

1 TELECOMMUNICATION FACILITY AND VEGETATION REMOVAL, 368 O'NEAL ROAD OFFICER

FILE REFERENCE INT1726553

RESPONSIBLE GENERAL MANAGER Andrew Paxton

AUTHOR Isla English

RECOMMENDATION

That a Notice of Decision T160772 be issued for the use and development of the land for a telecommunications facility and vegetation removal at 368 O`Neil Road, Officer subject to the following conditions contained in this report.

Attachments

- | | | |
|---|---|----------|
| 1 | Locality plan | 1 Page |
| 2 | Development plans | 6 Pages |
| 3 | Letters of objection circulated to councillors only | 16 Pages |

EXECUTIVE SUMMARY:

APPLICATION NO.:	T160772
APPLICANT:	Visionstream Pty Ltd
LAND:	368 O`Neil Road, Officer VIC 3809
PROPOSAL:	Use and development of the land for a Telecommunication facility and removal of vegetation
PLANNING CONTROLS:	Rural Conservation Zone Schedule 2 Environmental Significance Overlay Schedule 1
NOTIFICATION & OBJECTIONS:	The application has been advertised pursuant to Section 52 of the <i>Planning and Environment Act 1987</i> , by sending notices to adjoining land owners and occupiers and by placing a sign on site. Four objections have been received to date.
KEY PLANNING CONSIDERATIONS:	Compliance with 'A Code of Practice for Telecommunication Facility in Victoria' Vegetation removal Clause 52.17 of the Native Vegetation
RECOMMENDATION:	Notice of Decision to approve

BACKGROUND:

There is no recent planning history relating to the property.

SUBJECT SITE

The subject property is located in the northern part of Officer which is characterised by lower density rural allotments and dense vegetation. The subject site is located on the east side of O'Neil Road and is adjoined to the north by the Beaconsfield Nature Conservation Reserve and Reservoir.

The property is developed with a single dwelling in the northwest corner of the lot. The balance of the site is largely covered by dense established vegetation approximately 18 metres high, with small clearings along the western boundary of the site.

The location of the facility takes advantage of natural ground elevation via a ridgeline that runs generally in a north-south direction along the roadway. The surrounding terrain features a significant slope away from the western title boundary, falling to the east. Land surrounding the subject site mostly comprises rural allotments, featuring scattered rural residential uses set amongst mature trees. Neighbouring residences are well screened by dense tree canopy and understory growth.

Surrounding land use and development are residential in nature and include:

- North: A heavily vegetated reserve containing water supply infrastructure.
- South: A heavily vegetated rural lot containing a dwelling.
- East: A heavily vegetated rural lot containing a dwelling.
- West: O'Neil Road and a heavily vegetated rural lot containing a dwelling.

PROPOSAL

An application was received for a NBN telecommunication facility to be constructed at 368 O'Neil Road, Officer. It is required for fixed wireless internet coverage to the northern parts of Officer and parts of Guys Hill. The applicant states after investigating a number of sites, the proposed property was the preferred site in order to meet their needs in regards to coverage and availability.

The telecommunications facility will comprise off a 40 metre monopole, ancillary components including two outdoor units (ODU) within a secure compound measuring approximately 80m².

The specific components of the proposed installation are described below:

- The installation of a 40m monopole;
- The installation of two (2) 600mm parabolic dish antennas for transmission purposes
- The installation of three (3) panel antennas attached to the headframe;
- The installation of a 2.4m high chainlink security compound fence (compound area 10m x 8m), with 3m wide access gate;
- The installation of two (2) outdoor equipment units at ground level, adjacent to the proposed tower.
- The outdoor units will be installed on a concrete slab and will be metallic grey in colour;
- The installation of associated feeder cables that will run underground from the equipment cabinets to the antennas
- The lease area of the tower is 4m² and the equipment shelter lease area is 12m²

The compound will be accessed from O'Neil Road via a new crossover proposed to the west of the compound. A gravel access track approximately 3 metres wide and approximately 12 metres long will link the roadway with the compound.

The application also includes the removal of vegetation. Twenty-six trees are proposed to be removed for the construction of the access way and the clearing of the compound. This is equivalent to 0.036 ha of native vegetation

PLANNING SCHEME PROVISIONS

State Planning Policy Framework (SPPF)

The relevant clauses of the SPPF are:

- Clause 19.03-4 Telecommunication

Local Planning Policy Framework (LPPF)

The relevant clauses of the LPPF are:

- 21.05-1 Infrastructure provision

Relevant Particular/ General Provisions and relevant incorporated or reference documents

The relevant provisions/ documents are:

- Clause 65 Decision guidelines
- Clause 52.19 Telecommunications facility
- Clause 52.17 Native Vegetation Removal

Incorporated Documents

Clause 81 contains a list of documents that are incorporated into the Planning Scheme. One of these documents is *A Code of Practice for Telecommunication Facility in Victoria*, which is relevant in the assessment of this application.

Zone

The land is subject to the Rural Conservation Zone Schedule 2

Overlays

The land is subject to the following overlays:

- Environmental Significance Overlay Schedule 1

PLANNING PERMIT TRIGGERS

The proposal for the development of land for a Telecommunication Facility requires a planning permit under the following clauses of the Cardinia Planning Scheme:

- Pursuant to Clause 52.19 a permit is required to construct a building or construct or carry out works for a telecommunication facility as the proposal is not classified as a low impact facility
- Pursuant to Clause 42.01-3 a permit is required to remove trees destroy or lop any vegetation.

- Pursuant to Clause 52.17 a permit is required to remove trees destroy or lop any vegetation.

PLANNING PERMIT TRIGGERS

The proposal for the development of land for a Telecommunication Facility requires a planning permit under the following clauses of the Cardinia Planning Scheme:

- Pursuant to Clause 52.19 a permit is required to construct a building or construct or carry out works for a telecommunication facility as the proposal is not classified as a low impact facility
- Pursuant to Clause 42.01-3 a permit is required to remove trees destroy or lop any vegetation.
- Pursuant to Clause 52.17 a permit is required to remove trees destroy or lop any vegetation.

PUBLIC NOTIFICATION

The application has been advertised pursuant to Section 52 of the Planning and Environment Act 1987, by:

- Sending notices to the owners and occupiers of adjoining land
- Placing (a) sign(s) on site

Council has received four (4) objections to date.

The key issues that were raised in the objection are:

- Visual Amenity
- Pursuant to Property Values
- Loss of Vegetation
- Reflective materials

REFERRALS

DEWLP

The application was referred to DEWLP for a comment. *DEWLP* had no objection to the proposal in relation to the removal of vegetation

DISCUSSION

A Code of Practice for Telecommunication Facility in Victoria

In line with the decision guidelines as stipulated in Clause 52.19-6, the principles for the design, siting, construction and operation of a telecommunication facility must be assessed against 'A Code of Practice for Telecommunication Facility in Victoria'. Each principal of this code has been addressed as follows:

Principle 1: A telecommunication facility should be sited to minimise visual impact

At a maximum height of 40 metres it is acknowledged that the monopole tower component of the facility will be visible from land outside of the subject site. However, as highlighted in the VCAT

decision, *White v Ballarat CC* [2014] the simple visibility of the tower from surround land does not mean that there is an unacceptable planning or visual impact.

It is considered by Council officers that the location of this telecommunication facility is appropriately placed. The proposed compound is sited 8.5m from the property boundary and the monopole and equipment shelter are located approximately 11.4m. The monopole has been sited inside the allotment surrounded on three sides by tall trees and vegetation. A brush fence is proposed to screen the equipment shelter from the road as well as painting the tower pale eucalypt so as to blend with the vegetation. The brush screen was proposed to reduce the impact of the equipment shelters position after being contacted by the neighbour early in the consultation process last year to address their concerns.

The applicant states in its submission that the reasons for selecting this site are as follows:

- The proposed site has been particularly targeted to provide the optimal required quality of service for the Officer and Guys Hill community, and to provide critical transmission linkages to two downstream Fixed Wireless sites;
- The facility has been sited on rural land which benefits from existing established vegetation near the site for partial screening; The site provides sufficient spatial separation from sensitive land uses with the nearest dwellings well screened by the established tree canopy and understory growth;
- The site location benefits from the natural ground elevation achieved along the western site boundary, allowing for the smallest structure possible to be used to delivery service to the surrounding community;
- The proposal is not considered to cause unreasonable amenity impact within the rural landscape context of the site.

A proposed 40m slim line tower is to be used rather than the usual lattice tower. The design and construction materials are consistent with similar telecommunications facilities in the area. The structure may be visible from some aspects however Council officers do not believe it will result in adverse impacts on visual amenity in the local area.

When discussing Principle 1, in regards to the previously highlighted *White v Ballarat CC* [2014], Council was directed to consider aspects such as distances of the facility from the road, viewing points, and extent of any vegetation in the vicinity to obscure the pole.

VCAT also states that minimising an adverse impact on visual amenity does not mean that the telecommunication pole must be sited so that it cannot be seen by most or many people. Visibility cannot be equated to adverse visual impact. It is the extent to which a development is compatible with the particular location and how policies seek to guide change that is most relevant.

Principle 2: Telecommunication facilities should be co-located wherever practical

There are no existing telecommunication facilities within the area that are suitable for co-locating with in order to meet NBN coverage requirements.

Principle 3: Health standards for exposure to radio emissions will be met

The predicted maximum radio frequency emissions from the proposed Telstra telecommunication facility will be mandated by the Radio Communications (Electromagnetic Radiation – Human Exposure) Standard 2003.

Principle 4: Disturbance and risk relating to siting and construction should be minimised

Excavation and fill within the compound is proposed so as to level the site. A site cut of approximately 1m will be required. A permanent batter shall be compacted and seeded in a manner to suit the batter grades and erosion. Standard engineering conditions will be placed on any permit to ensure erosion and drainage will be appropriate for the site.

Vegetation Removal

Councils environment team does object to the removal of the vegetation as 26 trees that will be required to be removed as part of the development. It was recommended that as there is a clearing immediately to the north of the proposed location, this would be a better outcome. This option was investigated by planners and the applicant, however an extensive site cut, due to the fall of the land, would be required and the site was not considered suitable.

Under the State Planning Policy Framework, Clause 19.03-4 Telecommunications of the Cardinia Planning Scheme highlights an important strategy as:

Encourage the continued deployment of broadband telecommunications services that are easily accessible by:

- *Increasing and improving access for all sectors of the community to the broadband telecommunications trunk network.*
- *Supporting access to transport and other public corridors for the deployment of broadband networks in order to encourage infrastructure investment and reduce investor risk.*

In consideration proposals for telecommunication services, seek a balance between the provision of important telecommunications services and the need to protect the environment from adverse impacts arising from telecommunications infrastructure.

Planning should have regard to national implications of a telecommunications network and the need for consistency in infrastructure design and placement

It is this strategic direction, which VCAT commonly refers to when supporting applications even if there are environmental significant overlay/significant landscape overlays or general environmental concerns.

The submitted Biodiversity Assessment Report (BAR) has identified that the native vegetation to be removed, destroyed or lopped is within the low or moderate risk-based pathway and is below 0.5 hectares. A request for comment from DEWLP resulted in them having no objection for the vegetation removal.

As such it is recommended that offsets be requested to ensure that there is suitable compensation for the removal of the vegetation.

Objector concerns

- Visual Amenity

As discussed under Principle 1, because a tower can be seen does not deem it to cause an adverse impact. The tower is setback into the subject title and the trees surrounding the compound does soften the effect.

- Pursuant to Property Values

Perceived reduction in property values cannot form part of a planning decision and is not accepted argument at VCAT for objecting to a planning permit

- Loss of Vegetation

Council does not generally support the removal of vegetation. In considering this proposal, the importance of telecommunication coverage, the most appropriate site to gain this coverage, the nature of the infrastructure proposed and the pathway level of vegetation being low, on this occasion it is recommended that vegetation removal can be supported. Suitable offsets will be required to be made at the vegetation's removal.

- Reflective materials

Council will request the pole and infrastructure be coloured green so as to blend in with the natural environment. This is supported by the applicant.

CONCLUSION

The proposed NBN Co facility, comprising a 40 metre high monopole with attached antennas and equipment cabinets has been located in a site which meets visual amenity issues which meets the ability to ensure adequate coverage is achieved. The proposal satisfies the requirements of the Code of Practice for Telecommunications Facilities in Victoria, whilst also addressing coverage deficiencies within the local area. The proposal is also consistent with the stated objectives of the Cardinia Planning Scheme and, in particular, Clause 52.19 relating to telecommunications facilities, and is not considered to be detrimental to the amenity of O'Neil Road and the surrounding area.

It is therefore recommended that a Notice of Decision for planning permit T160772 be issued for the use and development of the land for a telecommunications facility and vegetation removal at 368 O'Neil Road, Officer subject to the following conditions:

CONDITIONS

1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions. The plans must be generally in accordance with *the plans submitted with the application* but modified to show:
 - a) Show the monopole and equipment shelter to be painted eucalyptus green
 - b) Show the brush fence to be placed on the exterior of the compound wall
 - c) An amended site plan numbering each of the 26 trees earmarked for removal

2. The layout of the site and the size of the proposed buildings and works, as shown on the approved plan/s, must not be altered or modified without the consent in writing of the Responsible Authority.
3. Stormwater works must be provided on the subject land so as to prevent overflows onto adjacent properties.
4. Earthworks must be undertaken in a manner that minimises soil erosion. Exposed areas of soil must be stabilised to prevent soil erosion. The time for which soil remains exposed and unestablished must be minimised to the satisfaction of the Responsible Authority.
5. The site must be so ordered and maintained as not to prejudicially affect the amenity of the locality by reason of appearance.
6. The exterior colour and cladding of the telecommunication facility must not result in any adverse visual impact on the environment of the area and all external cladding and trim of the equipment shelter, including the roof, must be of a non-reflective nature.
7. Electromagnetic energy emissions must comply with the Australia Radiation Protection and Nuclear Safer Agency (ARPANSA).
8. All fallen timber and debris from the works must be cleaned up to the satisfaction of the Responsible Authority within three (3) months of the completion of works and may not remain on the subject land in a manner, which may constitute a fire hazard.
9. Except where specified on the endorsed plan, no vegetation may be removed, destroyed or lopped without the written consent of the Responsible Authority.
10. Prior to the removal of vegetation approved under this planning permit, an offset must be provided in accordance with condition 11 and be:
 - a) contribute gain of 0.004 general biodiversity equivalence units
 - b) be located within the Port Phillip and Westernport Catchment Management Authority boundary or the Cardinia municipal district
 - c) have a strategic biodiversity score of at least 0.106.

11. Offset evidence

The Guidelines require that a compliant offset be secured, to the satisfaction of the responsible or referral authority, before the native vegetation is removed. This can be an on-title security agreement for an offset site that includes an onsite management plan OR evidence of a third part offset. Security agreement requirements are specified in the *Native vegetation gain scoring manual*. Include the following condition:

Before any native vegetation is removed, evidence that an offset has been secured must be provided to the satisfaction of the responsible authority. This offset must meet the offset requirements set out in this permit and be in accordance with the requirements of *Permitted clearing of native vegetation. Biodiversity assessment guidelines and the Native vegetation gain scoring manual*. Offset evidence can be either:

- a security agreement, to the required standard, for the offset site or sites, including a 10 year offset management plan or

- a credit register extract from the Native Vegetation Credit Register.

This condition is not required for offsets on the native vegetation credit register as these include monitoring requirements.

Every year, for ten years, after the responsible authority has approved the offset management plan, the applicant must provide notification to the responsible authority of the management actions undertaken towards the implementation of the offset management plan. An offset site condition statement, including photographs must be included in this notification.

12. Prior to the commencement of the development, the trees marked on the endorsed plans as being retained must have Tree Protection Fencings (TPF) installed to the satisfaction of the Responsible Authority. All TPF's must meet the following requirements:
- a) Each TPF must be installed prior to the commencement of any demolition, excavation, tree removal, delivery of building/construction materials, temporary buildings and construction.
 - b) Each TPF shall not be removed until such works have been fully completed.
 - c) Each TPF must extend (as close as practicable) to the Tree Retention Zone, calculated as being a radius of 12 times the Diameter at Breast Height (DBH – measured at 1.4 metres above ground level as defined by the Australian Standard AS 4970.2009).
 - d) If works are shown on any endorsed plans of this permit within the calculated TPF, the Tree Protection Fencing must be taken in only the minimum amount necessary to allow the works to be completed.
 - e) Areas within the TPF must not be used:
 - for vehicular or pedestrian access, no trenching or soil excavation is to occur.
 - for storage or dumping of tools, equipment, materials or waste is to occur.
 - for storage of any vehicles, machinery, equipment or other materials.

Expiry of Permit

13. The permit will expire if:

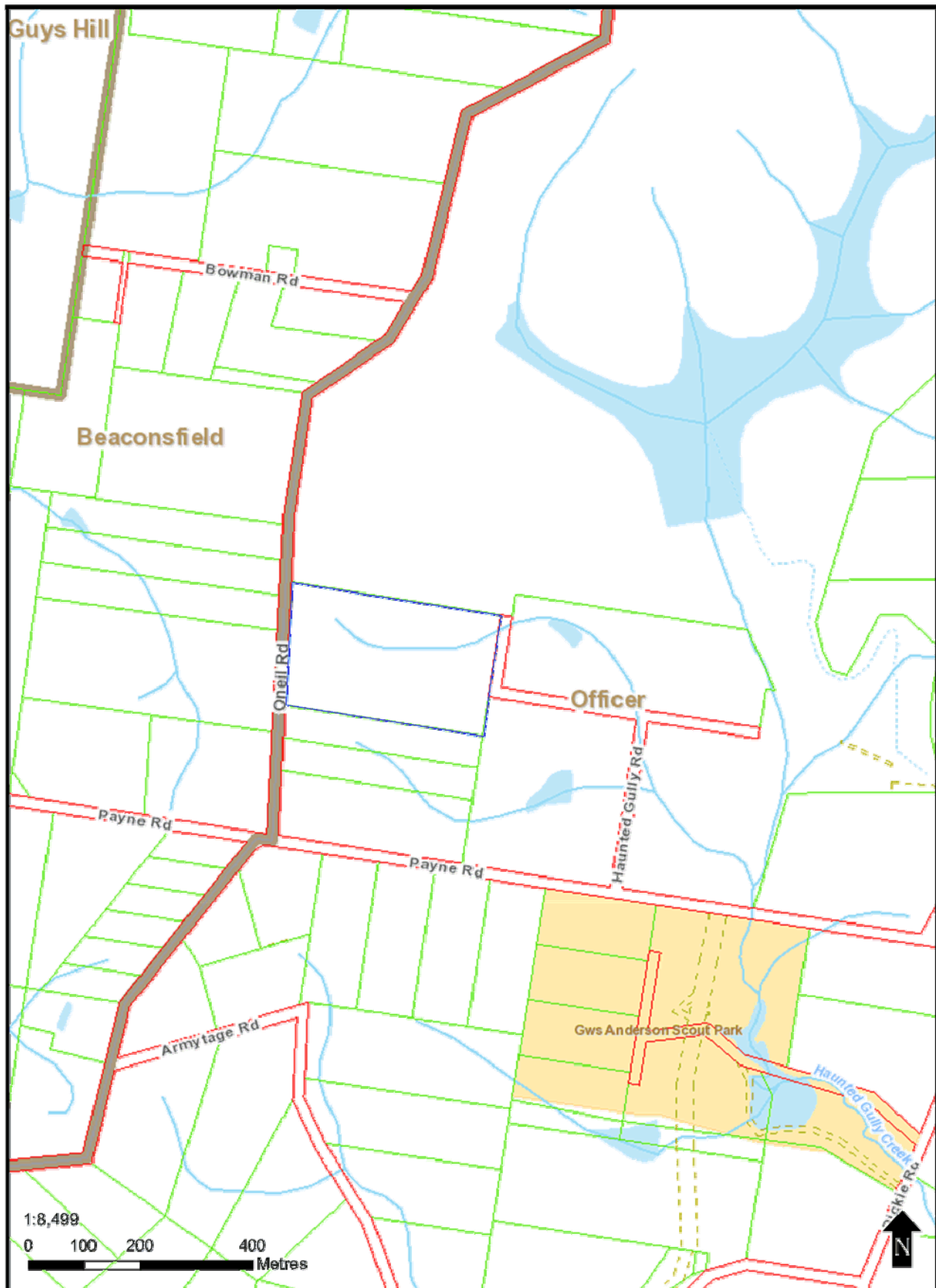
- a) The development is not commenced within **two (2) years** of the date of this permit; or
- b) The development is not completed within **four (4) years** of the date of this permit.

The Responsible Authority may extend the periods referred to if a request is made in writing in accordance with Section 69 of the *Planning and Environment Act 1987*.

Footnote:

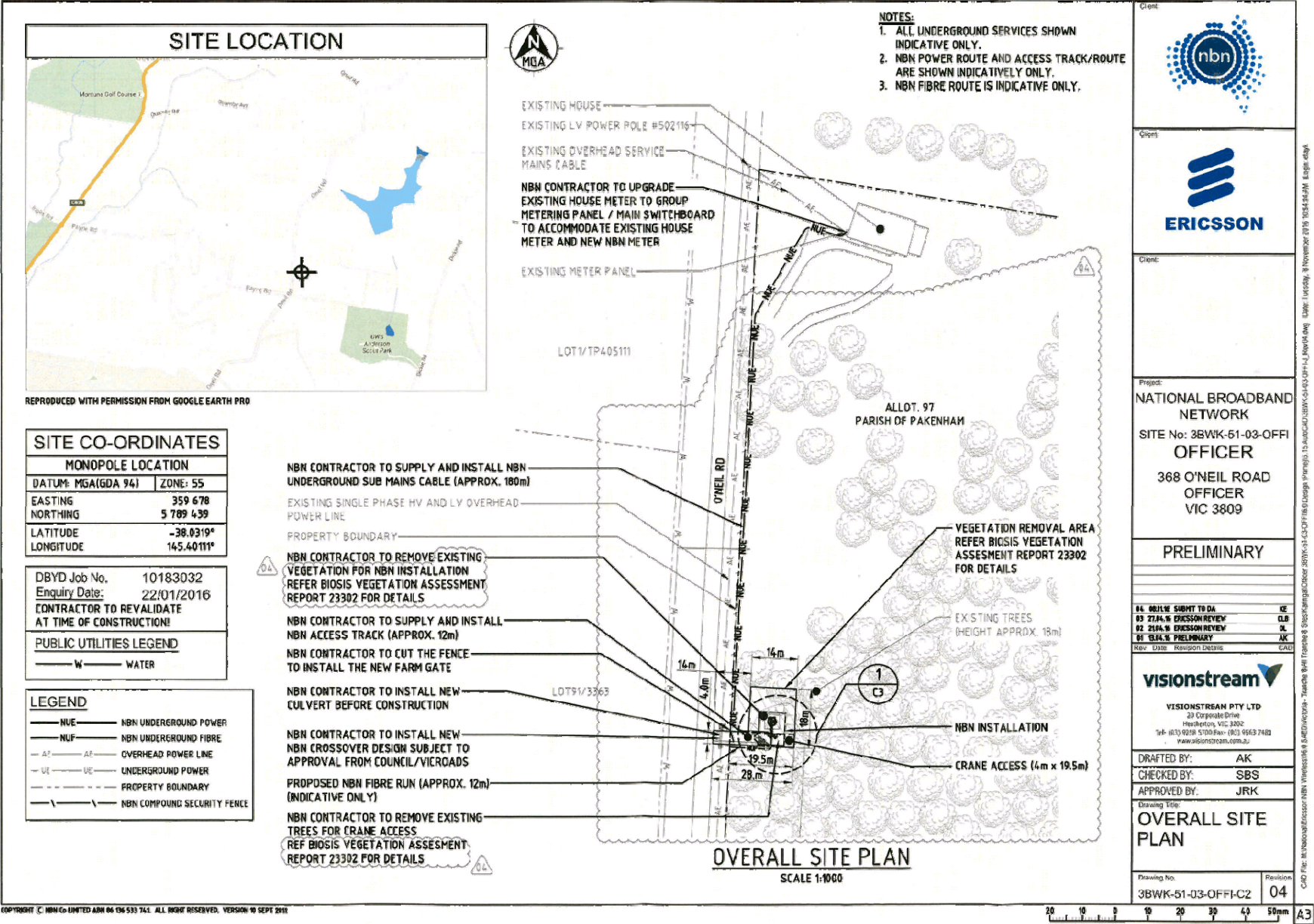
A 'Vehicle Crossing Permit' must be obtained from Council prior to the commencement of any works associated with the proposed vehicle crossing.

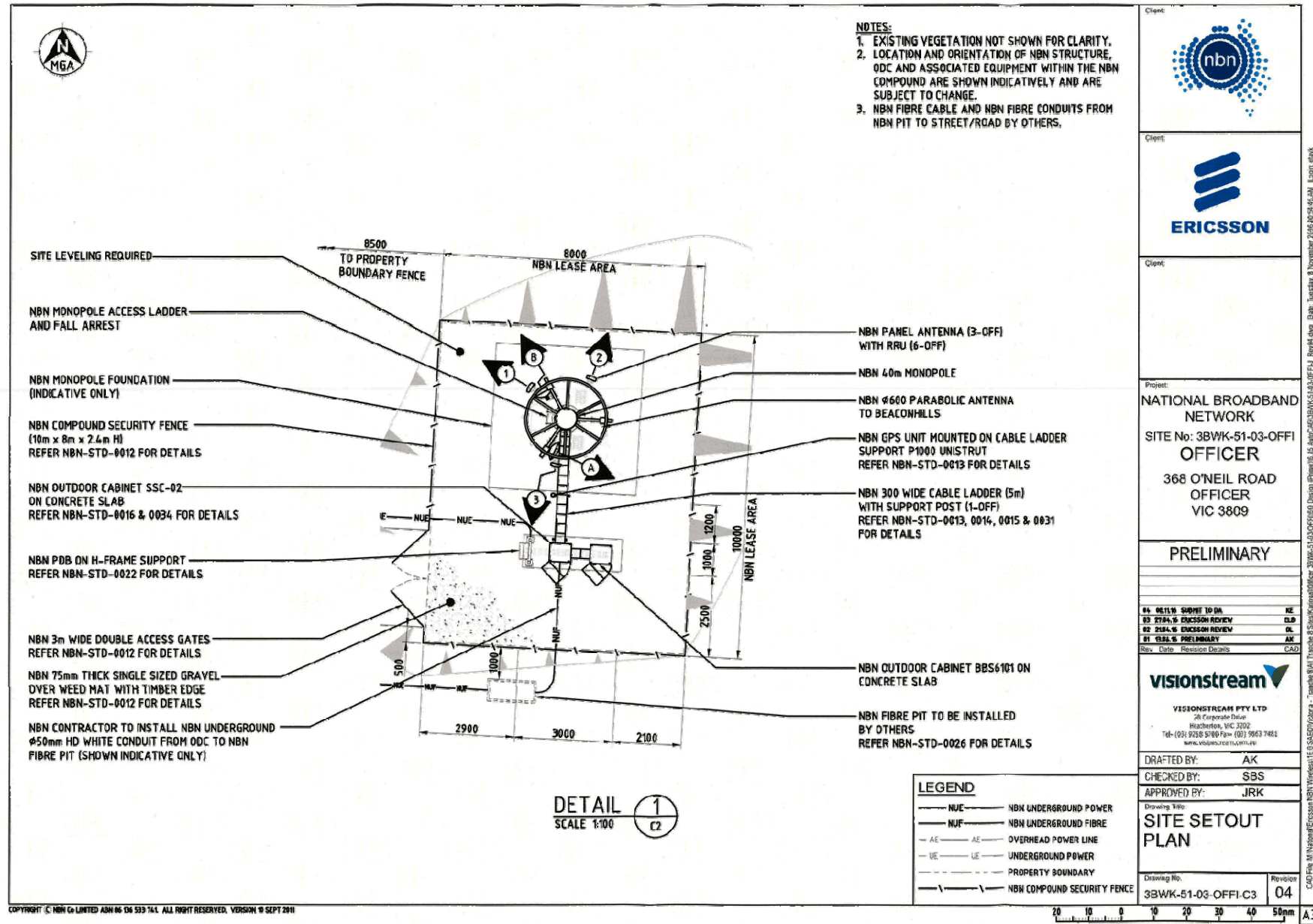
368 O'Neil Road, Officer

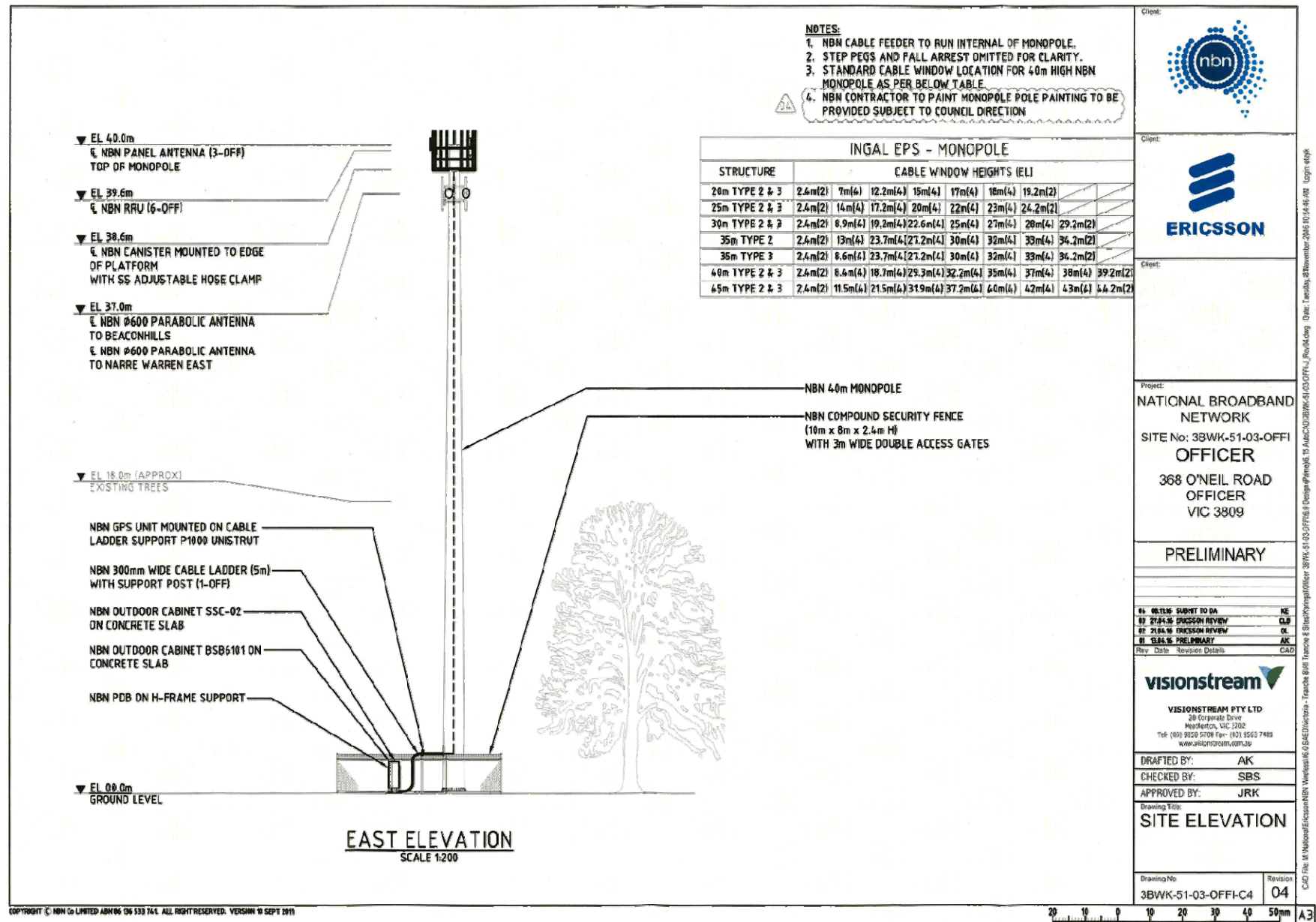


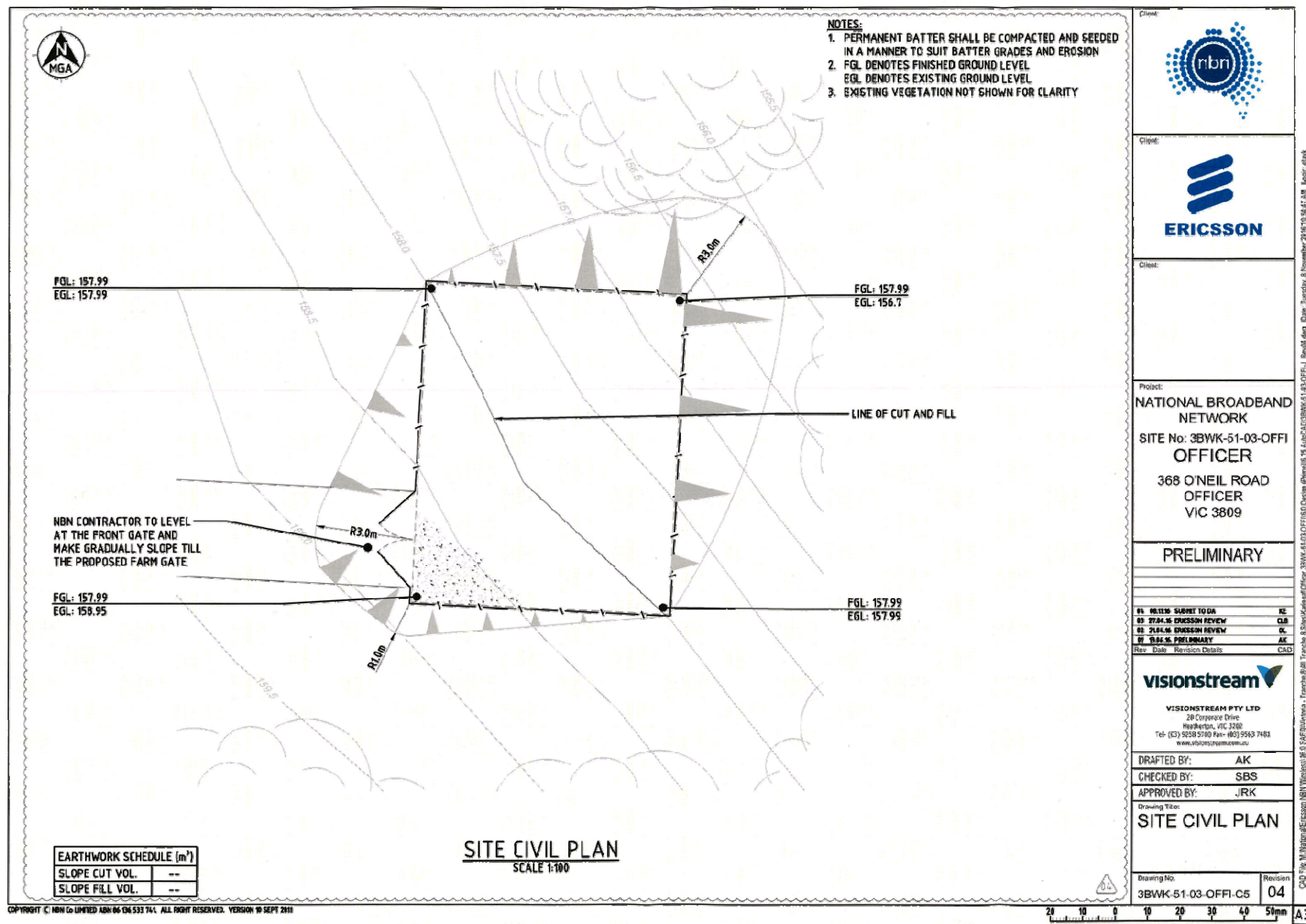
Data Source: State & Local Government. © CARDINIA SHIRE COUNCIL

11/04/2017









Biodiversity impact and offset requirements report

3. Aerial photograph showing marked native vegetation



Page 6

