

1 November 2023

To the Planning Officer

Liverpool Council

Submitted online via Liverpool Council DA portal.

*RE: Pre DA meeting request – 320-400 Badgerys Creek Road, Badgerys Creek*

To whom it may concern,

This screening report has been prepared to accompany an application for a Pre-DA meeting regarding a proposed modification of development consent and Environment Protection Licence (EPL) at an existing waste processing facility operated by Elford Group Pty Ltd (the Proponent) located at 320-400 Badgerys Creek Road in Badgerys Creek (referred to as "the Site").

The intended modification encompasses:

- the extension of operational hours to for transport, delivery, and unloading of materials and processing activities.

This document outlines an overview of the current facility (including active consents and EPL), existing environmental constraints identified and an outline of the proposed development(s).

The Proponent understands the importance of responsible development and the need to work in close collaboration with Council and stakeholders to achieve both regulatory and environmental compliance.

We welcome any feedback or suggestions Council may have regarding the proposal and look forward to discussing this matter further during the pre-DA meeting.

Thank you for your consideration.

## 1. Site Context Summary

The subject Site is located at 320-400 Badgerys Creek Road, Badgerys Creek and encompasses Lot 1 in DP1188956. The Site currently has approval for resource recovery facility, waste storage and extractive industries. The Site operates as a resource recovery facility and mostly accepts VENM and ENM material to Site for resource recovery activities and then sold for to civil and landscaping needs across Sydney.

Site overview			
Lot(s) and Street Address	Lot / DP	Street address	
	Lot 1 in DP 1188956	320-400 Badgerys Creek Road, Badgerys Creek, NSW 2555	
Local Government Area	Liverpool City Council		
Zoning	ENT – Enterprise & ENZ - Environment and Recreation, SP 2 Infrastructure (State Environmental Planning Policy (Precincts—Western Parkland City) 2021)		
Current site use	Licensed waste facility, primarily receiving VENM and ENM		
Landowner	Elford Settlement Fund		
Active Approvals			
Active Development Consent(s)	Development consent ID	Date determined	Purpose
	DA-693/2009	02/09/2009	Operation of an extractive industry (shale quarry) and materials resource recovery facility to run concurrently.
	DA-693/2009/A	16/02/2011	Section 96(1A) to rectify minor errors in Conditions in No. 10, 133 and delete Conditions No. 121 and 193
	DA-693/2009/B	16/12/2014	Section 96(2) modification to enable the stockpiling of up to 100,000 in the construction of burns as required by Condition 124 and Condition 125; modification of Condition 9 such that an EPL is required prior to the issue of an Occupation Certificate rather than prior to the issue of a Construction Certificate.
	DA-693/2009/C	02/04/2015	Section 96(2) modification to increase the extraction output from 150,000 tonnes per annum to 400,000 tonnes per annum; increase of the amount of received inert demolition material from 168,000 to 310,000 tonnes; reduce required setback to residences and environmentally significant land (ESL) from 200m, to 70m to adjoining residences and 40m to ESL; changes as outlined within Statement of Environmental Effects.
	DA-693/2009/D	07/09/2017	Section 96(2) amendment of conditions 82, 114, 171, 190A, 202, 205 and the proposed new condition regarding the use of VENM and ENM for the construction of acoustic and visual earthen barriers.
	DA-693/2009/G	21/10/2020	Section 4.55(1A) modification for temporary extension of operating hours.

	DA-693/2009/H	07/01/2022	Section 4.55(1A) modification to alter condition 146B in relation to extending operating period and extended operating hours.
	DA-693/2009/I	07/01/2022	Section 4.55(1A) modification to alter condition 146B in relation to extending operating period and extended operating hours.
Environment Protection Licence (EPL)	Environment Protection Licence number: 20498		
	Scheduled activities:	Scale	
	Extractive activities	> 100000 - 500000 T annually extracted or processed	
	Resource recovery	Any general waste recovered	
	Waste storage	Any other types of waste stored	
Total permitted waste received per annum	The EPL limits the maximum quantity of waste permitted to be received in any <u>12-month period to 168,000 tonnes</u> . The amount of waste permitted on the <u>premises at any one time is also limited to 168,000 tonnes</u> .		
Total permitted waste at any one time	Waste type	Activity	Maximum permitted to be stored at the premise at any one time
	Tunnel Spoil	Resource recovery & Waste storage of soils that meet the criteria of Sydney Metro West (Stage 2) tunnel spoil order November 2022 or as superseded from time to time	The authorised amount of waste permitted on the premises cannot exceed the 168,000 tonnes at any one time.
	Tunnel Spoil	Resource recovery & Waste storage of soils that meet the criteria of The M6 Stage 1 (hard ground) tunnel spoil order February 2022 or as superseded from time to time	
	Tunnel Spoil	Resource recovery & Waste storage of Soils that meet the criteria of The Sydney Metro harbour tunnel sandstone material order June 2019 or as superseded from time to time	
	Tunnel Spoil	Resource recovery & Waste storage of Soils that meet the criteria of the Rozelle Interchange Tunnel Spoil Resource Recovery Order 2019 or as superseded from time to time	
	Tunnel Spoil	Resource recovery & Waste storage of Soils that meet the criteria of the M4-M5 Link Tunnel Spoil Order 2019 or as superseded from time to time.	
	Tunnel Spoil	Resource recovery & Waste storage of Soils that meet the criteria of the Sydney Metro Tunnel Spoil Order November 2018 or as superseded from time to time.	

	Virgin excavated natural material	Resource recovery & Waste storage	
	Soils	Resource recovery & Waste storage of Extracted Natural Material that meets the requirements of the Resource Recovery Exemption issued under Part 9, Clauses 91 and 92 of the Protection of the Environment Operations (Waste) Regulation 2014.	
<b>Site features</b>			
Total site area	39.91 hectares		
Infrastructure on site	Weighbridge, offices, amenities, storage sheds, pumps, mobile plant		
Access	The site is bounded to the north by Badgerys Creek and to the east by Badgerys Creek Road		
Operational hours	Activity	Day	Current operation hours
	Site operations	Monday to Friday	7:00 am to 6:00 pm
		Saturday	7:00 am to 12:00 midday
		Sundays and Public Holidays	No operation permitted
<b>Site Environmental feature</b>			
Soil landscape	Local soils are mapped as the Blacktown soil group (eSPADE, 2023) described as shallow to moderately deep hard setting mottled texture contrast soils; red and brown podzolic soils on crests grading to yellow podzolic soils on lower slopes and in drainage lines.		
Underlying geology	Wianamatta Group—Ashfield Shale consisting of laminite and dark grey siltstone, Bringelly Shale which consists of shale with occasional calcareous claystone, laminite and infrequent coal, and Minchinbury Sandstone consisting of fine to medium-grained quartz lithic sandstone.		
Watercourse(s) present	Badgerys Creek (along north and north eastern boundaries)		
Topography	The topography of the local area is undulating, with rolling hills and valleys, based on a geology of Wianamatta Group shales. Reference to the Penrith 1:100,000 scale geological series (sheet 9030) indicates that the Project site is underlain by Triassic-aged Bringelly Shale (GHD, 2019). The geological unit comprises shale with occasional calcareous claystone, laminite and infrequent coal.		
Vegetation	Footprint of Site completed cleared of all native vegetation. The Site does contain areas of remnant woodland (around the Badgerys Creek riparian area) which is mapped as containing: <ul style="list-style-type: none"> <li>• PCT 4025 – Cumberland Red Gum Riverflat Forest</li> <li>• PCT 3320 – Cumberland Shale Plains Woodland</li> </ul>		
<b>Constraints</b>			
Heritage	Not identified on Site or within 1 km of the Site		

Biodiversity Values	Biodiversity value land is identified on Site			
<b>Hazards</b>				
Bushfire prone land	Bushfire prone land is identified on Site Vegetation Buffer Vegetation Category 1 Vegetation Category 3			
Flood prone land	The Site is not considered as flood prone land			
Landslide risk	The Site is does not have any landslide risk			
Contaminated land	Not identified on Site or within 1 km of the Site			
<b>Protection</b>				
Acid sulphate soil	Not identified on Site or within 1 km of the Site			
Drinking water catchment	Not identified on Site or within 1 km of the Site			
Mineral and resource land	Not identified on Site or within 1 km of the Site			
Scenic land protection	Not identified on Site or within 1 km of the Site			
Terrestrial biodiversity	Terrestrial biodiversity is identified on the Site			
Environmentally sensitive land	Site is identified as environmentally sensitive land due to the presence of terrestrial biodiversity land (as shown in Figure 3).			
Applicable SEPPs	SEPP (Biodiversity and Conservation) 2021 SEPP (Exempt and Complying Development Codes) 2008 SEPP (Housing) 2021 SEPP (Industry and Employment) 2021 SEPP (Planning Systems) 2021 SEPP (Precincts—Western Parkland City) 2021 SEPP (Primary Production) 2021 SEPP (Resilience and Hazards) 2021 SEPP (Resources and Energy) 2021 SEPP (Sustainable Buildings) 2022 SEPP (Transport and Infrastructure) 2021			
<b>Surrounding community</b>				
Nearest receivers	Address	Direction from site	Approximate distance to the site	Receiver
	300 Badgerys Creek Road, Badgerys Creek	South	Adjacent	Residential
	Badgerys Creek Road, Badgerys Creek	North West	Adjacent	Road

	290 Badgerys Creek Road	South	390 m	Residential
	355 Badgerys Creek Road, Bringelly	South	380 m	Residential
	270 Badgerys Creek Road, Badgerys Creek	South	390 m	Residential
	40 Derwent Road, Bringelly	South West	620 m	Residential
	45 Derwent Road, Bringelly	South West	790 m	Residential
	155 Mersey Road, Bringelly	South West	860 m	Residential

Table 1: Site overview.

## 2. Environmental constraints and risks

### Biodiversity values

Department of Planning and Environment (DPE) online mapping portal identifies areas of high ‘Biodiversity Values’ along the north/north eastern boundary (along Badgerys Creek). Any clearing of native vegetation within this mapped area will trigger entry into the Biodiversity Offset Scheme. Additional assessment would be required and offset liabilities would likely be generated.

Spanning across a 39-hectare property, the established threshold for the application of the Biodiversity Assessment Method (BAM) and corresponding offset scheme is defined as 0.5 hectares or greater. This clearing threshold is inclusive of native vegetation clearing/impact area required for the proposed development and any relevant Asset Protection Zones (APZs).

It is noted that as part of the proposed development there is no intention to expand the existing footprint or any conduct clearing. Hence, it is not thought that BOS will be triggered.

### Terrestrial Biodiversity

According to section 4.25, *State Environmental Planning Policy (Precincts- Western Parklands City) 2021* the clearing of native vegetation is not permitted on high biodiversity land without development consent. If the project involves clearing of the native vegetation, then the subsection (4) of section 4.25, *State Environmental Planning Policy (Precincts- Western Parklands City) 2021* applies and further assessment will be required.

### Bushfire Prone Land

The Site is identified as land containing bushfire prone land under the NSW RFS “Planning for Bushfire Protection 2019” and “Guide for bush fire prone land mapping” V5b 2015, development in these areas may require further assessment. The Site contains:

- **Vegetation Category 1** - is considered to be the highest risk for bush fire. This vegetation category has the highest combustibility and likelihood of forming fully developed fires including heavy ember production. Vegetation Category 1 consists of: Areas of forest, woodlands, heaths (tall and short), forested wetlands and timber plantations.
  - This is located to the north, northwest and west boundary of the Site (Figure 4) and is limited to the riparian areas around Badgerys Creek.
- **Vegetation Category 3** - Vegetation Category 3 is considered to be medium bush fire risk vegetation. It is higher in bush fire risk than category 2 (and the excluded areas) but lower than Category 1. This category consists of: Grasslands, freshwater wetlands, semi-arid woodlands, alpine complex and arid shrublands.
  - Covers most of the Site, is not mapped over the Site footprint.
- **Vegetation buffer** – These are the areas in which developments and people are most likely to be affected by a bushfire burning in the adjacent land.
  - Vegetation buffer surrounds the current footprint.

The development footprint does not have mapped bushfire prone vegetation. The controls and measures that have been designed to manage and effectively minimize and mitigate the associated fire risks.

### 3. The Proposed Development

The Proponent proposes to modify the existing Consent (DA-693/2009) in accordance with section 4.55 of *Environmental Planning & Assessment Act 1979* (EP&A Act). The application will be made through the NSW planning portal accompanied by all relevant documentation such as State of Environmental Effects, CIV, plans and technical assessments.

#### 3.1 *Extended operating hours*

The Site is looking to extend operating hours through the night period. The Site current holds contracts will with the tunnelling works being undertaken in the Sydney area. As these tunnelling works occur at night, to enable the acceptance / removal of materials at night will benefit the infrastructure programs efficiency and will aid in decreasing traffic on roads during peak daytime periods.

Specifically, the changes include:

- Monday – Friday: Allowance of 24 hour transportation of materials to and from the Site. This will be aided via use of a front end loader and excavator on Site
  - Saturday, Sunday and Public Holidays are not proposed to change.
- Monday – Friday: Extended processing hours (use of mobile crusher) 6am to 10 pm
- No other changes are proposed at this time.

It should be noted that these times may change based on the outcomes of the noise and traffic impact assessment reports.

#### 3.2 *Permissibility and planning pathway*

##### 3.2.1 *Modification of consent*

Section 4.55 of the EP&A Act outlines different categories of modifications that can be approved:

- (1A) Modifications involving minimal environmental impact.
- (2) Other modifications

The modification under consideration is confined to the expansion of operating hours within the existing operations. The proposed extension of operational hours is projected to result in minimal to minor environmental consequences and, as such, may fall within the purview of s4.55(1A) of the EP&A Act, which pertains to modifications with negligible environmental impact. The existing management and monitoring programs are anticipated to be adequate for effectively handling and mitigating any prospective impacts stemming from the proposed alterations

##### 3.2.2 *Existing use rights*

The Site has approval to operate as a “resource recovery facility” and an “extractive industry”. Both of these uses are now prohibited within the ENZ zoning. However, the current use of the land relies on “Existing use rights” (Division 4.11 of the EP&A Act). Hence, modification that is considered substantially the same development and is determined to have minimal environmental impacts is permissible.



### 3.3 Scoping Environmental Impacts

Potential impacts from the proposed development include:

Environmental Impact area that requires assessment	Potential impacts from proposed development	Potential impact likely	Assessment level required
Air quality	Not thought to be any change in air quality as part of the proposed development	Negligible	Standard
Noise quality	Potential decrease to the noise environment for sensitive receivers in the night period due to extended operating hours.	Moderate	Detailed
Traffic	No significant difference between current approved traffic levels and proposed levels – this is due to the fact that no increase in scale or throughput is proposed.  Therefore, the traffic generated during extended operating hours would simply be offsetting a commensurate reduction in traffic during the currently approved hours.	Moderate	Detailed
Soil and water quality	Not thought to be any impact to the soil and water quality environment due to the proposed development as there is no change in material type or activities on Site	Negligible	Standard
Visual amenity	Use of the Site at night (lights etc)	Moderate	Standard
Fire risk	No significant increase in Fire risk if the current controls are maintained	Negligible	Standard
Bush fire risk	No significant increase in Bushfire risks.	Negligible	Standard
Biodiversity	Potential impacts to nocturnal fauna likely to inhabit the area.	Minor	Standard
Social impact	Residents around the are may be impacted from truck movements at night.	Minor	Standard
Heritage	No change to footprint of works, not thought to impact any heritage items	Negligible	Standard
Cumulative impacts	No significant cumulative impacts from the development	Minor	Standard
Pollution incidence	No change to material types or quantities, not thought to increase risks of pollution incidences	Negligible	Standard
Site operation and management plans	All relevant Site operation management plans will need to be reviewed and amended	Moderate	Detailed

Table 2: Potential impact from the proposed development. Green cells indicate where potential impact is consider likely as a result of the modification and detailed assessment is to be completed.

### *3.4 Key documentation*

The following documentation will accompany the application:

- Traffic impact assessment report
- Noise impact assessment report
- Revised Operational Environmental Management Plan
- Statement of Environmental Effects

### *3.5 Likely stakeholder consultation*

Key stakeholders to be consulted with is likely to include (but not limited to):

- Transport for NSW (TfNSW)
- NSW Department of Planning
- Western Sydney Airport
- EPA
- Western Sydney Planning Partnerships
- Local community area
  - Immediate neighbours of the Site
  - Anyone determined by any model to be impacted.

#### 4. Market analysis and Justification

There are several benefits that would flow from this proposal being approved. The primary benefit relates to a reduction of traffic loads during the day period. Daytime traffic in the Sydney Metropolitan region is severe and we expect road networks to become even more strained over the coming months or years due to the increasing population. Shifting some traffic to weekends or evenings will alleviate pressure on the road network, with subsequent benefits in terms of air quality (less idling vehicles), road traffic noise and mental health. In addition, the air quality impact will be a decrease in air quality impacts during the 24-hour averaging period. The core benefit of this proposal is that it allows construction sites to operate efficiently. The Site plays a role in both ends of the supply chain for major construction projects in Sydney (Sydney Metro West has contacted the proponent), inquiring about the possibility of accommodating their project's needs by extending our operational hours beyond the standard schedule for the convenient disposal of materials). Allowing it to operate in a manner that aligns with the extended hours of the construction sites that the Badgerys Creek site services will improve efficiency and allow customers to maintain their required staggering of shifts and work, for the broader benefit of lower public health risk.

## 5. Concluding statement

This Site has existing, valid approvals which we believe are well-suited to the Site. The Site has potential for future development opportunities through expansion to these existing approvals.

The Site appears to have a low regulatory risk profile, that can be maintained at a low level through good management, good housekeeping and suitable expert compliance advice going forward.

If you have any questions about this advice, please do not hesitate to contact us via the details below.

Kind regards,



James Hammond

CEO | Certified Environmental Practitioner (EIANZ)  
4Pillars Environmental Consulting  
M: 0423 196 069  
E: [james@4Pillars.com.au](mailto:james@4Pillars.com.au)



Sophia Burke

Senior Environmental Consultant  
4Pillars Environmental Consulting  
M: 0422 225 383  
E: [sophia@4Pillars.com.au](mailto:sophia@4Pillars.com.au)

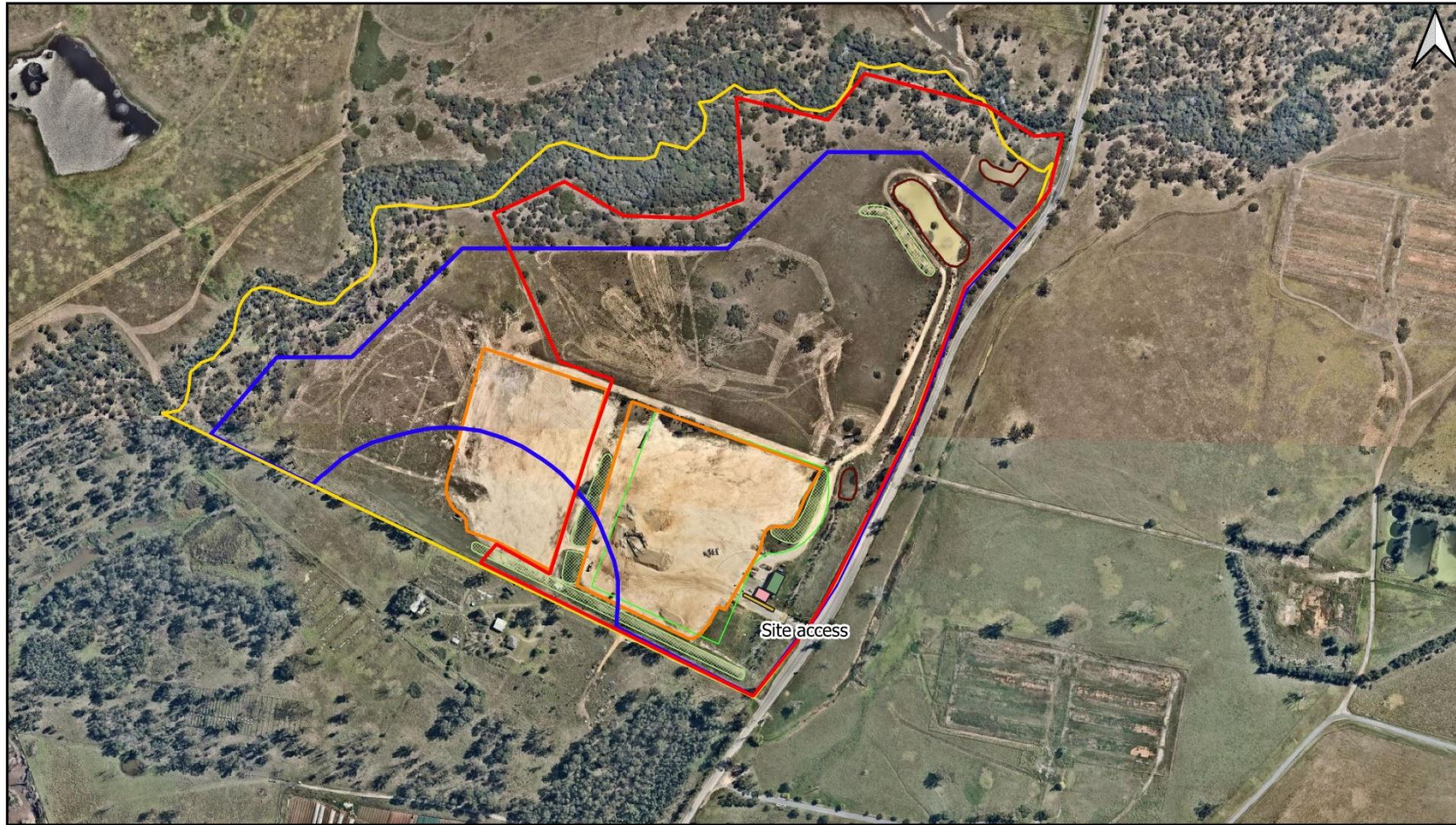


Satish Maharjan

Environmental Consultant  
4Pillars Environmental Consulting  
M: 0421 390 157  
E: [satish@4pillars.com.au](mailto:satish@4pillars.com.au)



# Site Layout



### Legend:

- Site features
- EPL boundary
- Lot boundary

- Site access
- Mining Lease boundary
- Material storage area

- VENM storage area
- Shed
- Site office

- Weighbridge
- Bunds
- Sediment basins

0 100 200 m

Date produced: 31/10/2023  
 CRS: EPSG:3857  
 Basemap imagery: NSW Six Map  
 Drawn by: Satish Maharjan

Figure 1: Current site layout

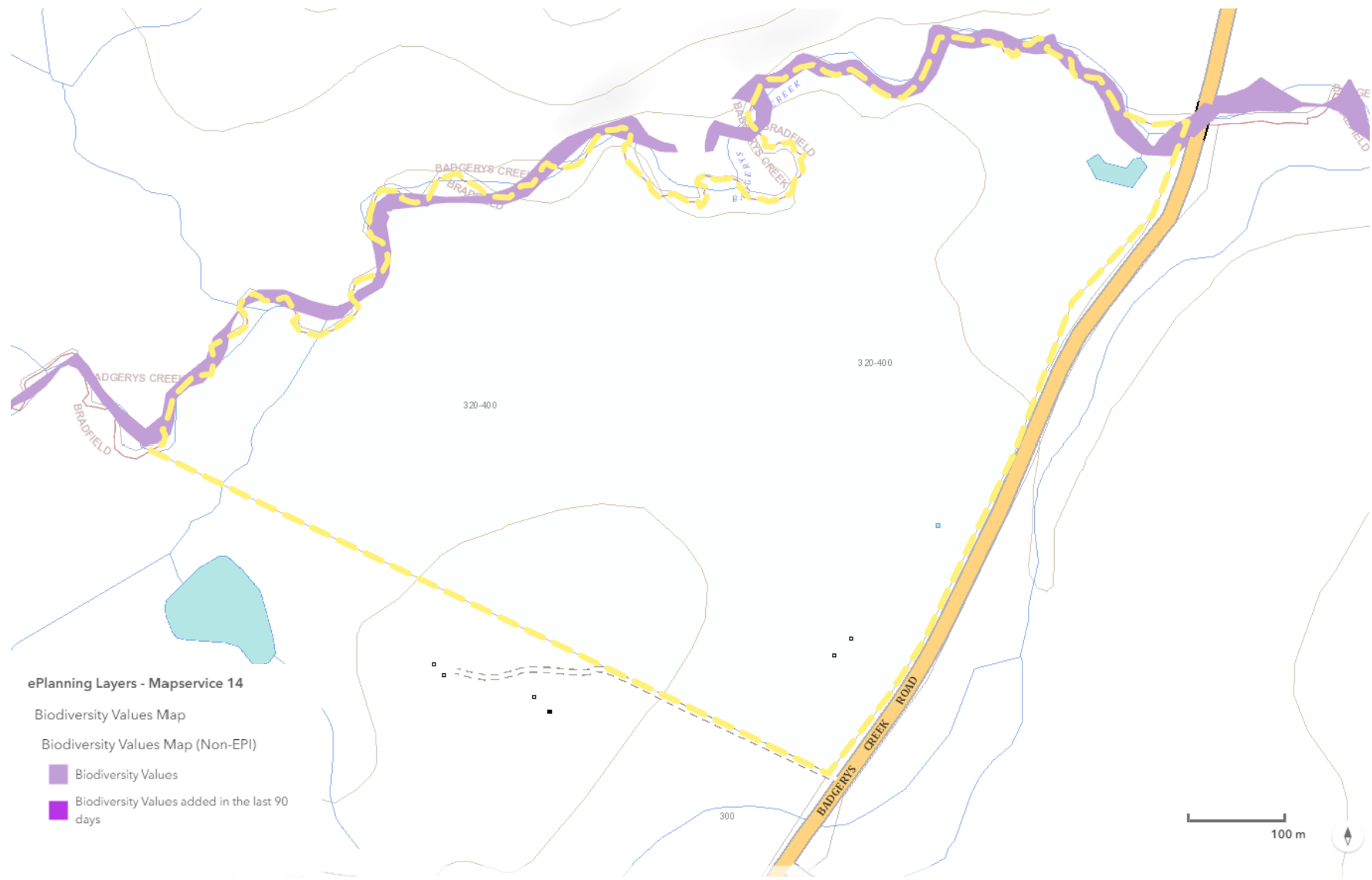


Figure 2: Biodiversity value map. The yellow dotted lines represent the Site boundary.



Figure 3: Terrestrial Biodiversity Map. The yellow dotted lines represent the boundary of the Site



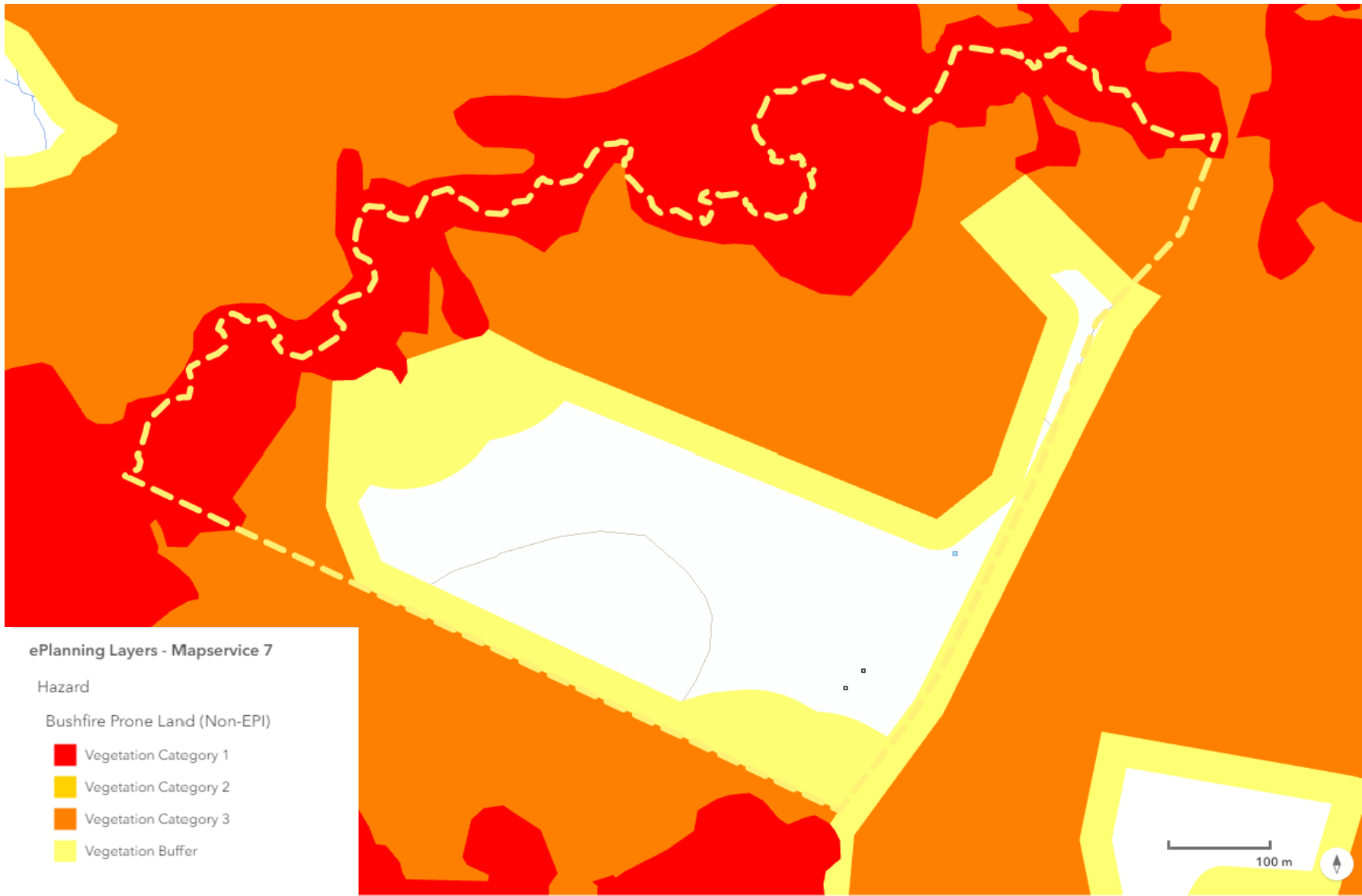


Figure 4: Bushfire prone land. The Site boundary is outlined by the yellow dotted lines