

Hon Sussan Ley MP
Minister for the Environment
PO Box 6022
House of Representatives
Parliament House, Canberra ACT 2600
Cc epbc.referrals@environment.gov.au



15th February 2022

Dear Minister,

RE: Request for reconsideration on Queensland Hunter Gas Pipeline (2008/4620)

- 1 We are writing to request that you reconsider the decision made on the 23rd December 2008 that the Queensland Hunter Gas Pipeline (2008/4620) is not a controlled action under the *Environment Protection and Biodiversity Conservation Act 1999* (Cth) (**EPBC Act**).
- 2 We request that you revoke the decision that the project is not a controlled action and substitute it with a decision that it is a controlled action for threatened species and communities.
- 3 We contend this is warranted under paragraphs 78 1) a) and 78 1) aa) of the EPBC Act.
- 4 We note the referral for the project was made by Hunter Gas Pipeline Pty Ltd on the 27th November 2008 which follows well after the insertion of s78A into the EPBC Act on 19th February 2007.
- 5 We have assessed the need for reconsideration against the relevant Policy Statement – *Reconsideration: Implementing the requirements of sections 78, 78A, 78B and 78C of the EPBC Act*. We provide the grounds for reconsideration in detail below.

Reconsideration due to substantial new information, 78 1) a)

- 6 We have compiled substantial new factual information that was not available at the time of the original decision in 2009 about the impact of the project on nationally threatened species. This information is derived from official NSW Government data sources. The substantial new information shows, to a high degree of certainty, that the project will or is likely to have a significant impact on numerous threatened species.
- 7 The new information includes:
 - (a) Evidence that there are at least 6 nationally threatened species that were listed under the EPBC Act 1999 at the time that were not considered in the referral that have been recorded in the close vicinity of the pipeline corridor since the referral decision was made.
 - (b) Evidence that there is new information on 2 nationally threatened species that were considered in the referral that has come to light since the referral decision was made, which indicates the pipeline is likely to have a significant impact on their habitat.

(c) Evidence that the pipeline corridor extends across four Endangered Ecological Communities that were not considered in the referral but which were listed as such under the EPBC Act at the time of the original decision.

8 In relation to threatened species, attached are maps from the Atlas of Living Australia of threatened species records in the vicinity of the pipeline since 2009 (see Maps 1, 2, 3, 4, 5 & 6). This is new information that was not considered when the original decision was made. The new information reveals that the following species have been recorded on or adjacent to the pipeline corridor that were not considered in the referral but were listed as threatened species/communities under the EPBC Act 1999 at the time of the referral:

- Spotted-tailed Quoll (E) – *Dasyurus maculatus maculatus*
- Regent Honeyeater (CE) – *Anthochaera phrygia*
- Booroolong Frog (E) – *Litoria booroolongensis*
- Corben's Long-eared Bat (V) – *Nyctophilus corbeni*
- Grey-headed Flying Fox (V) – *Pteropus poliocephalus*
- *Cynanchum elegans* (E)
- *Tylophora linearis* (E)

9 This information of threatened species sightings from the Atlas of Living Australia (ALA) threatened species database represents substantial information, with over 95% of the records replicated from BioNet Atlas of NSW Wildlife. Given that the sightings have been recorded since the referral decision was made, this information is new. The referral did not identify any species records or consider likely impacts on habitat for these species. The information goes directly to the adverse impacts of the proposed action on known threatened species habitat.

10 The records indicate that there is an important habitat for the Spotted-tailed Quoll (which was listed as threatened under the EPBC Act at the time of the referral) in the central part of the pipeline, with one record adjoining the corridor near Murrurundi and numerous records in the vicinity of the pipeline south-east of Muswellbrook (see Maps 1 & 2). These records are new information that was not considered when the original decision was made. They are likely to form part of the Barrington area population recognised as an important population in the 2016 [National Recovery Plan](#) for the species. The 2016 Recovery Plan identifies major threats to the species as including '*habitat loss, modification and fragmentation.....competition and predation from introduced carnivores....road mortality....and climate change*'. Therefore, the clearing of vegetation, disturbance, erection of fences and other infrastructure, vehicles movements and ingress of feral animals which will result from the pipeline are highly likely to have a significant impact on the species.

11 The Regent Honeyeater was listed as endangered at the time of the referral and has since been upgraded to critically endangered. There are a number of records in the vicinity of the pipeline corridor, including multiple sightings that are new information not considered when the original decision was made (see Map 4). The [National Recovery Plan](#) for the

Regent Honeyeater 2016 recognises habitat critical to the survival of the species as ‘any breeding or foraging areas where the species is likely to occur’. Figure 1 in the Recovery Plan maps areas where the species is likely to occur as extending across the vast majority of the southern half of the pipeline route. The Lower Hunter Valley and the Upper Hunter Valley are listed in Table 2 of the Recovery Plan as ‘regular and subsidiary areas used by Regent Honeyeaters for foraging and breeding’. Therefore, there is a high likelihood that clearing of trees and stands of trees for the pipeline will include foraging areas where the species is likely to occur, and hence habitat critical for the survival of the species. The adverse impacts likely to the species from the Hunter Gas Pipeline therefore rise to the level of significant impact, and clearly warrant revocation of the original referral decision and replacement with a decision that threatened species are a controlling provision.

- 12 The Booroolong Frog was a common species in the 1970’s that has experienced severe declines and is now endangered. It was listed as endangered on 18th December 2007. A recent study, which is new information that was not considered when the original decision was made, ([North West Ecological 2020](#)) concluded that

“The Booroolong Frog has disappeared from the Northern Tablelands and is now rare throughout most of the remainder of its range. Previously known populations within the Blue Mountains are no longer able to be located. Recent surveys throughout the Central Tablelands have failed to locate the species along many of these streams, suggesting it is now rare in that region....”

- 13 In this context, the post-2009 record of the species in the vicinity of the pipeline south-east of Quirindi (see Map 2) must be considered a very significant finding. The pipeline corridor proposes to cross numerous waterways in this area and is therefore highly likely to have a significant impact on habitat for the species. Sedimentation and changes to hydrology are recognised as risks to the species in the [recently approved Conservation Advice \(2021\)](#) for the species. The large number of creek and river crossings which the pipeline proposes, including creek crossings in the vicinity of the recent record, represent a significant risk of water pollution. Further studies are warranted to properly ascertain the full extent of habitat in the area.
- 14 There are multiple records of Corben’s Long-eared Bat that have been recorded since the original decision in the vicinity of the pipeline corridor north and north-west of Boggabri (see Map 2). This area of NSW has recently been recognised as a national stronghold for the species. The [approved Conservation Advice 2015](#) states that ‘*The species is uncommon within [its] distribution and is rarely recorded (Department of the Environment 2013), except in some areas including the Nandewar and Brigalow Belt South bioregions in New South Wales and Queensland*’. It further specifies habitat preferences as follows ‘*In Queensland and New South Wales it inhabits a variety of vegetation types but it is distinctly more common in box / ironbark / cypress-pine vegetation that occurs in a north-south belt along the western slopes and plains of New South Wales and southern Queensland (NSW OEH 2012)*’. Therefore, the route of the pipeline corridor passes through a geographic area and

vegetation types that were identified in the Conservation Advice 2015 as being a location where the species is most likely to occur, and there are numerous recent records of the species to indicate it occurs there.

- 15 Recent research cited in the Advice indicates that foraging is concentrated around patches of trees in the landscape, often through foliage gleaning, and that the species roosts solitarily, many in dead trees or dead spouts of live trees. The significance of dead standing trees as locations for maternal colonies is notable – [a 2015 study](#) found that 82% of trees hosting maternal colonies of the species were dead. There was no consideration in the referral about the importance of dead trees to Corben’s Long-eared Bat. Habitat loss and degradation, which will occur as a result of the pipeline, are recognised threats to the species in the Conservation Advice 2015.
- 16 The adverse impacts likely to the species from the Hunter Gas Pipeline in the forming of clearing, removal of dead trees and fragmentation therefore rise to the level of significant impact, and clearly warrant revocation of the original referral decision and replacement with a decision that threatened species are a controlling provision.
- 17 There are multiple post-2009 records of *Tylophora linearis* within a 5km buffer of the pipeline corridor, with the majority located around the Boggabri area, and another set of records north of Murrurundi (see Map 6). An important population of *Tylophora linearis* has recently been recorded in the eastern Pilliga area (see [Santos 2014 EPBC referral on the Narrabri Gas Project](#)), which points to the likely significance of the Boggabri records. The approved [Conservation Advice](#) for the species recommends protecting all known sites from disturbance. An adverse impact is likely due to the paucity of the surveys conducted for the HGP referral and the high likelihood of the pipeline route containing important habitat for *Tylophora linearis*.
- 18 A further two species were considered in the referral, but new species records in the vicinity of the pipeline corridor since the referral decision in 2009 indicate that the pipeline is highly likely to significantly impact on habitat for the species:
 - Large-eared Pied Bat (V) – *Chalinolobus dwyeri*
 - Winged Peppercross (E) - *Lepidium monoplocoides*
- 19 There have been a number of additional records of the Large-eared Pied Bat in the vicinity of the pipeline since the referral decision in 2009 (see Maps 1, 2 & 3). This includes records in the vicinity of the pipeline near Scone, Boggabri and near Boomi in the far northern section of the pipeline in NSW, as well as multiple additional records near the Hunter section of the pipeline. The northern record near Boomi in particular is likely to represent an important record on the edge of the species known range (based on the maps provided in the [National Recovery Plan 2011](#)) which was not considered in the referral decision.
- 20 The 2011 National Recovery Plan stated that ‘*Sandstone cliffs and fertile wooded valley habitat within close proximity of each other should be considered habitat critical to the survival of the large-eared pied bat*’. This is new information on critical habitat that was not

considered in the referral, which discounted the significance of *'foraging habitat intersected by the pipeline'* as not being significant. The location of the pipeline through the Boggabri area east of the Pilliga sandstone, where recent surveys have recorded the species in the vicinity, would meet the criteria for critical habitat under this definition. The Recovery Plan also identified narrow connecting riparian strips in otherwise cleared habitat as also often being heavily used by the species.

- 21 Figure 1 from the National Recovery Plan 2011 shows the modelled distribution of the Large-eared Pied Bat and includes substantial areas within the proposed route of the pipeline. The Plan also identifies north-west NSW as being one of two important populations of the species in NSW.
- 22 The adverse impacts likely to the species from the Hunter Gas Pipeline in the forming of clearing, removal of trees, and fragmentation of habitat including linear habitats therefore rise to the level of significant impact, and clearly warrant revocation of the original referral decision and replacement with a decision that threatened species are a controlling provision.
- 23 In relation to the Winged Peppercross, the referral discounted the likelihood of the species occurring, stating that

The most recent record of this species is from 1950 (DECC 2005b). Targeted surveys were undertaken for this species in suitable habitat and within the flowering period however no individuals were located. Given the species general distribution much further west than the pipeline and its lack of recent records, it is considered highly unlikely that the proposal would lead to a long term decrease in the size of a population.
- 24 However, there is a post-2009 record of Winged Peppercross (*Lepidium monoploicoides*) in the close vicinity of the pipeline south-west of Boggabri (see Map 6). Furthermore, recent surveys have identified populations of the species just west of the pipeline in the Pilliga Forest (see for example [Santos Narrabri Gas Project referral](#)). Therefore, the premise on which the referral concluded that the pipeline was not likely to have a significant impact on the species is no longer valid. Given the paucity of the surveys that were undertaken as part of the referral, it is apparent that the pipeline route in the vicinity of Boggabri must be considered likely habitat for the species and clearing and fragmentation for the pipeline is highly likely to represent a significant threat. It is important to note that the 2010 [National Recovery plan](#) for the species recognises all populations as important populations.
- 25 There is also new information on the White Box-Yellow Box-Blakely's Red Gum Woodland and Derived Native Grasslands critically endangered community since the referral decision in 2009. In 2011, the NSW Government [Hunter Valley Remnant Vegetation Surveys](#) released a finescale map of vegetation classes in the Hunter based on aerial photograph interpretation and field survey. Analysing this map against the pipeline corridor in a GIS reveals that there are 66 hectares of White Box-Yellow Box-Blakely's Red Gum Woodland and Derived Native Grasslands within the pipeline corridor. A map is attached of the

distribution of the community as mapped by the HVRVS in relation to the pipeline corridor (Map 7). Interrogation of the proposed pipeline route in this area shows that it is almost impossible to place the pipeline so as to avoid the ecological community (as mapped) entirely, which raises the impact to the level of significant impact. It also indicates that the mapping conducted by the proponent did not identify these areas as containing the critically endangered community.

- 26 As noted throughout this letter, we believe these impacts are likely to occur with a high degree of certainty. In particular, analysis of recent NSW Government data indicates that there are substantial areas of native woody vegetation within the corridor, and the *distribution* of native woody vegetation within the corridor indicates that it is impossible to design a pipeline route within the corridor that avoids all of it (see Map 8). We can provide zoomed in maps of woody vegetation mapping along sections of the pipeline on request. There are 2,647 hectares of native woody vegetation within the pipeline corridor, based on the NSW Government Native Vegetation Extent 5m raster v1.2 (2017). The scale of woody native vegetation that is likely to be affected adds further evidence that impacts will occur to a high degree of certainty, given the significance of habitat for a number of species which has been established above. It is notable that the referral decision for the project did not provide a detailed estimate of the area of woody native vegetation that would be affected and sought to downplay direct clearing from the project. Therefore, this is new information that indicates impacts will occur with a high degree of certainty.

Reconsideration due to substantial change in circumstances, 78 1) aa)

- 27 The extensive Black Summer wildfires of 2019/2020 represent a substantial change in circumstances that was not foreseen at the time, which warrant revocation and substitution of the decision in relation to threatened species. Recent [research](#) has revealed the Black Summer fires '*were unprecedented in terms of impact on all areas. A number of mega-fires occurred in NSW resulting in more burned area than in any fire season during the last 20 years. One of them was the largest recorded forest fire in Australian history*'. The scale and intensity of the fires, therefore, was not something that was foreseen in terms of assessed environmental risk in the HGP report. The referral does not contain any reference to the impact that extensive, severe bushfires may have on surrounding habitats.
- 28 A map of the distribution of the pipeline in relation to the Fire Extent and Severity Mapping conducted by the NSW Government is provided as Map 9. This shows that the route of the pipeline passes through very important relict habitats that were not burnt in the fires, despite severe fires to the north and south. It markedly increases the cumulative impacts of disturbance on the species at risk from the pipeline. Therefore, the destruction of an enormous area of critical habitat by the Black Summer wildfires means that a change in the potential impacts of the Hunter Gas Pipeline on threatened species is likely to happen with a high degree of certainty.
- 29 In March 2020, the Department of Agriculture, Water and Environment [released a list of 119 species](#) whose habitat had been so severely affected by the fires that they were identified as the highest priorities for urgent management intervention. Most of those species had at

least 30% of their range burnt, and many substantially more. DAWE noted that the fires had covered an unusually large area and, in many places, they have burnt with unusually high intensity. They also noted that the fires are likely to have increased the risk of extinction of some species. The 119 species identified were those that were considered to be in urgent need of help.

- 30 Three of the threatened species recorded recently in the vicinity of the pipeline, and discussed above, were included on the list of the 119 species at risk - Spotted-tailed Quoll, Regent Honeyeater and Grey-headed Flying Fox.
- 31 The impact of the Black Summer fires on the Spotted-tailed Quoll in particular, is highly significant. Numerous stronghold habitats in northern NSW were severely burnt. This include fire in the Barrington Tops and foothills, which is likely to have had an impact on the Barrington population. The species sightings near the pipeline since 2009 are likely to represent animals that can be considered part of that population, given that it is based on a geographic area rather than attempting to define functional populations. The extensive fires in Barrington and elsewhere in northern NSW, and the fires to the south in the Sydney Basin, make unburnt habitats for the species in the Hunter particularly significant. Destruction, clearing or fragmentation of the remaining unburnt habitat for this species is likely to have a significant impact on the Spotted-tailed Quoll.
- 32 The survival of the Regent Honeyeater was widely recognised as being highly precarious even prior to the Black Summer fires. In the Black Summer fires, large areas of Regent Honeyeater habitat were burnt in the Sydney Basin, with habitat losses extending north to Rylstone and adjacent areas. The loss of any of the remaining habitat for this species in the Hunter region presents an enormous threat to the species' survival, which rises to the level of significant impact. As is referred to at [11] above, clearing for the pipeline will include foraging areas where the species is likely to occur, and hence habitat critical for the survival of the species.
- 33 Similarly, habitat for the Grey-headed Flying Fox in the Hunter region takes on more significance for the species in light of the severe burning of habitats to the north and south. Clearing of this species' habitat for the Hunter Gas Pipeline will likely have a significant impact on the species.
- 34 The Black Summer bushfires represent a substantial change in circumstances which demonstrably increases the significance of unburnt habitat in the Hunter region for these three species in particular. The clearing of that habitat for the Hunter Gas Pipeline will or is likely to have a significant impact on the species. This change in circumstances warrants the revocation and substitution of the controlled action decision.
- 35 **In our submission, in light of substantial new information and a substantial change of circumstances, it is plain that the Hunter Gas Pipeline will or is likely to have, to a high degree of certainty, a significant impact on various listed threatened species. Therefore, in our submission, you should revoke the decision that the project is not a controlled**

action and substitute it with a decision that it is a controlled action for threatened species and communities.

- 36 We contend this is warranted under paragraphs 78 1) a) and 78 1) aa) of the EPBC Act.
- 37 We look forward to your response to this request. I can be contacted at any time to provide further information or discuss the issues raised – carmelflint@tpg.com.au or 0400 521474.

Yours sincerely,



Carmel Flint

On behalf of Lock the Gate Alliance and the following local groups:

Wando Conservation and Cultural Centre Incorporated
Mullaley Gas & Pipeline Accord (MGPA) Inc
Hunter Gas Landholder Rights Alliance Incorporated
Friends of the Pilliga Incorporated
Coonabarabran Landcare Incorporated
People for the Plains Incorporated
Caroona Coal Action Group Incorporated
Great Artesian Basin Protection Group Incorporated
No CSG Gilgandra District Incorporated
SOS Liverpool Plains Incorporated
Warren Pipeline Action Group Inc
Upper Mooki Landcare Inc

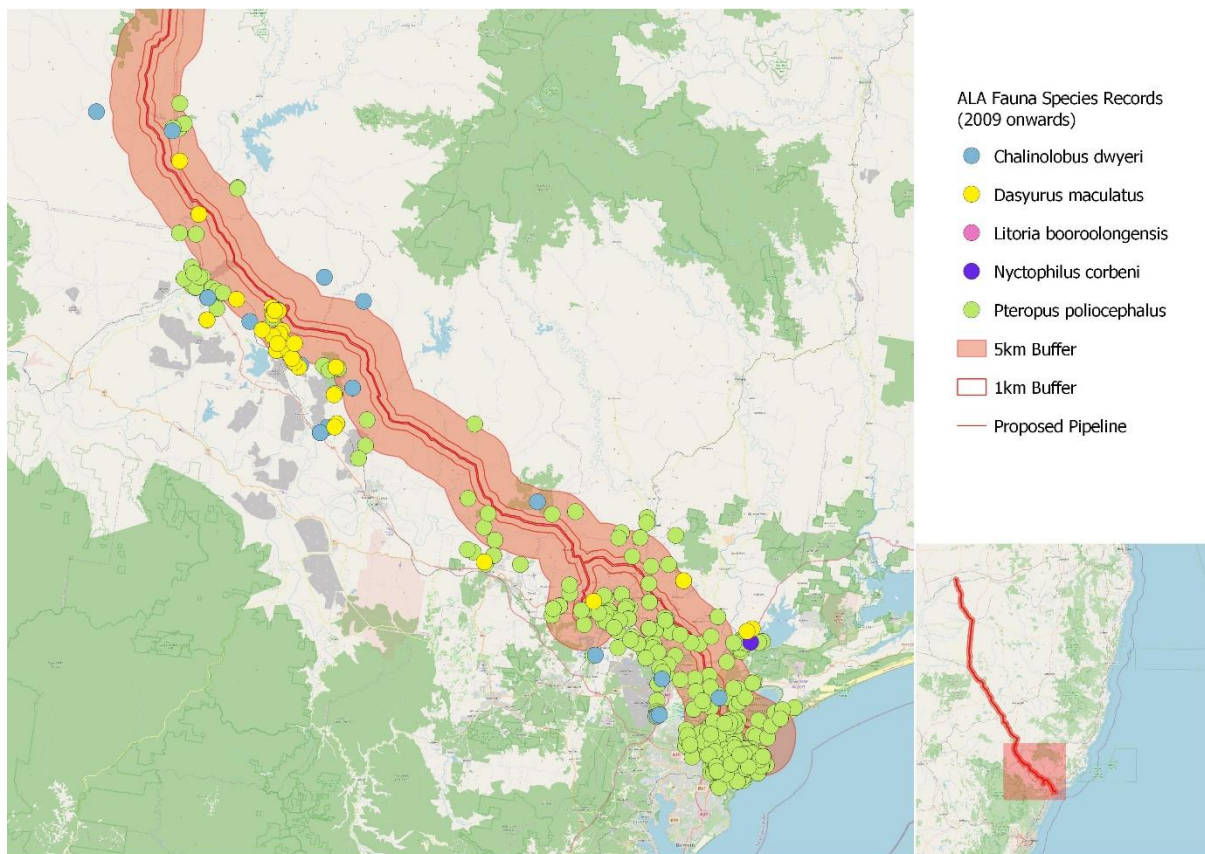
Atlas of Living Australia Recorded Sightings for Selected Fauna Species (2009 onwards)

Atlas of Living Australia occurrence download at

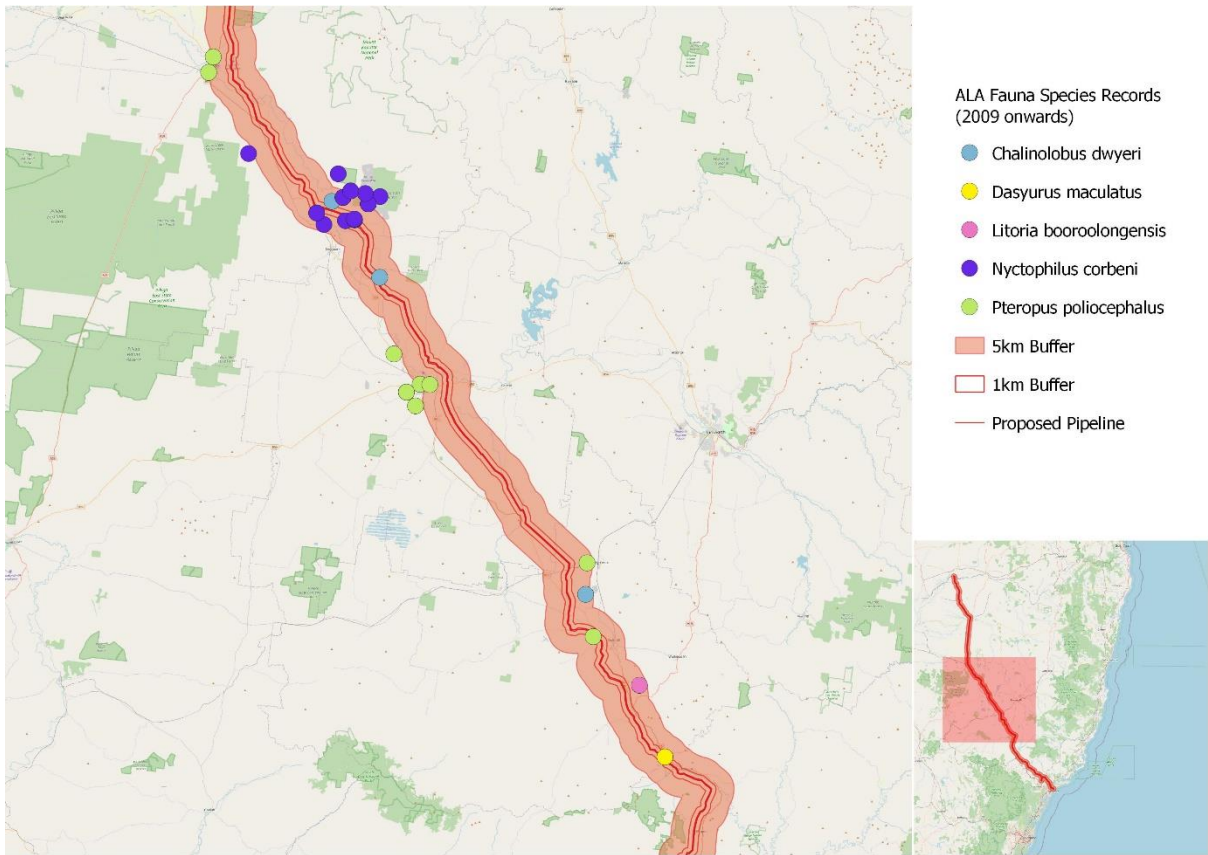
<https://biocache.ala.org.au/occurrences/search?q=qid:1637219395261> accessed on 18 November 2021.

The DOI for this download is available at <https://doi.org/10.26197/ala.f2af2bfb-4538-48df-9f7c-37dfb15a1fd2>

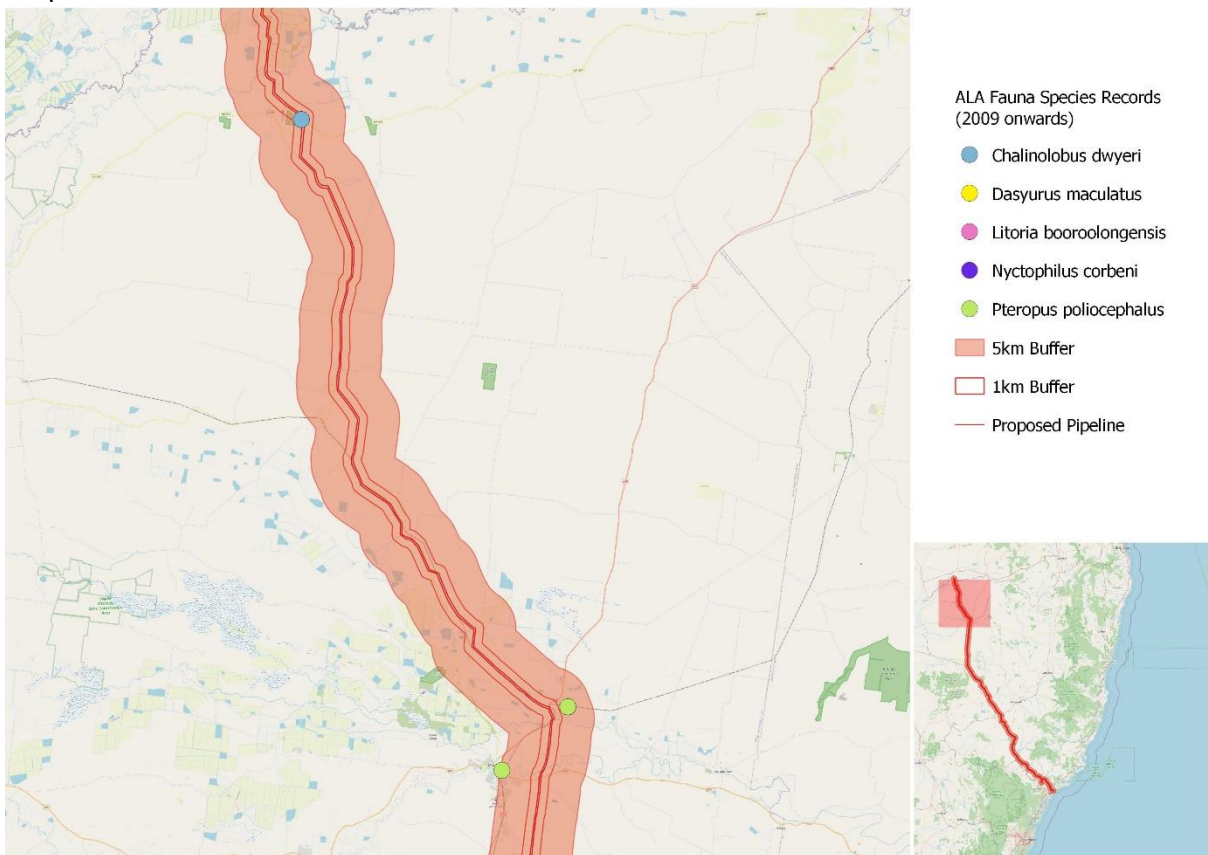
Map 1



Map 2



Map 3



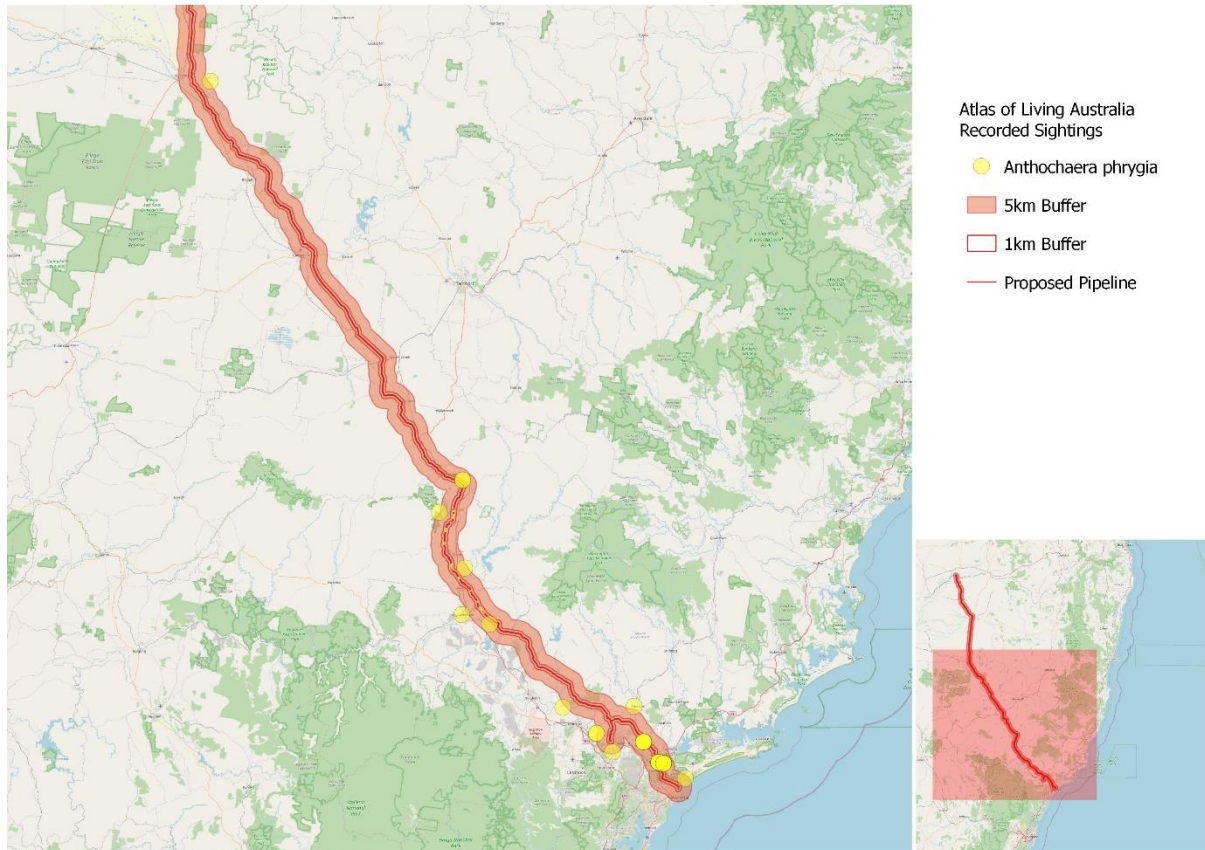
Atlas of Living Australia Recorded Sightings for Regent Honeyeater

Atlas of Living Australia occurrence download at

<https://biocache.ala.org.au/occurrences/search?q=qid:1638246751319> accessed on 30 November 2021.

The DOI for this download is available at <https://doi.org/10.26197/ala.d1cd638c-51ef-4c42-bc54-3b911edccb3b>

Map 4



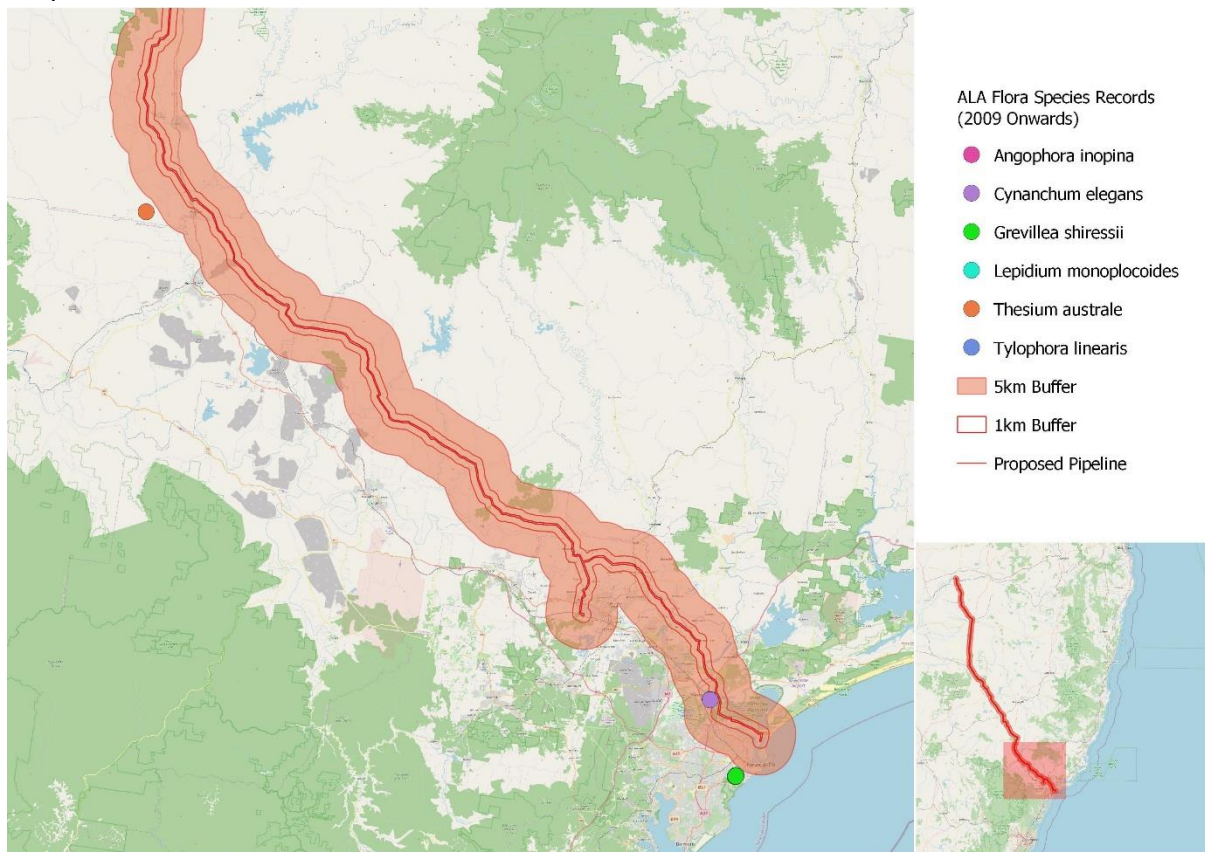
Atlas of Living Australia Recorded Sightings for Selected Flora Species (2009 onwards)

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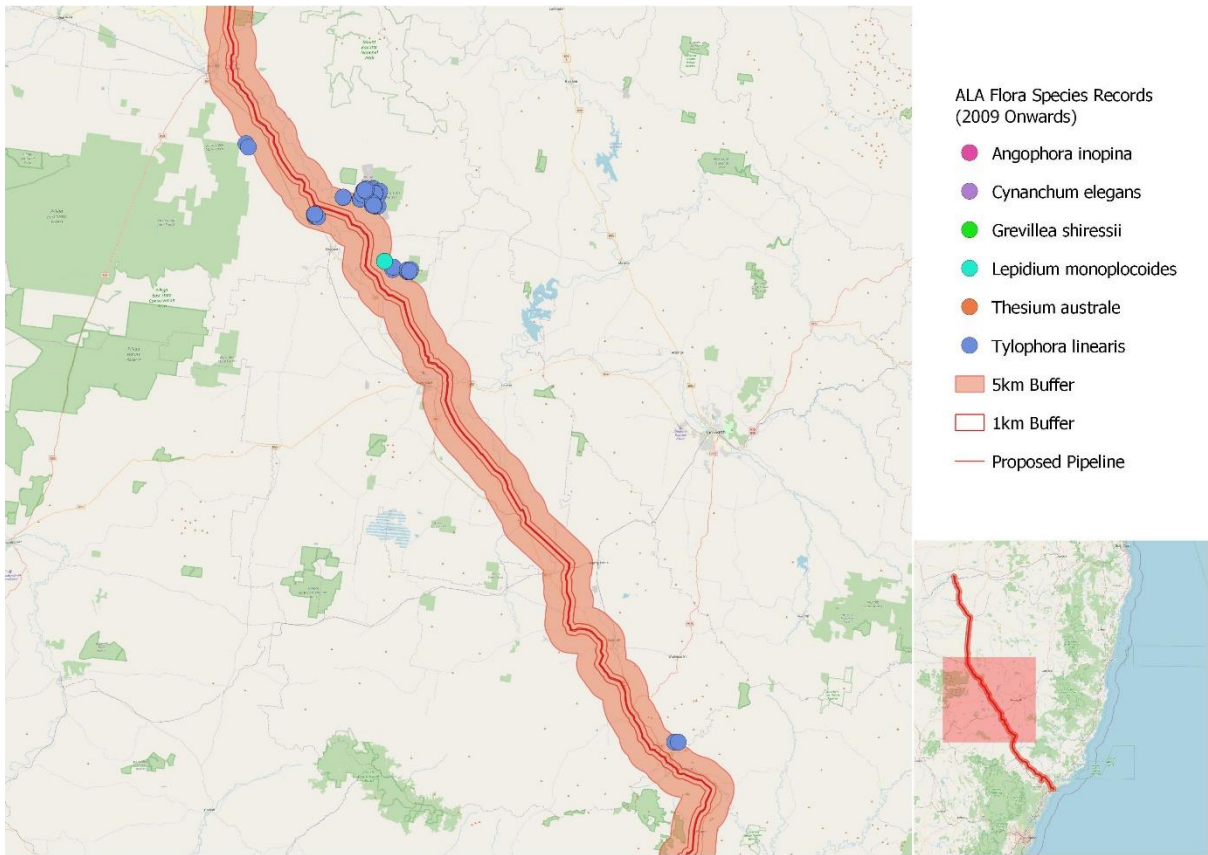
at <https://biocache.ala.org.au/occurrences/search?q=qid:1637276511960> accessed on 19 November 2021.

The DOI for this download is available at <https://doi.org/10.26197/ala.b82d4973-881b-450d-9a18-ac8a454ddc0e>

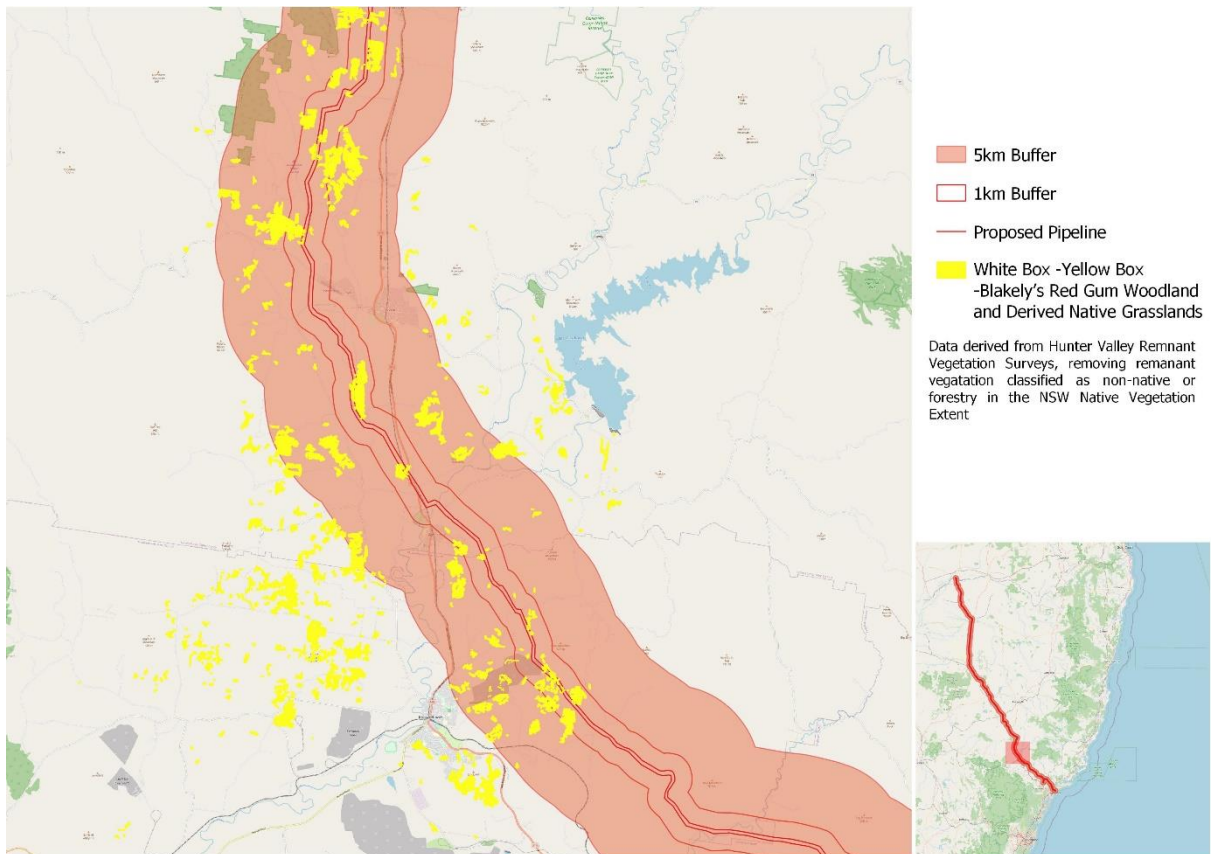
Map 5



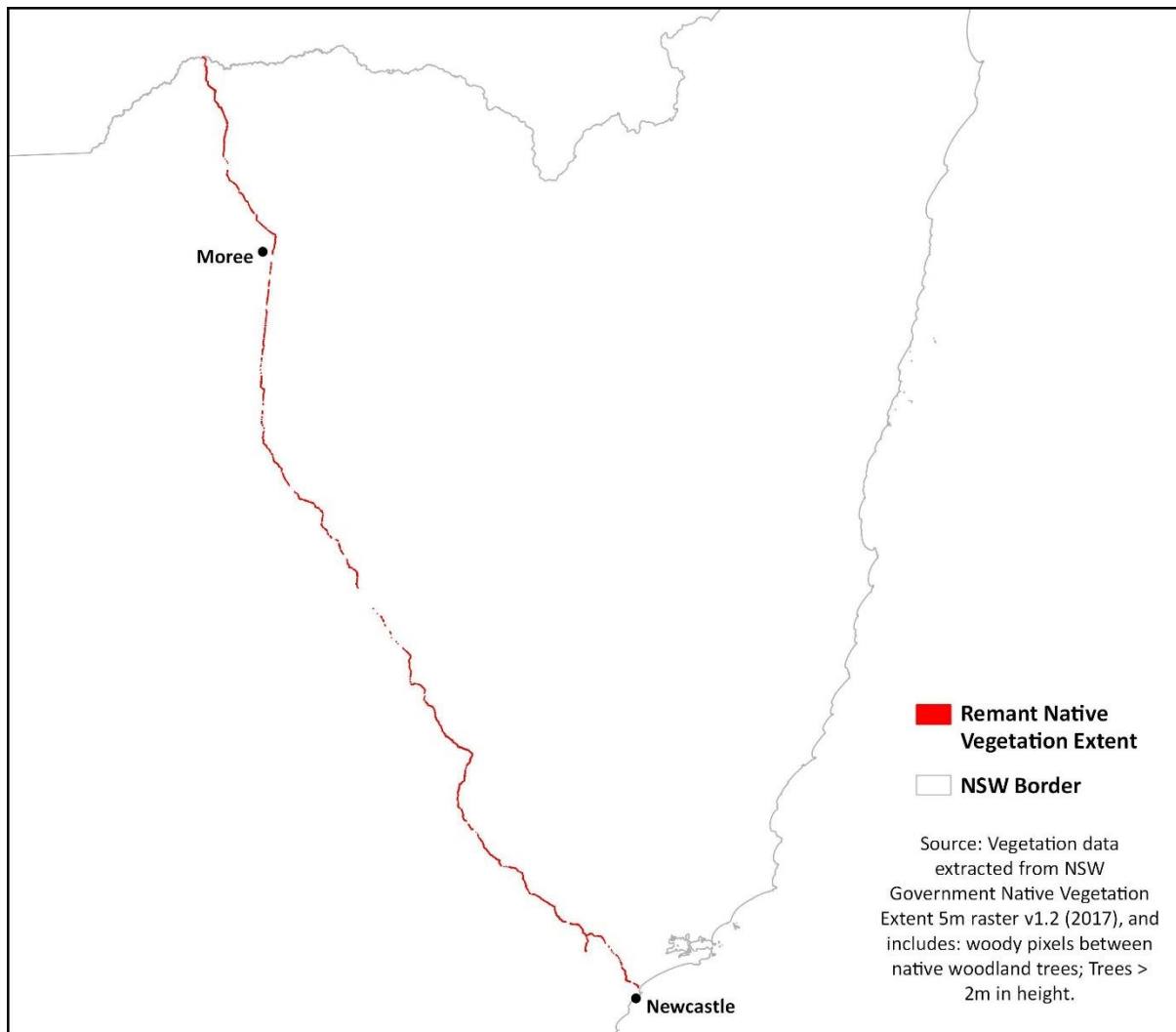
Map 6



Map 7 – New White Box-Yellow Box-Blakely’s Red Gum EEC mapping



Map 8 – Distribution of woody native vegetation along the pipeline corridor



Map 9 – Fire Extent and Severity Mapping in vicinity of the Queensland Hunter gas pipeline

Fire Extent and Severity Mapping and HGP

