction and at the full expense of the Proponent; and
- (b) prior to the commencement of any over-mass or over-dimensional vehicles accessing the site specifically for the delivery of wind turbine components, in consultation with the relevant roads authority, submit a report to the Department detailing specific public road works that must be completed prior to the delivery of the wind turbine components. Where improvements are required, the Proponent must implement these to the satisfaction of the relevant roads authority, prior to the delivery of the wind turbine components to site and at the full expense of the Proponent.

If there is a dispute about the road upgrades to be implemented, or the implementation of these upgrades, then either the Proponent or the relevant roads authority, may refer the matter to the Secretary for resolution.

37. In condition F16 of Schedule F, after the words 'construction of the project.', insert 'The Report must be undertaken using a method agreed to by the relevant roads authority and'.
38. In condition F20 of Schedule F:
- after the words 'Blayney Shire Council)', delete ', and in accordance with the Guideline for the Preparation of Environmental Management Plans (Department of Infrastructure, Planning and Natural Resources, 2004)'; and
 - delete 'Blayney Shire Council' and replace with 'the Councils'.
39. In condition F21 of Schedule F, in (h), after the words 'during the construction phase' delete 'including:' and replace with '. This Plan shall be developed in consultation with the Forestry Corporation NSW and shall include:'.
40. Delete condition G5 of Schedule G
41. Delete condition G6 of Schedule G.
42. In condition G7 of Schedule G:
- after the words 'relevant criteria in Table 3', insert 'at any non-associated residence';
 - in row 2, last column, delete '43' and replace with '44';
 - in row 4, column 7, delete '37' and replace with '36';
 - in row 6, column 8, delete '41' and replace with '40'; and
 - in row 7, column 1, delete 'development' and replace with 'project'.
43. In condition G8, G9 and G10 of Schedule G, delete all references to 'development' and replace with 'project'.

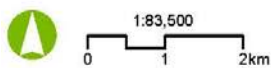
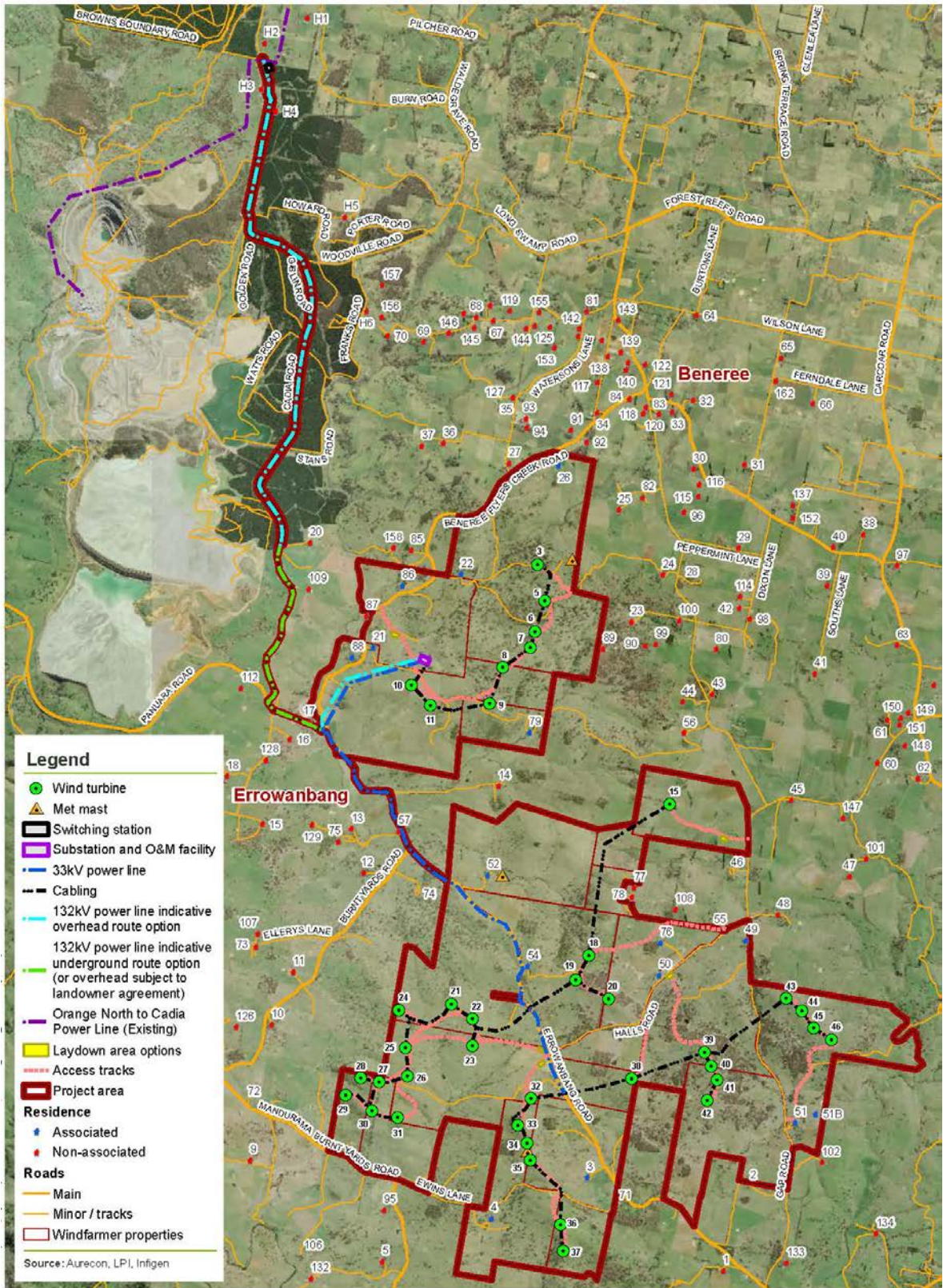
44. In condition G9 of Schedule G, after 'if the project is to be staged),' insert 'unless otherwise agreed by the Secretary'.
45. In condition H1 of Schedule H, in Table 4, in row 2, column 1, delete 'development' and replace with 'project'.
46. In 'Appendix 1', delete figure and heading 'Project Layout' and replace with the following:

SCHEDULE OF LAND & PROJECT LAYOUT

Landowner	Lot	DP
1	75	750358
2	8	750358
	52	750358
	2	1191462
3	1	927568
	78	750359
	10	750359
	60	750359
	61	750359
	62	750359
	1	1078747
	2	1078747
4	202	750359
	204	750359
5	163	750358
	427	1067009
	69	750358
	425	1067009
	426	1067009
6	201	750359
7	6	1031238
8	66	750359
	72	750359
	208	750359
	2	1089147
	3	1089147
	1	1089162
	94	750358
	95	750358
	96	750358
	911	1208037
	910	1208037
9	12	1063204
	6	550053
	50	750358
	53	750358
	76	750358
10	62	750358
	181	750358
	180	750358
	10	750358

Landowner	Lot	DP
	1	1191442
	2	1191442
11	533	749105
	1	1071270
12	83	750359
13	162	750358
14	161	750358
	5	1031238
15	67	750358
16	1	519767
	2	519767
	206	750359
	841	1130733
	1	396680
	1	1079963
	101	750359
	117	750359
	118	750359
	119	750359
	120	750359
	1	1202277
	1	1217226
17	63	750358
18	103	1040753
	22	1078095
	21	1078095
	8	1040755
	7	1040755
19	101	881593
	52	39600
	Flyers Creek watercourse	
	Enclosure Permit 20108	
	Enclosure Permit 20112	
20	Easement within Lot 2, DP 1084679	
21	422	1084679
22	402	855893

Note: The project site will also be taken to include any crown land, and any road reserves, contained within the project site, including any land required for the construction of the 132 kV transmission line.



Projection: GDA1994 MGA, Zone 55

Flyers Creek Wind Farm

MOD 4 Figure 2: Project Layout (aerial images)

47. In 'Appendix 2', delete figure and heading 'Project Layout' and replace with the following:

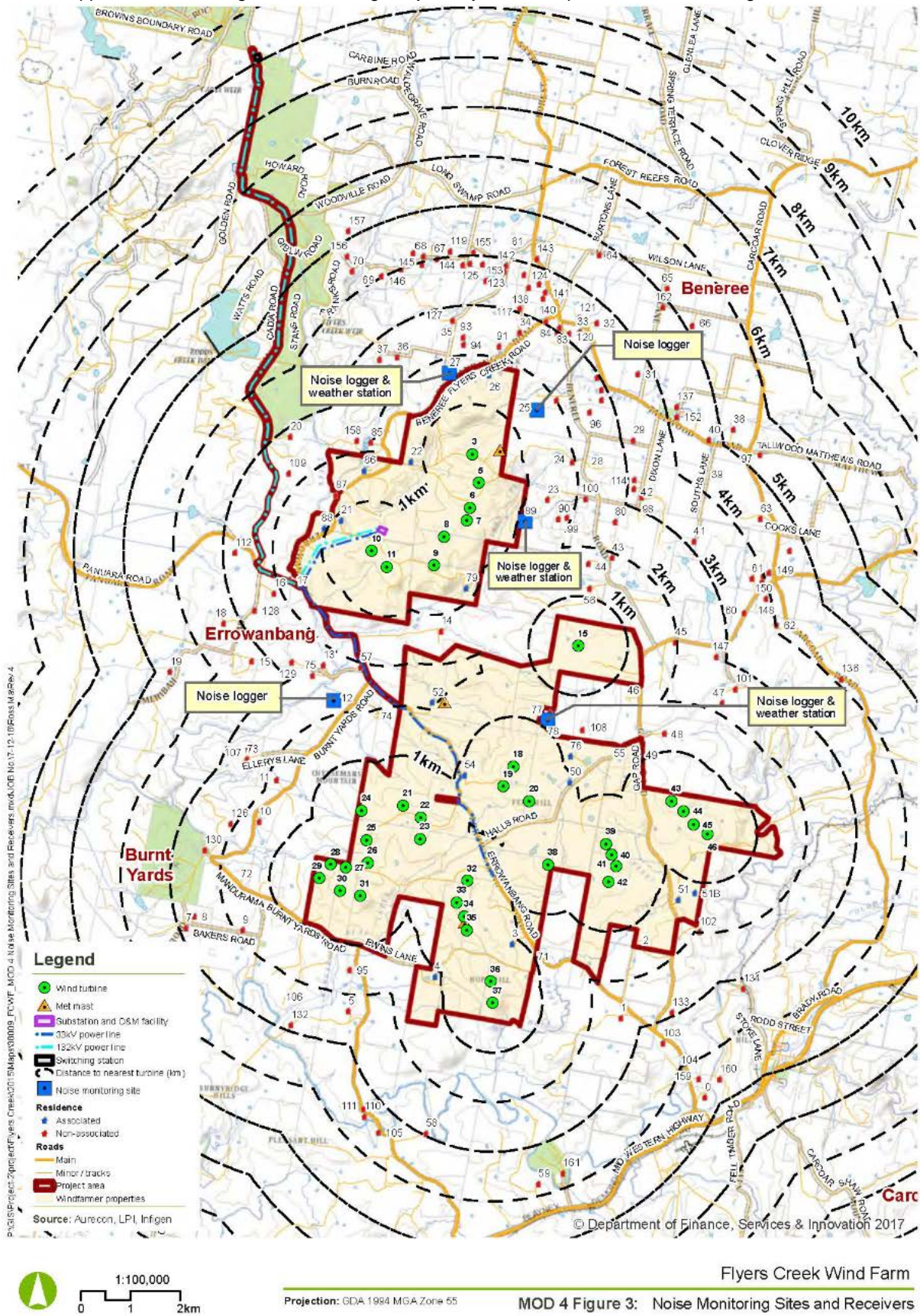


Figure 2-1: Noise monitoring sites and receiver locations (not to be used to identify turbine locations)

End of modification
(08_0252 MOD 4)