

NOTICE OF FILING

Details of Filing

Document Lodged: Statement of Claim - Form 17 - Rule 8.06(1)(a)
Court of Filing: FEDERAL COURT OF AUSTRALIA (FCA)
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Date Accepted for Filing: 11/08/2023 10:54:13 AM AEST
File Number: VID432/2023
File Title: SAVE OUR STRATHBOGIE FOREST INC v SECRETARY TO THE
DEPARTMENT OF ENERGY, ENVIRONMENT AND CLIMATE ACTION
Registry: VICTORIA REGISTRY - FEDERAL COURT OF AUSTRALIA



Sia Lagos

Registrar

Important Information

This Notice has been inserted as the first page of the document which has been accepted for electronic filing. It is now taken to be part of that document for the purposes of the proceeding in the Court and contains important information for all parties to that proceeding. It must be included in the document served on each of those parties.

The date of the filing of the document is determined pursuant to the Court's Rules.



Form 17
Rule 8.05(1)(a)

Statement of claim

No VID432 of 2023

Federal Court of Australia

District Registry: Victoria

Division: General

Save Our Strathbogje Forest Inc

Applicant

Secretary to the Department of Energy, Environment and Climate Change

Respondent

1. The Strathbogje State Forest is State Forest reserved under s 42(1) of the *Forests Act 1958* (Vic).
2. The applicant is an association incorporated under the *Associations Incorporation Reform Act 2012* (Vic).
3. The applicant has at all relevant times:
 - a. had objects or purposes that included the protection or conservation of, or research into, the environment including protecting the Strathbogje State Forest from inappropriate management; and
 - b. engaged in a series of activities related to the protection or conservation of, or research into, the environment, including protecting the Strathbogje State Forest from inappropriate management.
4. The respondent is the responsible agency of the State of Victoria with the function of managing the Strathbogje State Forest under the *Forests Act 1958* (Vic).
5. In November 2019, the Strathbogje State Forest was designated as an Immediate Protection Area by the Victorian Government under the Victorian Forestry Plan.

Filed on behalf of (name & role of party)	Applicant		
Prepared by (name of person/lawyer)	Vanessa Elizabeth Bleyer		
Law firm (if applicable)	Bleyer Lawyers Pty Ltd		
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[Form approved 01/08/2011]

6. The respondent proposes to cause fire to burn through areas of the Strathbogie State Forest as depicted in maps set out in Attachment A to this Statement of Claim at dates yet to be determined in the period between March-May 2024 (**planned burning**).
7. The species known as *Petauroides volans*, or the Southern Greater Glider, resides within the Strathbogie State Forest.

Particulars

About 93 Southern Greater Gliders were detected by surveys in the Strathbogie State Forest in about January and February 2023 in the areas the subject of the planned burning. A copy of the survey report will be produced on request.

The Southern Greater Glider is recorded as likely to occur in the Strathbogie State Forest in the species profile of the Department of Climate Change, Energy, the Environment and Water. A copy of the species profile will be produced on request.

The Southern Greater Glider is recorded as likely to occur in the Strathbogie State Forest in the conservation advice for the Southern Greater Glider produced by the Department of Climate Change, Energy, the Environment and Water. A copy of the conservation advice will be produced on request.

Further particulars may be provided following discovery, or before trial.

8. The Southern Greater Glider is a species listed under the “endangered” category under the *Environment Protection and Biodiversity Conservation Act 1999* (Cth) (**the EPBC Act**).

Particulars

The Southern Greater Glider was listed as endangered on 5 July 2022. The listing assessment is included in the conservation advice for the Southern Greater Glider produced by the Department of Climate Change, Energy, the Environment and Water. A copy of the conservation advice will be produced on request.

9. Under s 18(3) of the EPBC Act, a person must not take an action that:
 - a. has or will have a significant impact on a listed threatened species included in the endangered category; or

- b. is likely to have a significant impact on a listed threatened species included in the endangered category.
10. The planned burning in the Strathbogie State Forest constitutes an action that:
- a. will have a significant impact on; or
 - b. is likely to have a significant impact on;
- the Southern Greater Glider, in that fire:
- c. leads to a long-term decrease in the size of an important population of Southern Greater Glider;
 - d. reduces the area of occupancy of an important population of Southern Greater Glider;
 - e. adversely affects habitat critical to the survival of the Southern Greater Glider.

Particulars

The decline of the Southern Greater Glider is accelerated by fire including because:

- (a) Some Southern Greater Gliders are killed directly by fire, being between 1-9 per cent of animals in the path of fire.
- (b) The Southern Greater Glider is dependent on hollow-bearing trees and low-severity planned burns cause hollow-bearing trees to decline by up to 26 percent.
- (c) Fire causes loss of food resources.

Further particulars may be provided following discovery, or before trial.

- 11. By reason of the matters set out in paragraph 10, the planned burning in the Strathbogie State Forest will be a contravention of s 18(3) of the EPBC Act.
- 12. The applicant claims the following relief:

- a. an injunction pursuant to s 475(2) of the EPBC Act restraining the respondent from undertaking or authorising the planned burning in the Strathbogie State Forest;
- b. costs;
- c. such further or other relief as the Court considers appropriate.

13. The applicant also claims the following interlocutory relief:

- a. an interim injunction pursuant to s 475(5) of the EPBC Act restraining the respondent from undertaking or authorising the planned burning in the Strathbogie State Forest until further order.

Dated: 11 August 2023



Signed by Vanessa Elizabeth Bleyer
Bleyer Lawyers Pty Ltd
Lawyer for the Applicant

This pleading was prepared by Ian Waller and Angel Aleksov.

Certificate of lawyer

I Vanessa Elizabeth Bleyer certify to the Court that, in relation to the statement of claim filed on behalf of the Applicant, the factual and legal material available to me at present provides a proper basis for each allegation in the pleading.

Date: 11 August 2023

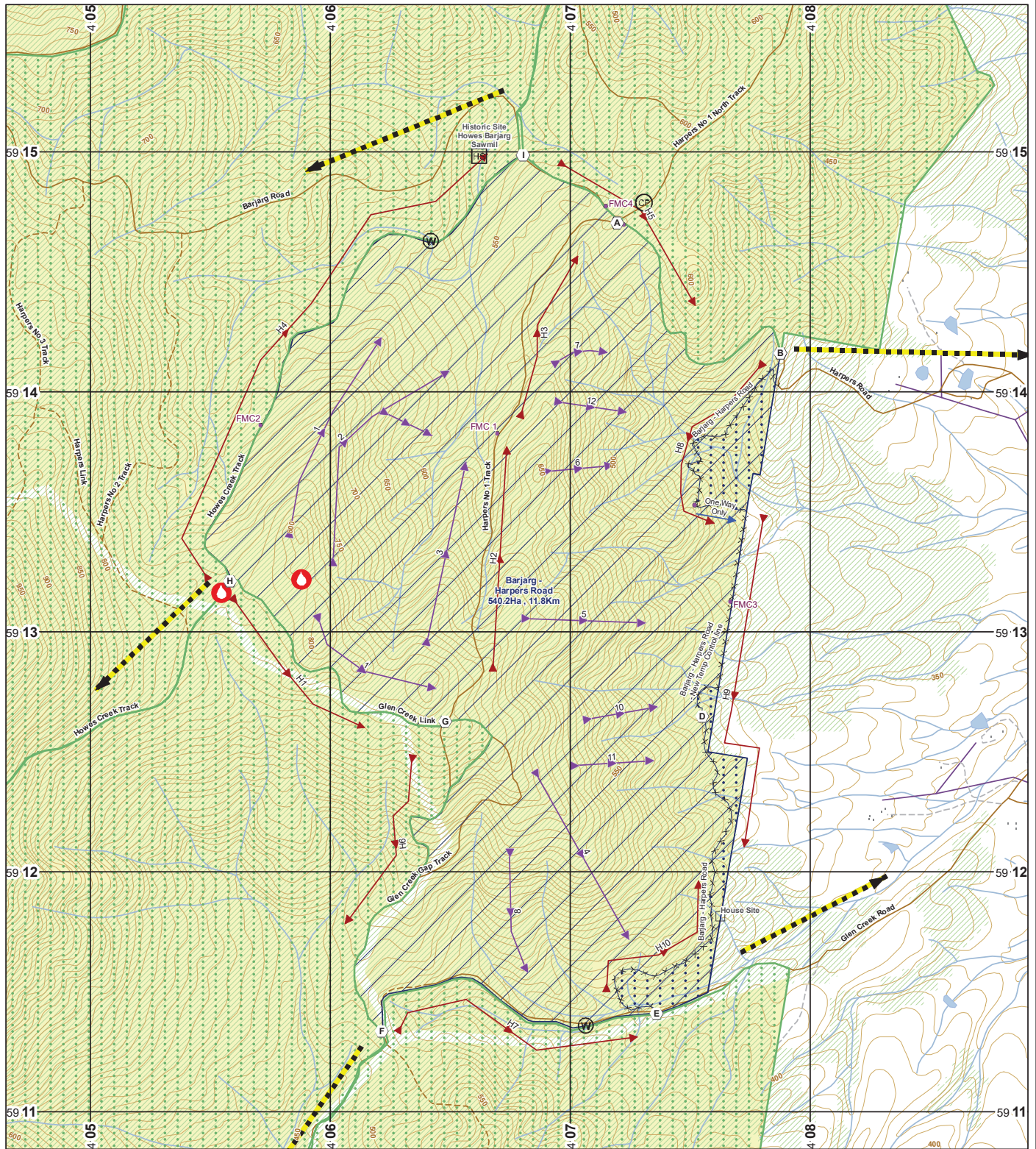


Signed by Vanessa Elizabeth Bleyer
Bleyer Lawyers Pty Ltd
Lawyer for the Applicant

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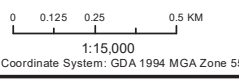
A3 Burn Operations Map

Indicative Year: 2023



<ul style="list-style-type: none"> High Voltage Power Cable High Voltage Power Line Electricity Transmission Network Local Features/ Buildings Air Strip Asset Asset - Defendable Asset - Not Defendable Asset - Potentially Defendable Helipad 	<ul style="list-style-type: none"> Historic Site Indigenous Site Retardant Air Significant Fauna Significant Flora Tower WP - Helicopter WP - Vehicle Staging Area - Marshalling Point Wash Down Point Water Point Base Camp 	<ul style="list-style-type: none"> Burn Point of Interest Operations Point Proposed Ignition Point Refuge / Assembly Road Closure Sector Extremity (East-West) Smoke over Road Sign Staging Area - Marshalling Point Contingency Identifier Boundary Weak Point 	<ul style="list-style-type: none"> Perimeter Control Line Internal Access Escape Route Fall Back Line Lighting Pattern Lighting Pattern - Hand One Way Traffic General Line Sector Line Division Line Contours Burn Exclusion Zone 	<ul style="list-style-type: none"> Contingency General Polygon Hazardous Machinery Exclusion Zone Personnel Exclusion Zone Sleep Slope Fuel Treatments Parks and Reserves State Forest/ Other Public Land Treated Area Treated Area Mechanical Works Public Land Management Overlays 	<ul style="list-style-type: none"> Domestic Firewood and Minor Forest Produce Invasive Pests, Weeds and Pathogens Other Forest Operations Recreation Roading Silviculture and Reforestation 	<ul style="list-style-type: none"> Plantations Softwood Hardwood Unknown Tree Cover
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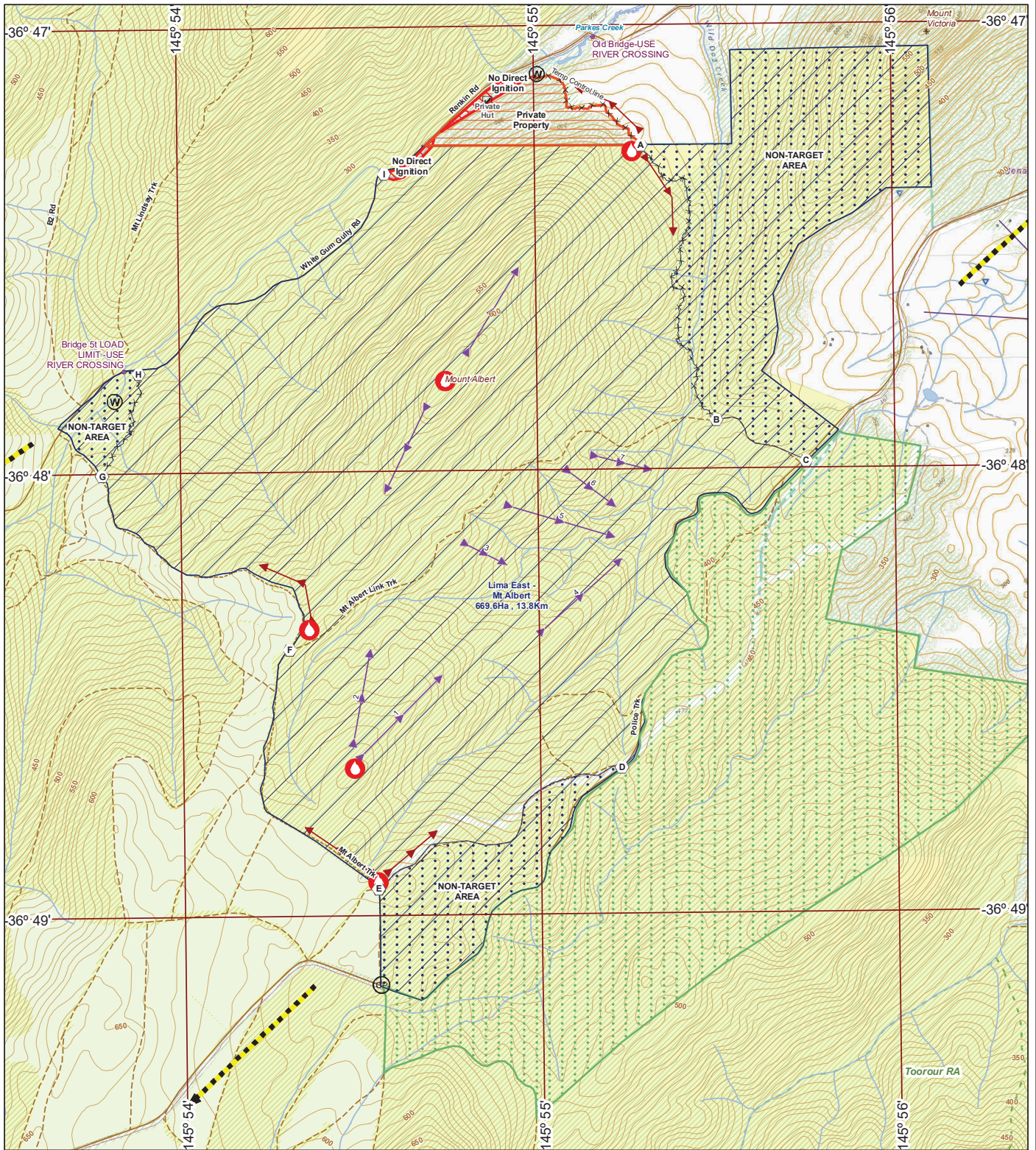
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Lima East - Mt Albert (HR-GBN-BEN-0080)

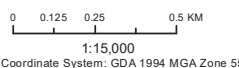
A3 Burn Operations Map

Indicative Year: 2023



High Voltage Power Cable	Historic Site	Burn Point of Interest	Perimeter Control Line	Contingency	Domestic Firewood and Minor Forest Produce
High Voltage Power Line	Indigenous Site	Operations Point	Internal Access	General Polygon	Invasive Pests, Weeds and Pathogens
Electricity Transmission Network	Retardant Air	Proposed Ignition Point	Escape Route	Hazardous	Other Forest Operations
Local Features/ Buildings	Significant Fauna	Refuge / Assembly	Fall Back Line	Machinery Exclusion Zone	Recreation
Air Strip	Significant Flora	Road Closure	Lighting Pattern - Hand	Personnel Exclusion Zone	Roading
Asset	Tower	Sector Extremity (East-West)	Lighting Pattern - Hand	Sleep Slope	Silviculture and Reforestation
Asset - Defendable	WP - Helicopter	Smoke over Road Sign	General Line	Fuel Treatments	Target
Asset - Not Defendable	WP - Vehicle	Staging Area - Marshalling Point	Sector Line	Parks and Reserves	Tree Cover
Asset - Potentially Defendable	WD Wash Down Point	Contingency Identifier	Division Line	State Forest/ Other Public Land	
Helipad	Base Camp	Boundary Weak Point	Contours	Treated Area	
			Burn Exclusion Zone	Treated Area Mechanical Works	
				Public Land Management	
				Overlays	

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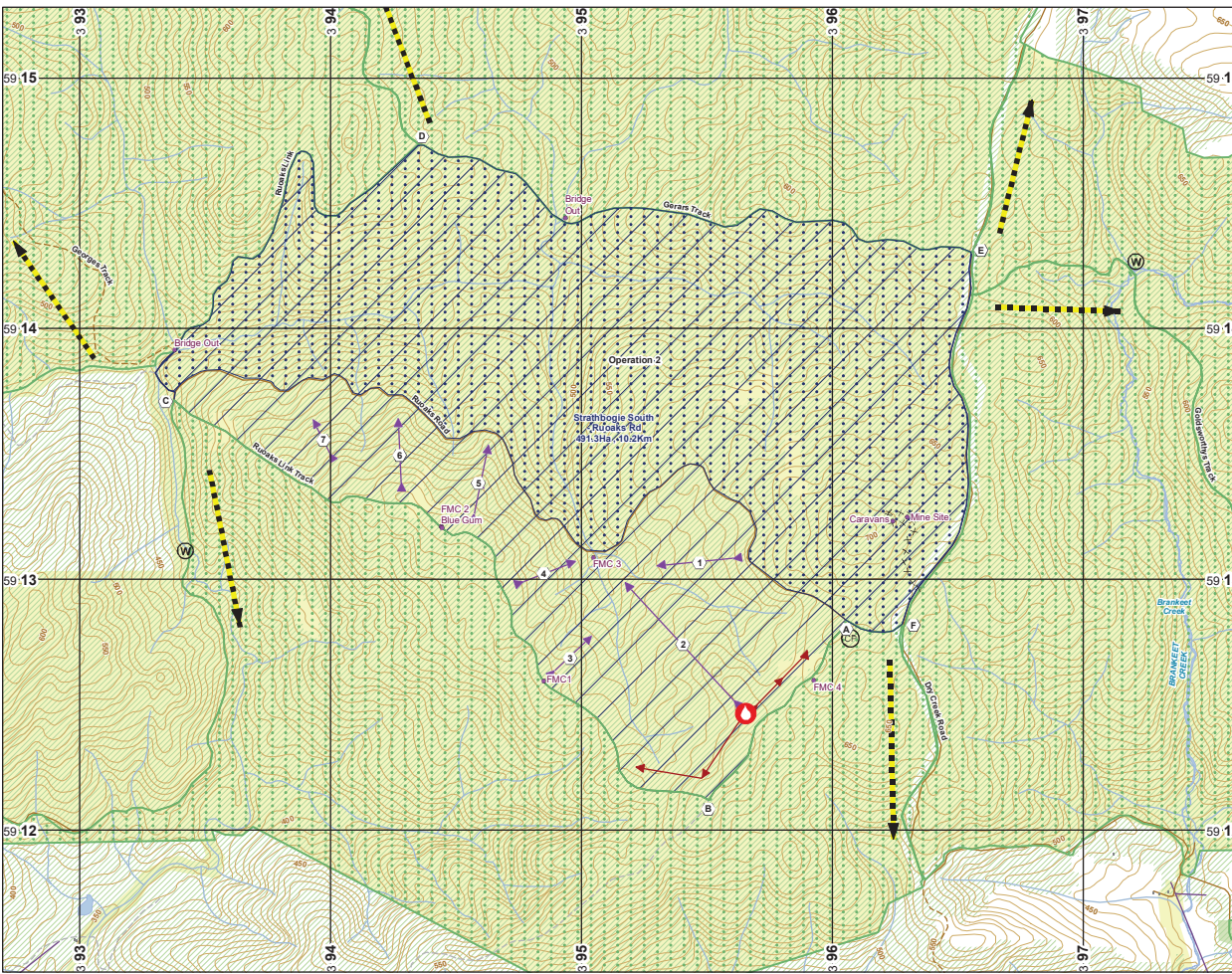


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Strathbogie South - Ruoaks Rd (HR-GBN-BEN-0052) A3 Burn Operations Map

Indicative Year: 2024



- Air Strip
- Asset - Defendable
- Asset - Not Defendable
- Asset - Potentially Defendable
- Helipad
- Historic Site
- Indigenous Site
- Retardant Air Base
- Significant Fauna
- Significant Flora
- Tower
- WP - Helicopter
- WP - Vehicle
- Wash Down Point
- Water Point
- Base Camp
- Burn Point of Interest
- Operations Point
- Proposed Ignition
- Refuge / Assembly Area
- Road Closure
- Road Closure (East-West)
- Smoke over Road Sign
- Staging Area - Marshalling Point
- Contingency Identifier
- Boundary Weak Point
- Burn Exclusion Zone
- Contingency Area
- General Polygon
- Hazardous Area
- Machinery Exclusion Zone
- Personnel Exclusion Zone
- Sleep Slope
- Target Area
- Local Features/Buildings
- Perimeter Control Line
- Internal Access Line
- Escape Route
- Fall Back Line
- Lighting Pattern - Aerial
- Lighting Pattern - Hand
- One Way Traffic
- General Line
- Sector Line
- Division Line
- Fuel Treatments
- Treated Area Burnt
- Treated Area Mechanical Works
- Domestic
- Firewood and Minor Forest Produce
- Invasive Pests, Weeds and Pathogens
- Other Forest Operations
- Recreation
- Roading
- Silviculture and Reforestation
- Electricity Transmission Network
- High Voltage Power Cable
- High Voltage Power Line
- Contours
- Public Land Management Overlay
- Parks and Reserves
- State Forest/Other Public Land
- Plantations: Hardwood, Softwood, Unknown
- Tree Cover

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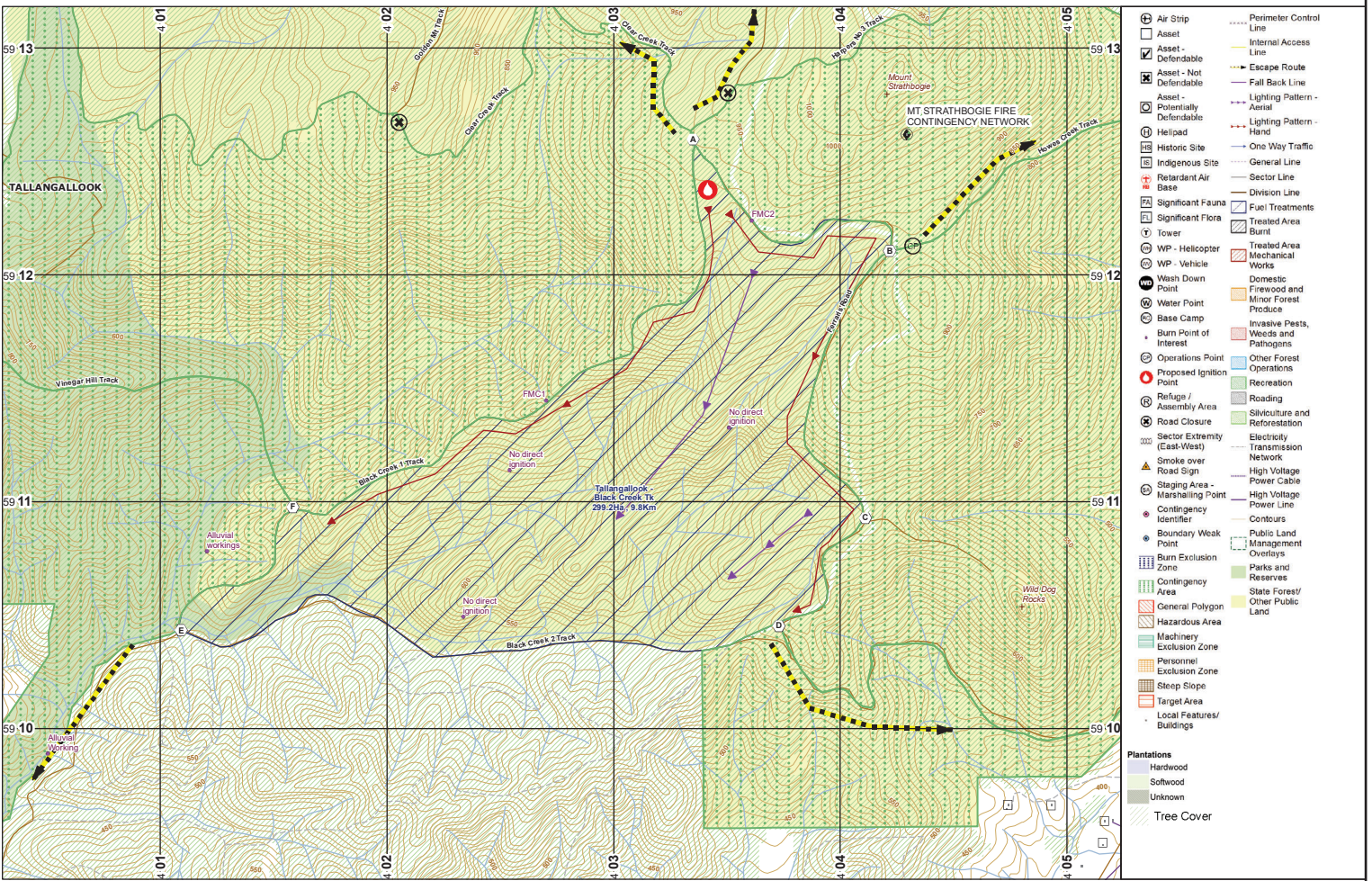
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Tallangalook - Black Creek Tk (HR-GBN-BEN-0076) A3 Burn Operations Map

Indicative Year: 2023



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