



## Notification of approval

### Upper South Creek Advanced Water Recycling Centre, Kemps Creek, NSW (EPBC 2020/8816)

This decision is made under section 133(1) of the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act). Note that section 134(1A) of the EPBC Act applies to this approval. That provision provides, in general terms, that if the approval holder authorises another person to undertake any part of the Action, the approval holder must take all reasonable steps to ensure that the other person is informed of any conditions attached to this approval, and that the other person complies with any such conditions.

### Proposed action

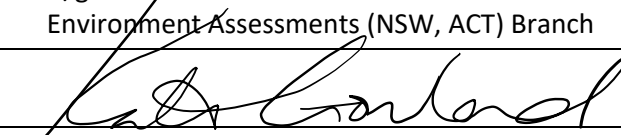
<b>person to whom the approval is granted (approval holder)</b>	Sydney Water Corporation
<b>ACN/ABN of approval holder</b>	ABN 49 776 225 038
<b>Action</b>	To construct and operate a wastewater treatment plant located between South Creek and Kemps Creek, and associated infrastructure, including three new pipelines between Warragamba and Lansdowne, NSW [see EPBC Act referral 2020/8816].

### Approval decision

<b>decision</b>	My decisions on whether or not to approve the taking of the Action for the purposes of each controlling provision for the Action are as follows.	
	<b>Controlling Provision</b>	<b>Decision</b>
	World Heritage (sections 12 and 15A)	Approve
	National Heritage values of a national heritage place (sections 15B and 15C)	Approve
	Listed threatened species and communities (sections 18 and 18A)	Approve
<b>period for which the approval has effect</b>	This approval has effect until 31 December 2063.	
<b>conditions of approval</b>	The approval is subject to conditions under the EPBC Act as set out in Annexure A.	

## OFFICIAL

### Person authorised to make decision

<b>name and position</b>	Kate Gowland A/g Branch Head Environment Assessments (NSW, ACT) Branch
<b>signature</b>	
<b>date of decision</b>	17 February 2023

## Annexure A

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

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### Part A – Conditions specific to the Action

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- 1) To minimise impacts to **protected matters**, the approval holder must not **clear** more than:
  - a) 1.44 ha of **Cumberland Plain Shale Woodlands and Shale-Gravel Transition Forest**
  - b) 1.64 ha of **Spiked Rice-flower habitat**.
- 2) The approval holder must not **clear** outside the **impact assessment area**. The approval holder must not impact on **protected matters** by **clearing** outside the **impact area**.
- 3) To mitigate impacts on **protected matters** the approval holder must implement conditions C4, C5, C9, C11, C12, E23, E119, E120, E132, E133, E134, C-B1 and C-B7 of the **State Infrastructure Approval**, in so far as they relate to monitoring, mitigating, and avoiding impacts to **protected matters**.

#### Offsets

- 4) To offset the impacts of the Action on **protected matters**, the approval holder must implement conditions E12, E13, E14, E15 and E16 of the **State Infrastructure Approval**.
- 5) The approval holder must notify the **department** in writing within 10 **business days** of the **biodiversity credits** being **retired** in accordance with conditions E14, E15 and E16 of the **State Infrastructure Approval**.

#### Action management plans

- 6) The approval holder must ensure, prior to submitting them for approval by the Planning Secretary, that the Construction Environmental Management Plan (CEMP) and sub-plans required for Biodiversity (sub-plan C4 (d)) and Heritage (sub-plan C4 (g)) required under conditions C4, C5 and C9 of the **State Infrastructure Approval**:
  - a) are consistent with **statutory documents** for **protected matters**, including for the listings and management of the Greater Blue Mountains Area World Heritage property and the National Heritage place,
  - b) demonstrate how the approval holder will protect, minimise and mitigate impacts to **protected matters**, and
  - c) state how the relevant terms of the **State Infrastructure Approval** for **protected matters** will be complied with.
- 7) The approval holder must not **commence the Action** unless the **Minister** has approved all of the CEMP, Biodiversity and Heritage sub-plans, required by condition C4 of the **State Infrastructure Approval**, in writing.
- 8) The approval holder must not **commence the Operation** unless the **Minister** has approved the World Heritage Monitoring Program (WHMP) and Water Quality Monitoring Program (WQMP), required by conditions E132 and E119 of the **State Infrastructure Approval**, in writing.

- 9) The approval holder must implement the CEMP, Biodiversity and Heritage sub-plans, WHMP and WQMP approved by the **Minister** until, at least, the end date of this approval, unless otherwise agreed to by the **Minister** in writing.
- 10) Each World Heritage monitoring report required by Condition E133 of the **State Infrastructure Approval** must be provided to the **department** for information within one month of submission of each annual report required by the **State Infrastructure Approval**.

#### **Revision of action management plans**

- 11) The approval holder may, at any time, apply to the **Minister** for a variation to an action management plan approved by the **Minister** or as subsequently revised in accordance with these conditions, by submitting an application in accordance with the requirements of section 143A of the **EPBC Act**. If the **Minister** approves a Revised Action Management Plan (RAMP) then, from the date specified, the approval holder must implement the RAMP in place of the previous action management plan.
- 12) The approval holder may choose to revise an action management plan approved by the **Minister** under conditions 7-8, or as subsequently revised in accordance with these conditions, without submitting it for approval under section 143A of the **EPBC Act**, if the taking of the Action in accordance with the RAMP would not be likely to have a **new or increased impact**.
- 13) If the approval holder makes the choice under condition 12 to revise an action management plan without submitting it for approval, the approval holder must:
  - a) Notify the **department** electronically that the approved action management plan has been revised and provide the **department** with:
    - i) An electronic copy of the RAMP.
    - ii) An electronic copy of the RAMP marked up with track changes to show the differences between the approved action management plan and the RAMP.
    - iii) An explanation of the differences between the approved action management plan and the RAMP.
    - iv) The reasons the approval holder considers that taking the Action in accordance with the RAMP would not be likely to have a **new or increased impact**.
    - v) Written notice of the date on which the approval holder will implement the RAMP (RAMP implementation date), being at least 20 **business days** after the date of providing notice of the revision of the action management plan, or a date agreed to in writing with the **department**.
  - b) Subject to condition 15, implement the RAMP from the RAMP implementation date.
  - c) Document changes to approved action management plans in the **compliance report**, as per condition 29.
- 14) The approval holder may revoke its choice to implement a RAMP under condition 12 at any time by giving written notice to the **department**. If the approval holder revokes the choice under condition 12, the approval holder must implement the action management plan in force immediately prior to the revision undertaken under condition 12.

- 15) If the **Minister** gives a notice to the approval holder that the **Minister** is satisfied that the taking of the Action in accordance with the RAMP would be likely to have a **new or increased impact**, then:
- a) Condition 12 does not apply, or ceases to apply, in relation to the RAMP.
  - b) The approval holder must implement the action management plan specified by the **Minister** in the notice.
- 16) At the time of giving the notice under condition 15, the **Minister** may also notify that for a specified period of time, condition 12 does not apply for one or more specified action management plans.

**Note:** Conditions 12 – 16 are not intended to limit the operation of section 143A of the **EPBC Act** which allows the approval holder to submit a revised action management plan, at any time, to the **Minister** for approval.

### **Submission and publication of plans**

- 17) The approval holder must submit all **plans** required by these conditions electronically to the **department**.
- 18) 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) of this approval, if the version of the **plan** to be implemented is specified in these conditions; or
  - b) the **plan** is approved by the **Minister** in writing, if the **plan** requires the approval of the **Minister**; or
  - c) the **plan** is submitted to the **department** in accordance with a requirement of these conditions, if the **plan** does not require the approval of the **Minister**; or
  - d) the **plan** is approved by a state/territory government official/the NSW Planning Secretary as required under a state/territory government condition which must be complied with in accordance with these **EPBC Act** conditions.
- 19) The approval holder must keep all published **plans** required by these conditions on the **website** until the expiry date of this approval, unless otherwise agreed by the **Minister** in writing.
- 20) 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.
- 21) If **sensitive ecological data** is excluded or redacted from a **plan** in accordance with condition 20, the approval holder must notify the **department** in writing what exclusions and redactions have been made in the version published on the **website**.

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### **Part B – Administrative conditions**

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#### **Notification of date of commencement of the action**

- 22) 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**.

- 23) 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

- 24) The approval holder must maintain accurate and complete **compliance records**.
- 25) 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.

**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.

- 26) 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 *Guidelines for biological survey and mapped data*, Commonwealth of Australia 2018, or as otherwise specified by the **Minister** in writing.
- 27) 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 *Guide to providing maps and boundary data for EPBC Act projects*, Commonwealth of Australia 2021, or as otherwise specified by the **Minister** in writing.
- 28) 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 date of this approval decision, or as otherwise agreed by the **Minister** in writing.

#### Annual compliance reporting

- 29) 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**.
- 30) Each **compliance report** must be consistent with the *Annual Compliance Report Guidelines*, Commonwealth of Australia 2014.
- 31) Each **compliance report** must include:
- 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.
- 32) The approval holder must:
- 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**.

- 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**.

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

### **Reporting non-compliance**

- 33) 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**.
- 34) 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.

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

- 35) 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
  - c) The method and timing of any corrective action that will be undertaken by the approval holder.

### **Independent audit**

- 36) 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 specified in writing by the **Minister**.
- 37) 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.
- 38) Each **audit report** must report for the five-year period preceding that audit report.
- 39) Each **audit report** must be completed to the satisfaction of the **Minister** and be consistent with the *Environment Protection and Biodiversity Conservation Act 1999 Independent Audit and Audit Report Guidelines*, Commonwealth of Australia 2019.

#### Completion of the action

- 40) 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.
- 41) 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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#### Part C - Definitions

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

**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**.

**Biodiversity credits** means biodiversity credits in accordance with the Biodiversity Offsets Scheme under the *Biodiversity Conservation Act 2016* (NSW).

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

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

**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**.
- e) undertake Low Impact Work (as defined in Schedule 1 of the **State Infrastructure Approval**) where the work does not impact **protected matters**.

**Commence the Operation or Commencement of the Operation** means all activities including and following the first discharge of any effluent treated by the plant constructed as part of the Action.

**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**.

**Completion of the Action** means the date on which all activities associated with this approval have permanently ceased and/or been completed.

**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.

**Compliance report** means a written report of compliance with, and fulfilment of, the conditions attached to the approval.

**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.

**Cumberland Plain Shale Woodlands and Shale-Gravel Transition Forest** means the **EPBC Act** listed threatened ecological community Cumberland Plain Shale Woodlands and Shale-Gravel Transition Forest. The location of identified **Cumberland Plain Shale Woodlands and Shale-Gravel Transition Forest** within the **impact area** is represented in Attachment A by the zones shaded yellow and labelled 'Castlereagh Shale-Gravel Transition Forest (CEEC)' and the zones shaded green and labelled 'Cumberland Shale Plains Woodland (CEEC)'.

**Department** means the Australian Government agency responsible for administering the **EPBC Act**.

**EPBC Act** means the *Environment Protection and Biodiversity Conservation Act 1999* (Cth).

**Impact area** means the area within which it is intended most or all of the Action will be taken, represented in Figure 4-17a to 4-17m of the Environmental Impact Statement, Volume 2 Project Info and Consultation Part 2 v2 and Appendix A Amended Project Description of the NSW assessment documents for SSI-8609189, by the zones enclosed within the red lines labelled 'Impact area'. The location of the **impact area** in the vicinity of known protected matter locations

is represented in Attachment A by the zones enclosed within the orange lines labelled 'Impact area'.

**Impact assessment area** means the location of the Action, represented in Figure 4-17a to 4-17m of the Environmental Impact Statement, Volume 2 Project Info and Consultation Part 2 v2 and Appendix A Amended Project Description of the NSW assessment documents for SSI-8609189, by the zones enclosed within the black dotted lines labelled 'Impact assessment area'. The location of the **impact assessment area** in the vicinity of known locations of **protected matters** is represented in Attachment A by the zones enclosed within the red lines labelled 'Impact Assessment Area'.

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

**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

**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*, Commonwealth of Australia 2019.

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

**Monitoring data** means the data required to be recorded under the conditions of this approval.

**New or increased impact** means any new or increased likelihood of an environmental impact or risk occurring relating to a protected matter, a reduction to the monitoring or mitigation measures for a **protected matter**, and/or a change to the nature or management of an environmental offset as outlined in the *Guidance on 'new or increased impact' relating to changes to approved management plans under EPBC Act environmental approvals*, Commonwealth of Australia 2017.

**Plan** means any action management plan or strategy that the approval holder is required by these conditions to implement.

**Protected matter(s)** means a matter protected under a controlling provision in Part 3 of the **EPBC Act** for which this approval has effect. **Protected matters** include the Greater Blue Mountains Area World Heritage **property** and the National Heritage place.

**Retired** means retirement of **biodiversity credits** in accordance with the Biodiversity Offset Scheme under the *Biodiversity Conservation Act 2016* (NSW), such that the **biodiversity credits** can no longer be bought or sold.

**Sensitive ecological data** means data as defined in the *Sensitive Ecological Data – Access and Management Policy V1.0*, Commonwealth of Australia 2016.

**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.

**Spiked Rice-flower** means the **EPBC Act** listed threatened species *Pimelea spicata*.

**Spiked Rice-flower habitat** means any area which provides habitat suitable for the **Spiked Rice-flower**. The location of identified **Spiked Rice-flower habitat** within the **impact area** is represented in Attachment A by the zones shaded blue or hash blue and labelled 'Spiked Rice-flower (*Pimelea spicata*) Habitat'.

**State Infrastructure Approval** means the NSW Government State Significant Infrastructure: Conditions of Approval for Upper South Advanced Water Recycling Centre Project, made under Section 5.19 of the *Environmental Planning & Assessment Act 1979* (NSW), for application number SSI-8609189, granted 28 November 2022.

**Statutory documents** means all relevant conservation advices, recovery plans and threat abatement plans approved by the **Minister**.

**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.

**Website** means a set of related web pages located under a single domain name attributed to the approval holder and available to the public.

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## Attachments

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Attachment A: Maps showing the location of the Action and **Protected Matters**



## Attachment A – Location of the Action and Protected Matters

Figure 1: Protected matters treated water pipeline

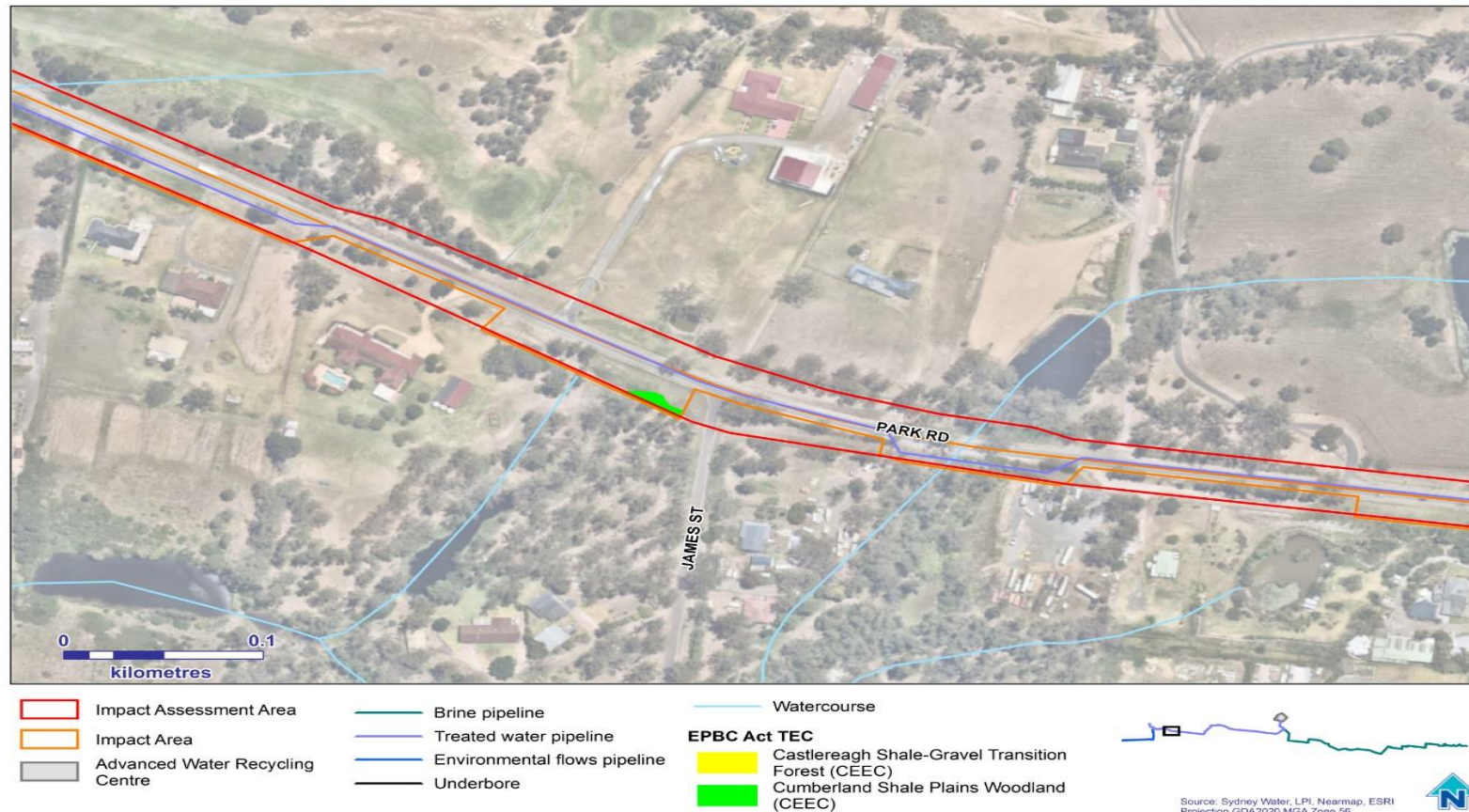




Figure 2: Protected matters treated water pipeline

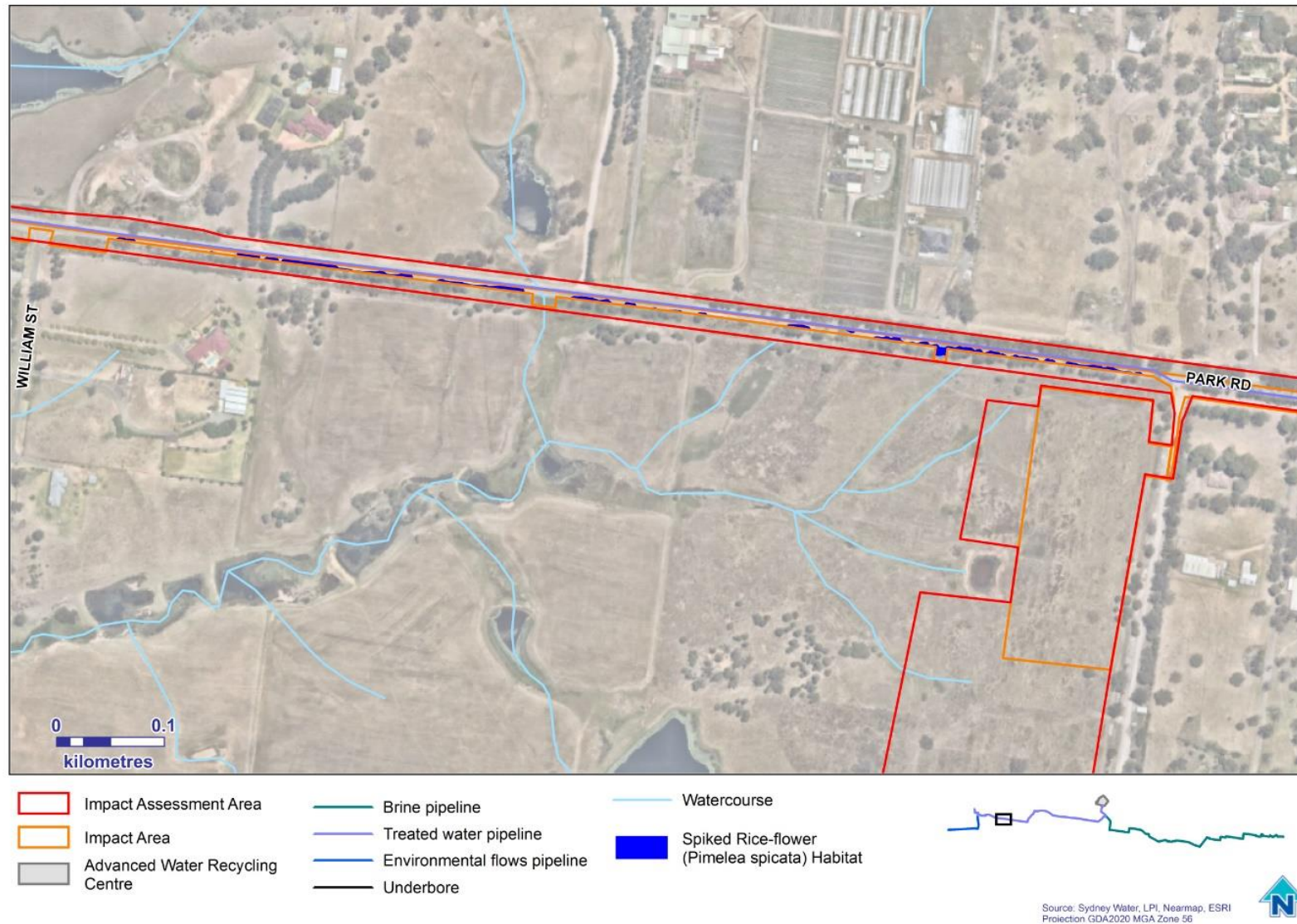


Figure 3: Protected matters treated water pipeline

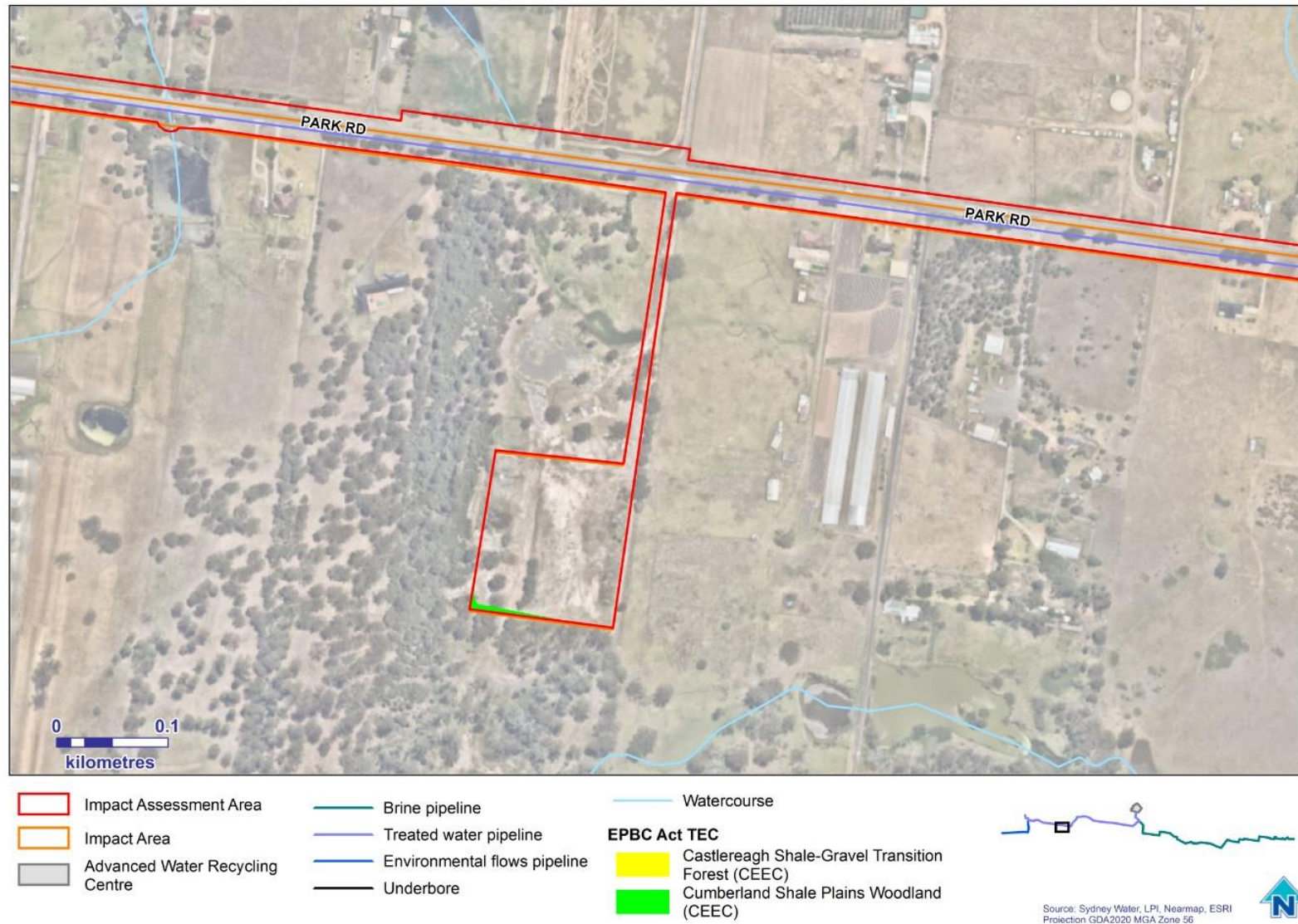




Figure 4: Protected matters treated water pipeline

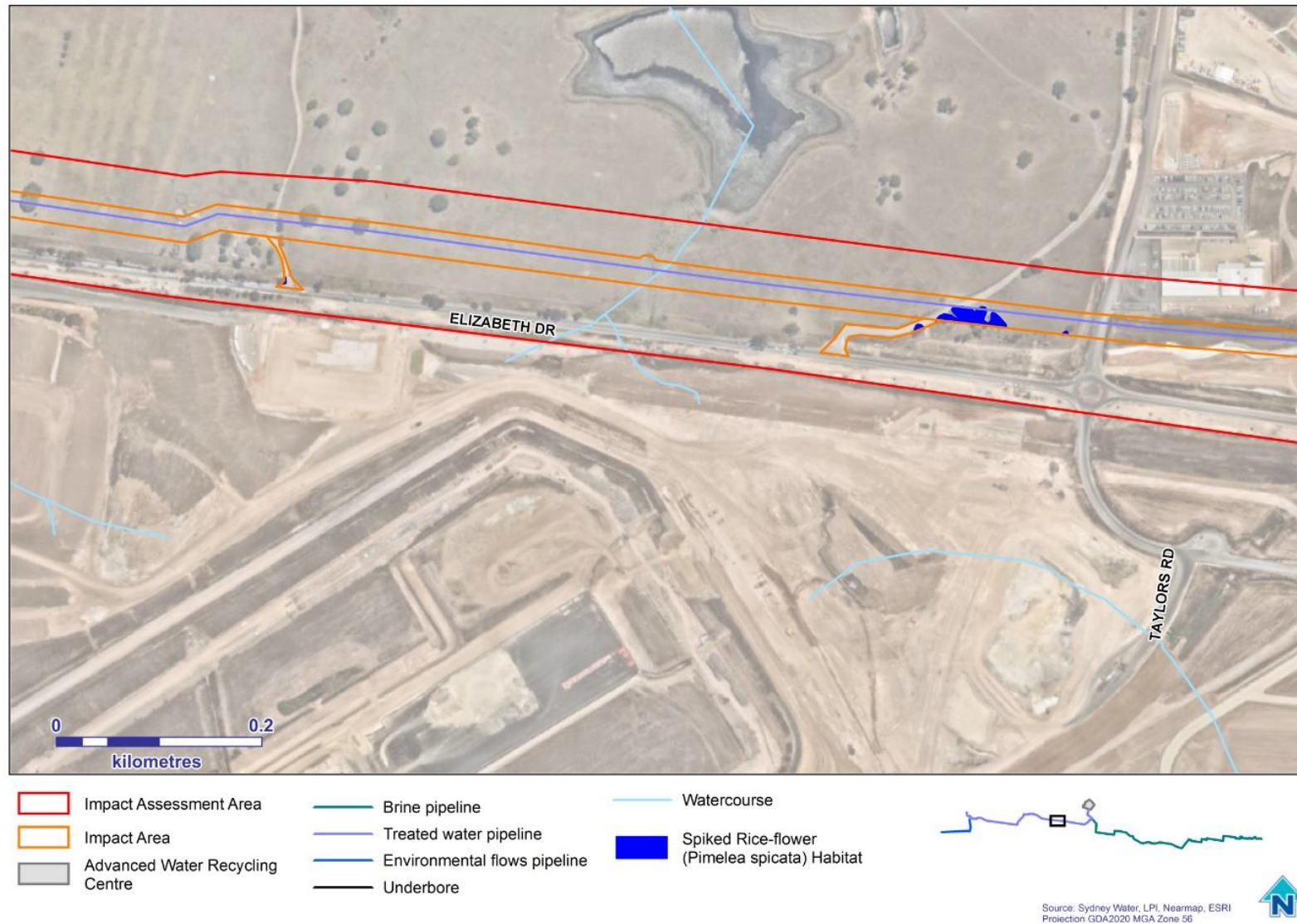


Figure 5: Protected matters brine pipeline

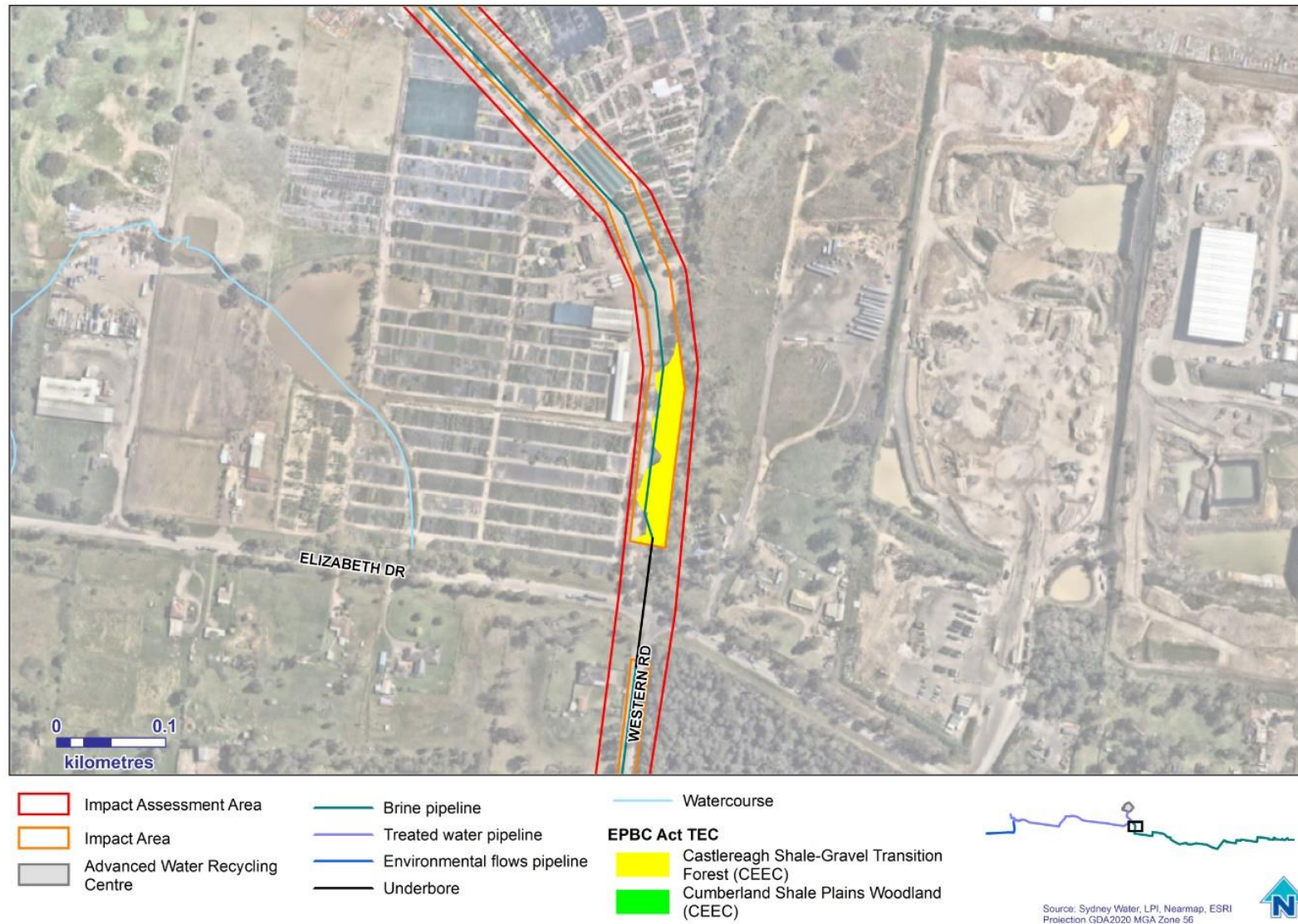




Figure 6: Protected matters brine pipeline

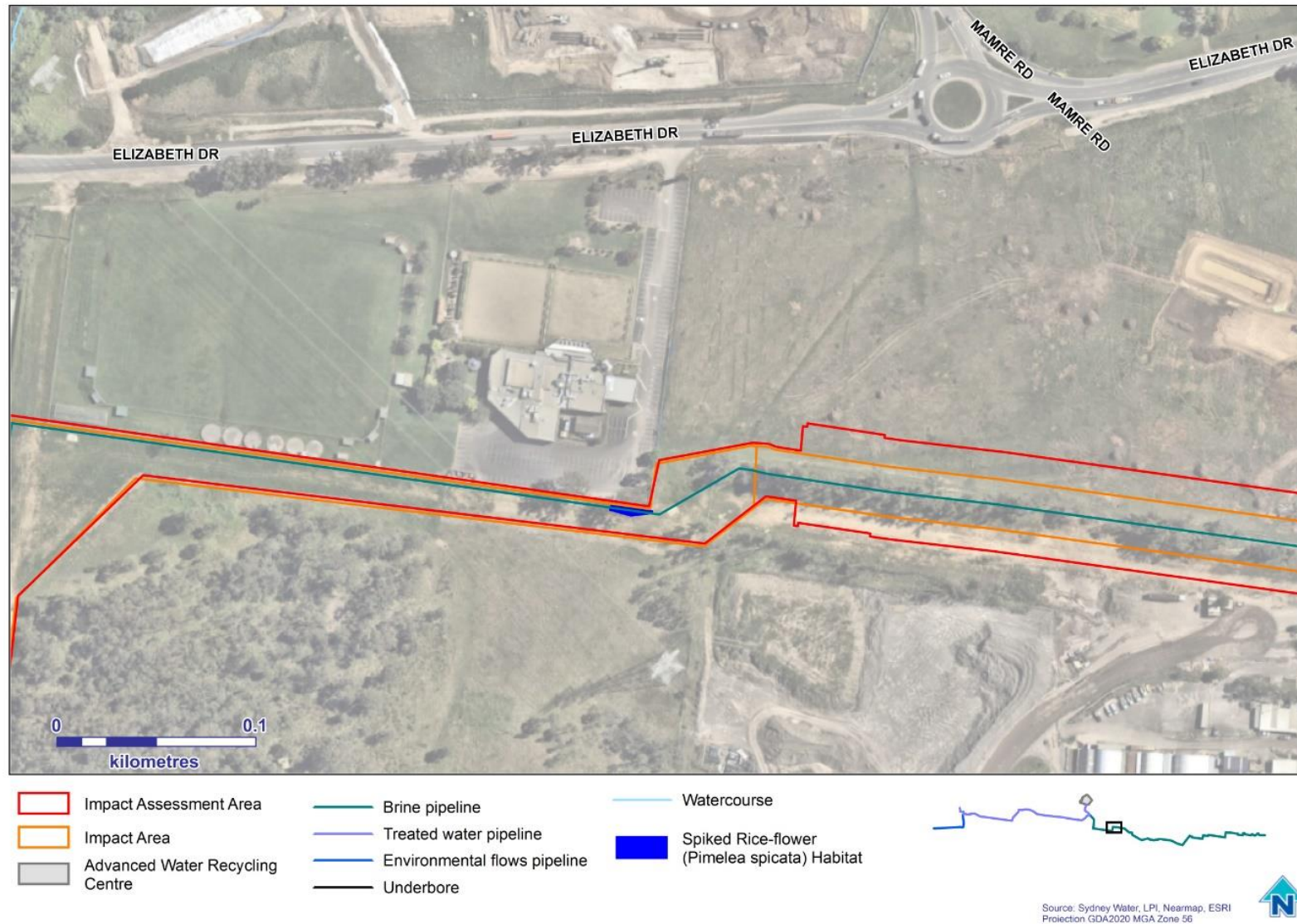


Figure 7: Protected matters brine pipeline

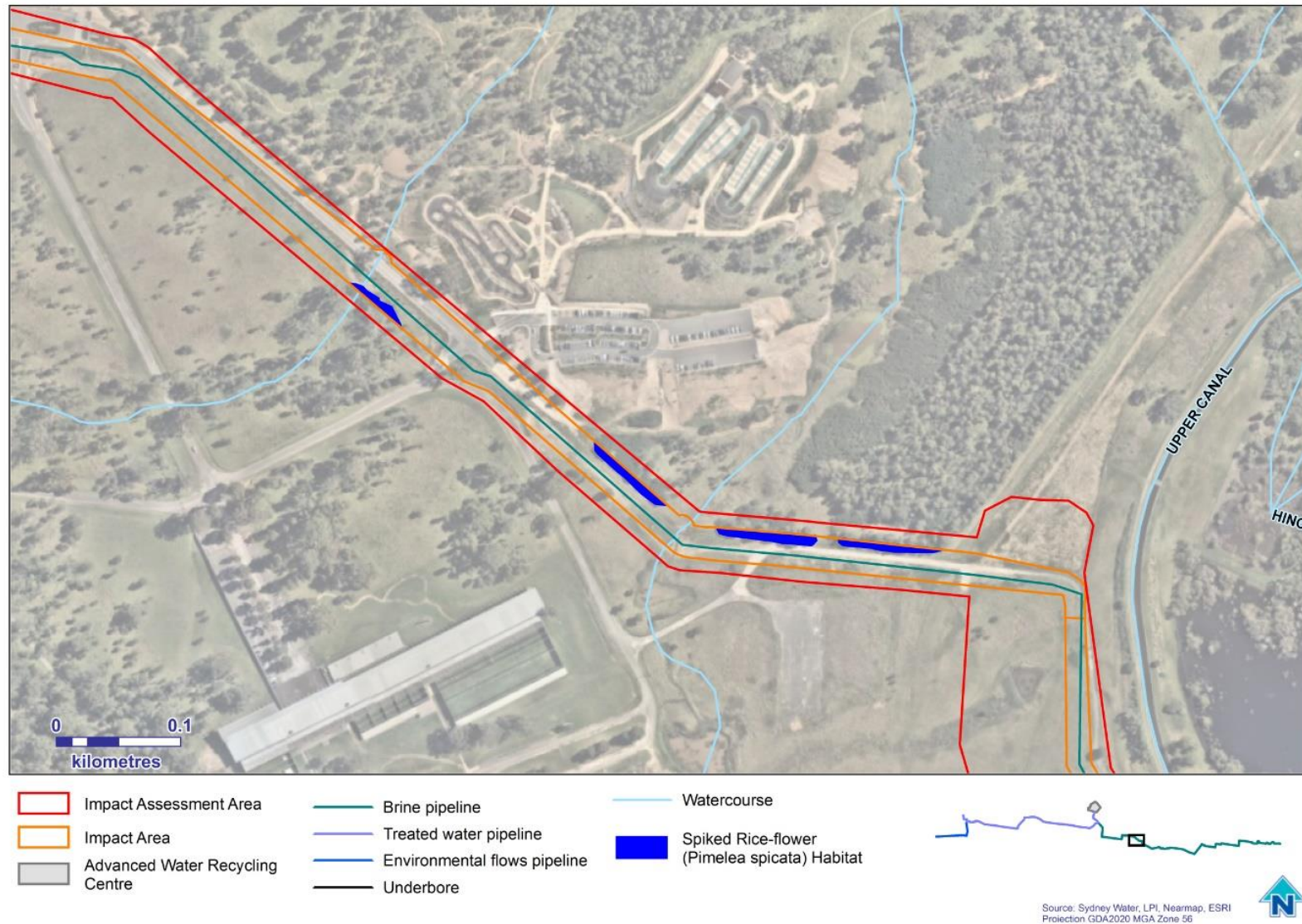




Figure 8: Protected matters brine pipeline

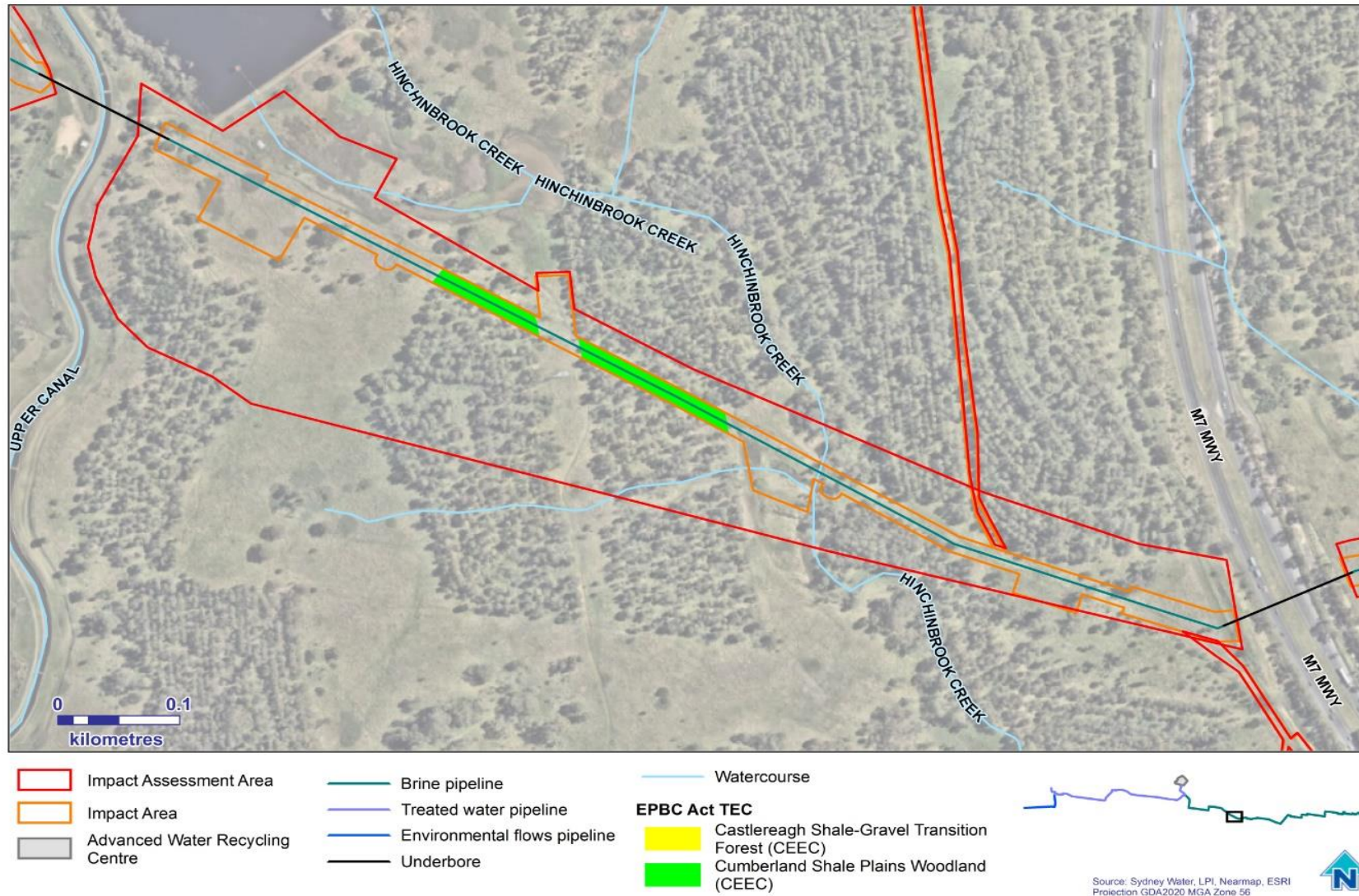




Figure 9: Protected matters brine pipeline

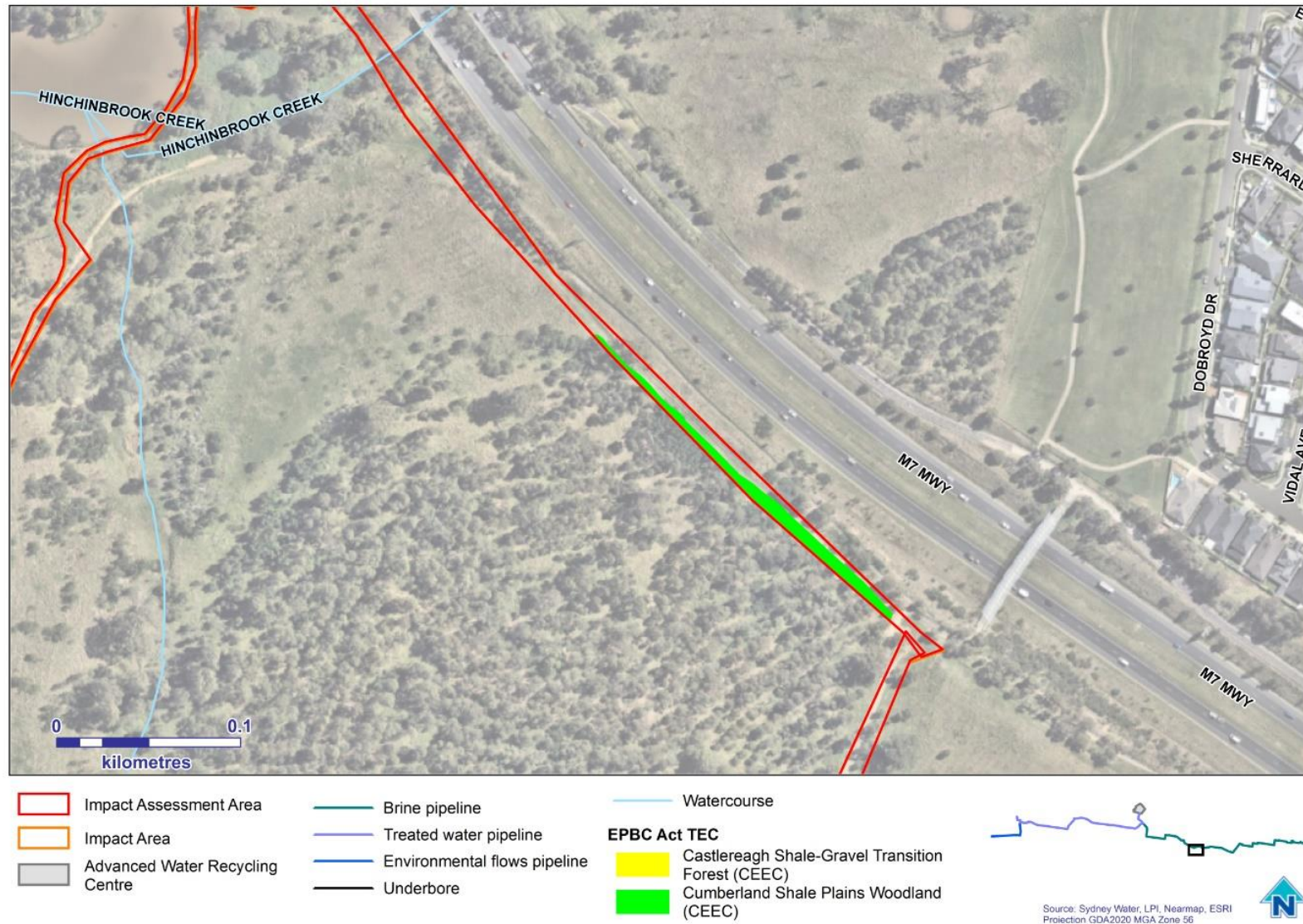




Figure 10: Protected matters brine pipeline

