

# ADVERTISED PLAN

Tardis Archaeology Pty Ltd  
*heritage advisors*

ABN: 29 639 085 948

PO Box 776  
Beaconsfield VIC 3807

Beaconsfield Office: 03 9769 7765  
Port Melbourne Office: 03 9676 9009  
[enquiries@tardisenterprises.com.au](mailto:enquiries@tardisenterprises.com.au)  
[www.aatardis.com.au](http://www.aatardis.com.au)

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**Re: Tarrone Station Extension, Tarrone – Cultural Heritage Statutory Obligations**

Dear Fiona,

I am writing in response to your request for an investigation into the cultural heritage statutory obligations regarding the land situated at **Tarrone Station Extension, Tarrone** [the activity area] (**Map 1**). This land is currently proposed for extension works [the activity]. Extension works at Tarrone station will include a new bench housing a 132/500kV step-up power transformer and the required busbars, bays and additional required equipment to receive the transmission lines from Ryan Corner and Hawkesdale Wind Farms.

This summary focuses on the obligations under the *Aboriginal Heritage Act 2006*, the *Aboriginal Heritage Regulations 2018* and *Heritage Act 2017*. It includes a review of the Victorian Aboriginal Heritage Register (VAHR), the Victorian Heritage Database (VicPlan), and the relevant Heritage Overlay on the Planning Scheme for previously recorded sites and relevant reports.

The advice in this letter examines legislative requirements in relation to cultural heritage. It does not assess the likelihood of unknown Aboriginal or European cultural heritage being present within the activity area.

The advice contained in this letter is based on our interpretation of the above Acts and Regulations and is considered to be true and accurate. This letter is not legal advice.

Emma McNeil is the heritage advisor who authored this heritage statement. Emma is a suitably qualified heritage advisor pursuant to Section 189 of the *Aboriginal Heritage Act 2006*.

## Aboriginal Cultural Heritage

### Cultural Heritage Management Plan (CHMP) Triggers

Pursuant to Regulation 7, *Aboriginal Heritage Regulations 2018*, a CHMP is required for an activity if:

- (a) All or part of the activity area for the activity is an area of cultural heritage sensitivity; *and*
- (b) All or part of the activity is a high impact activity.

If only one of these two conditions apply, then the preparation of a mandatory CHMP is not required. Areas of cultural heritage sensitivity are specified in Division 3 and Division 4 of Part 2 of the Regulations. High impact activities are specified in Division 5 of the Regulations.

A CHMP is also required:

1. If the Minister directs a CHMP to be prepared pursuant to Section 48 of the Act;
2. If an Environmental Effects Statement, Impact Management Plan or Comprehensive Impact Statement is required pursuant to Section 49 and 49A of the Act; or
3. If the Secretary has certified a preliminary Aboriginal Heritage Test (PAHT) that has determined that an activity requires a CHMP pursuant to Section 46(e) of the Act.

None of these three conditions are known to currently exist.

### High Impact Activities

Division 5 of the Regulations lists high impact activities. A review shows that the activity *is* a high impact activity pursuant to Regulation 46(1)(a)(b)(xxx) of the *Aboriginal Heritage Regulations 2018*.

#### 46 Buildings and works for specified uses

- (1) The construction of a building or the construction or carrying out of works on land is a high impact activity if the construction of the building or the construction or carrying out of works—
  - (a) Would result in significant ground disturbance; and
  - (b) Is for, or associated with, the use of the land for any one or more of the following purposes—
    - (xxx) Land used to generate electricity, including a wind energy facility.

Since the activity is a high impact activity, a mandatory CHMP is required *only if* all or part of the activity area is an area of cultural heritage sensitivity and the area of cultural heritage sensitivity has not been subject to significant ground disturbance.

## Exempt Activities

Division 2 of the Regulations lists exempt activities. A review shows that the activity is not an exempt activity under Division 2 of the *Aboriginal Heritage Regulations 2018*.

## Areas of Cultural Heritage Sensitivity

Divisions 3 and 4 of the Regulations list areas of cultural heritage sensitivity. These are also shown on the Aboriginal Cultural Heritage Register Information System (ACHRIS). A review of both the Regulations and ACHRIS shows that **all** of the activity area is an area of cultural heritage sensitivity pursuant to Regulation 36(1) of the *Aboriginal Heritage Regulations 2018* (Map 1).

### 36 Stony rises

- (1) Subject to subregulation (2), the stony rises associated with the Mt Eccles, Mt Napier and Mt Rouse lava flows are areas of cultural heritage sensitivity.
- (2) If part of an area specified in subregulation (1) has been subject to significant ground disturbance, that part is not an area of cultural heritage sensitivity.
- (3) In this regulation, ***stony rises associated with the Mt Eccles, Mt Napier and Mt Rouse lava flows*** means the areas identified as “Neo2” in the Surfacar Geology of Victoria 1:250 000 ap book and which are associated with the Mt Eccles , Mt Napier and Mt Rouse lava flows.

Since **all** of the activity area is an area of cultural heritage sensitivity and the activity is a high impact activity, a mandatory CHMP is required.

However, if the area of cultural heritage sensitivity has been subject to significant ground disturbance (SGD), then a mandatory CHMP is **not** required (see SGD section below). Similarly, if the activity has been previously covered under an existing CHMP then an additional mandatory CHMP **will not** be required.

## ACHRIS Search

A search of ACHRIS shows that there are **no** registered Aboriginal heritage places within the activity area or within 50m of the activity area boundary. ACHRIS also shows that the activity area has been previously been subject to archaeological assessment.

## Relevant Assessments and Aboriginal Places

There has been one previous assessment relevant to the project area.

**Murphy et al. (2010)** undertook a CHMP (11187) for the construction and maintenance of the proposed Tarrone Power Station. The CHMP was work “works including, foundations, power line pylons, low and high voltage electrical equipment, buried services (including pipes and cabling), transformers, towers, site drainage, ponds and other ancillary works.” (Map 3).

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An initial standard assessment was undertaken by Biosis in an earlier investigation of the area (**Meara & Slavin 2009**), no Aboriginal cultural heritage was identified during the assessment. A further standard assessment was undertaken for CHMP 11187 and confirmed that there were areas of sensitivity associated with the stony rises within the activity area. No Aboriginal cultural heritage was identified. A complex assessment comprised a one 1m x 1m test pit and forty-two 0.50m x 0.50m test pits, totalling an excavated area of 11.5m<sup>2</sup>. No Aboriginal cultural heritage was identified during the complex assessment and the CHMP concluded that the activity was unlikely to harm unknown cultural heritage. There were no salvage requirements.

The current proposed works are covered under the activity description of CHMP 11187, and therefore a Mandatory CHMP *will not* be required.

## Significant Ground Disturbance (SGD)

If the activity is a high impact activity and part of the activity area is a legislated area of cultural heritage sensitivity, then a mandatory CHMP is required. However, if the entire area of cultural heritage sensitivity in the activity area (other than a cave or an Aboriginal place) has been subject to SGD, then it is not an area of cultural heritage sensitivity. This means that a mandatory CHMP is *not* required. This is because the condition relation to the area of cultural heritage sensitivity in Regulation 7 has not been met (see CHMP Triggers above).

It has been demonstrated above that the activity is covered under the activity description of CHMP 11187; therefore, a mandatory CHMP is not required.

## Statutory Obligations under the *Aboriginal Heritage Act 2006*

The above investigation demonstrates that the proposed activity at **Tarrone Station Extension, Tarrone** does *not* require the preparation of a mandatory CHMP because the activity is covered under previously approved CHMP **11187** (**Murphy et al. 2010**). The approved contingency plans within CHMP **11187** must be followed in the event that Aboriginal cultural heritage is uncovered during the activity.

## Statutory Obligations under the *Native Title Act 1993*

Native Title is the recognition by Australian law that Indigenous people have the right to their land, water, traditional laws and customs. In order to acquire Native Title, a Native Title determination decision must be administered by the Federal Court or High Court of Australia. Claims can only be made on un-alienated Crown Land or water. Native Title cannot be ascribed to past or present alienated Crown Land such as residential freehold or public land such as roads, schools or hospitals.

A search of the Aboriginal Cultural Heritage Register Information System (ACHRIS) demonstrates that under the *Native Title Act 1993* there is **one** National Native Title Tribunal registered application relevant to the activity area (the Eastern Maar People). The land is not vacant or unallocated, and no future Native Title claims can include the activity area.

Therefore, no action is required regarding the *Native Title Act 1993*.

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## Historic Cultural Heritage

### Statutory Obligations under the *Heritage Act 2017*

All historic sites are protected under the *Heritage Act 2017* which requires appropriate Consents or Permits to be obtained before any historic site is disturbed. In addition, all historic sites must be reported to the Executive Director of the Heritage Council. Any archaeological site older than 75 years is considered to have potential archaeological value. Historic archaeological sites with above low scientific significance are listed on the Heritage Inventory. Historic sites with State significance to the Government of Victoria are listed on the Victorian Heritage Register.

### Historic Heritage Databases Search

A search of Heritage Victoria's Victorian Heritage Database (VHD), the VicPlan online map and Moyne Shire Council Planning Scheme Online Heritage Overlay shows (**Map 2**) shows that there are **no** previously recorded historic sites in or immediately adjacent to the activity area.

### Statutory Obligations under the *Planning and Environment Act 1987*

Local councils are responsible for issuing Permits for the use and development of local heritage places under the *Planning and Environment Act 1987*. Heritage places are listed on the Heritage Overlay on the Local Council Planning Scheme. The Heritage Overlay includes places of local significance as well as places of State significance to the Government of Victoria on the Victorian Heritage Register.

### Planning Scheme Search

A search of LGAs Planning Scheme (Heritage Overlay) (Planning Schemes Online, Map 3) shows that there are **no** previously recorded historic sites in or immediately adjacent to the activity area.

### Summary of Statutory Obligations

This investigation has reviewed the statutory obligations in relation to the relevant Aboriginal and historic heritage Acts and Regulations. The obligations are summarised in the table below.

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**Table 1 Summary of Cultural Heritage Statutory Obligations**

Aboriginal	<i>Is the activity a high impact activity?</i>	Yes Regulation 46(1)(a)(b)(xxx)
	<i>Is part of the activity area a legislated area of cultural heritage sensitivity?</i>	Yes Regulation 36(1)
	<i>Is a mandatory CHMP required?</i>	No The activity is covered under the activity description of CHMP 11187
Historic	<i>Are there any Heritage Inventory (HI) or Victorian Heritage Register (VHR) places within or immediately abutting the activity area?</i>	No
	<i>Are there any Moyne Shire Council Heritage Overlays within or immediately abutting the activity area?</i>	No
	<i>Are any Permits or Consents required from Heritage Victoria required prior to the activity commencing?</i>	No
	<i>Are any Permits required from Moyne Shire Council required to manage a Heritage Overlay prior to the activity commencing?</i>	No

Tardis provides the following heritage advice in relation to the activity:

### Aboriginal Cultural Heritage:

The proposed activity does not require a mandatory CHMP prior to the activity commencing. All relevant conditions and contingencies must be followed according to CHMP 11187 (Murphy et al. 2010).

### Historic Heritage:

There are no further historic archaeological, or heritage matters that need to be addressed prior to the works commencing.

Yours sincerely,



Emma McNeil  
Project Archaeologist

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## REFERENCES

- Meara T & Slavin B 2009 Tarrone Gas-fired Power Station and Gas Pipeline, Victoria, Cultural Heritage Assessment, prepared for URS Australia Pty Ltd by Biosis Research.
- Murphy A, Morris A & Thomson S 2010 Proposed Tarrone Power Station, Tarrone, Approved CHMP 11187, prepared for AGL Energy Limited by Tardis Enterprises Pty Ltd.
- Murphy BW & CL Murphy 2000 'The Soil Profile.' In PEV Chapman & BW Murphy eds. *Soils: Their Properties and Management*. 2<sup>nd</sup> Edition. Oxford University Press: 79-82.

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**Map 1 Activity Area and Areas of Statutory Cultural Heritage Sensitivity**

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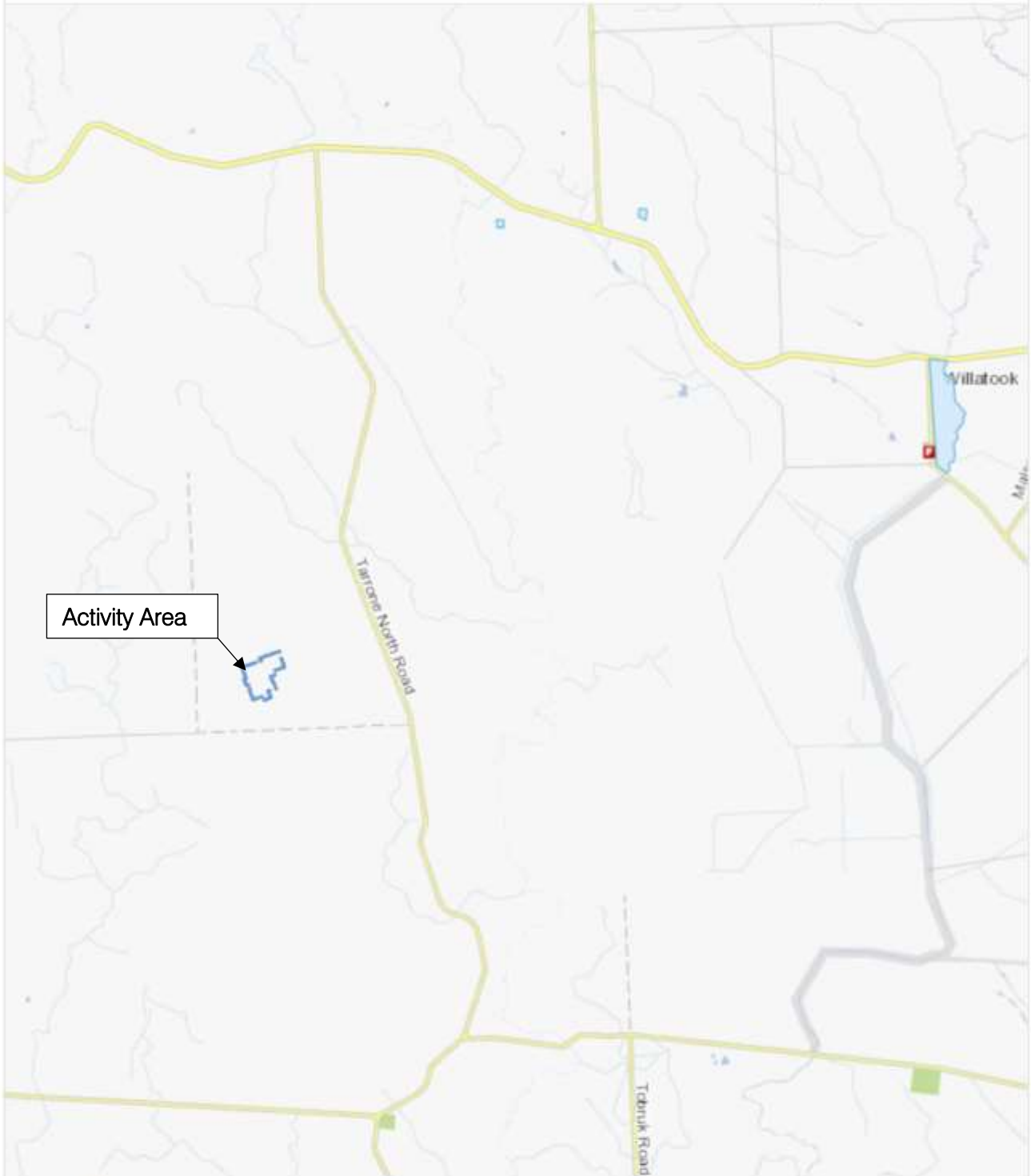


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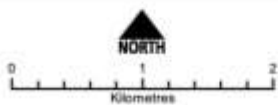
## Tarrone Power Station Extension



Environment,  
Land, Water  
and Planning



Heritage Heritage Inventory



Map Projection: GDA 1994 VICGRID94  
Print Date: 25/03/2021



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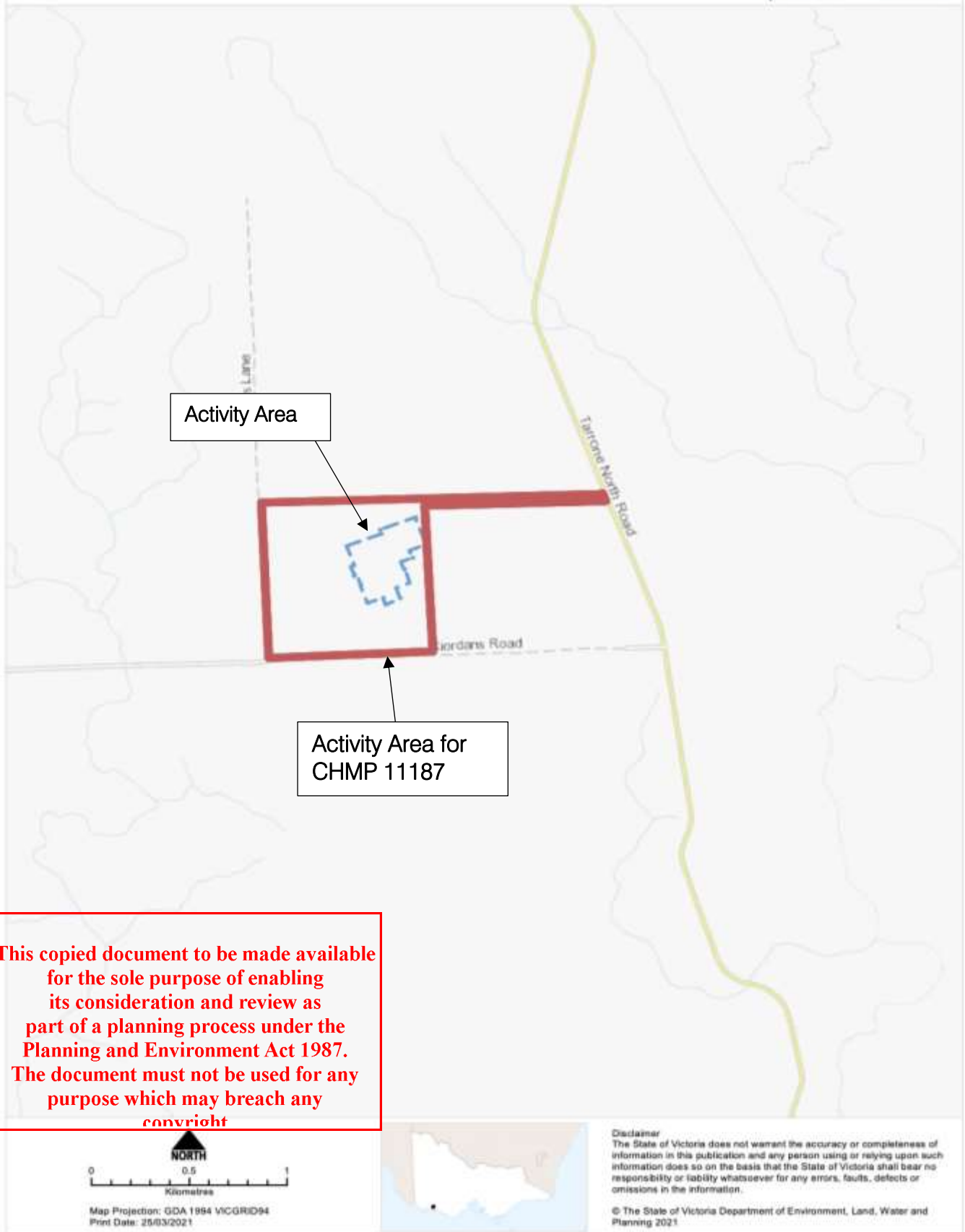
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### Activity Area and Heritage Inventory Sites

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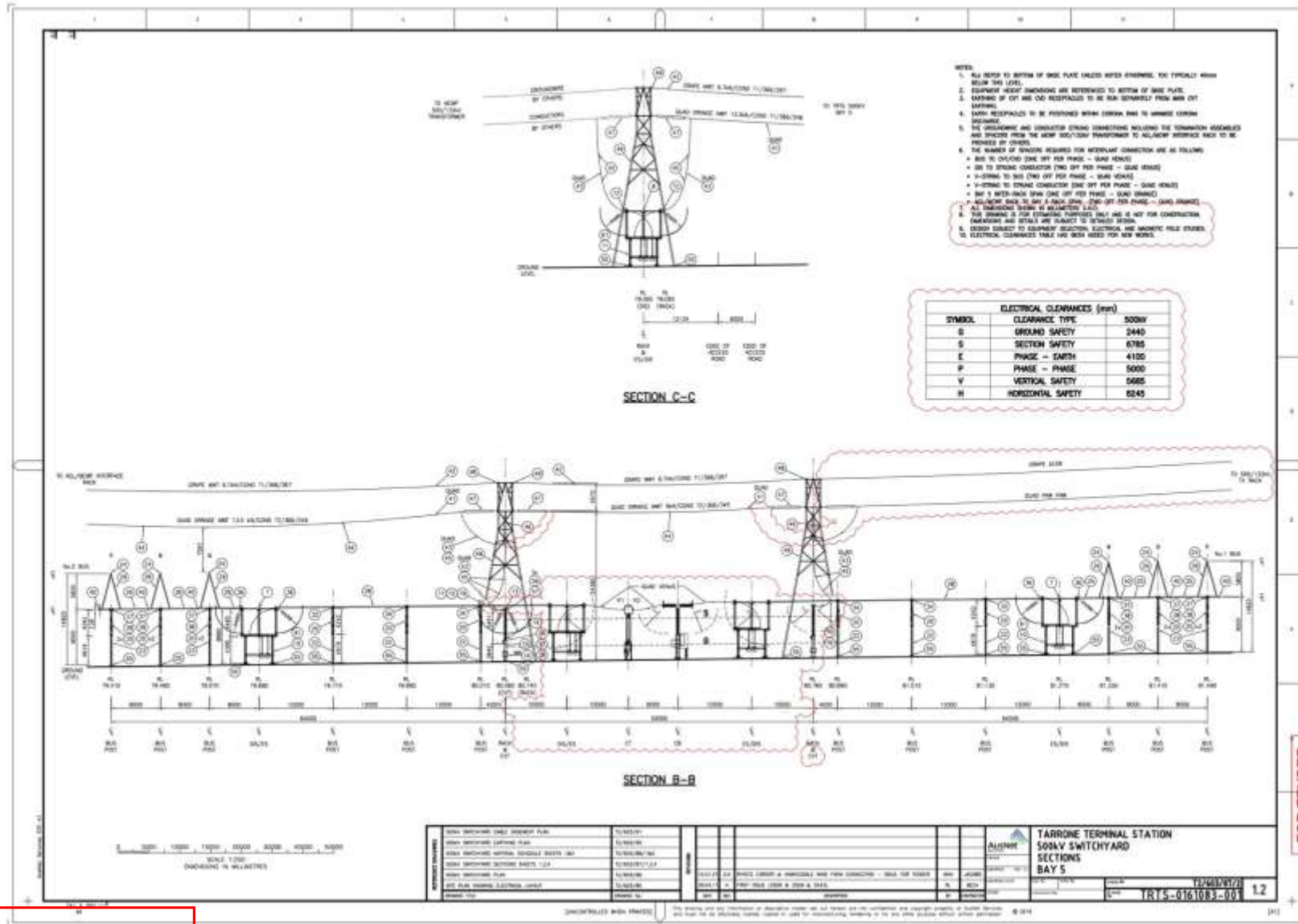
## Tarrone Power Station Extension



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Map 3 Activity Area and Area of Approved CHMP 11187 (Murphy et al. 2010)

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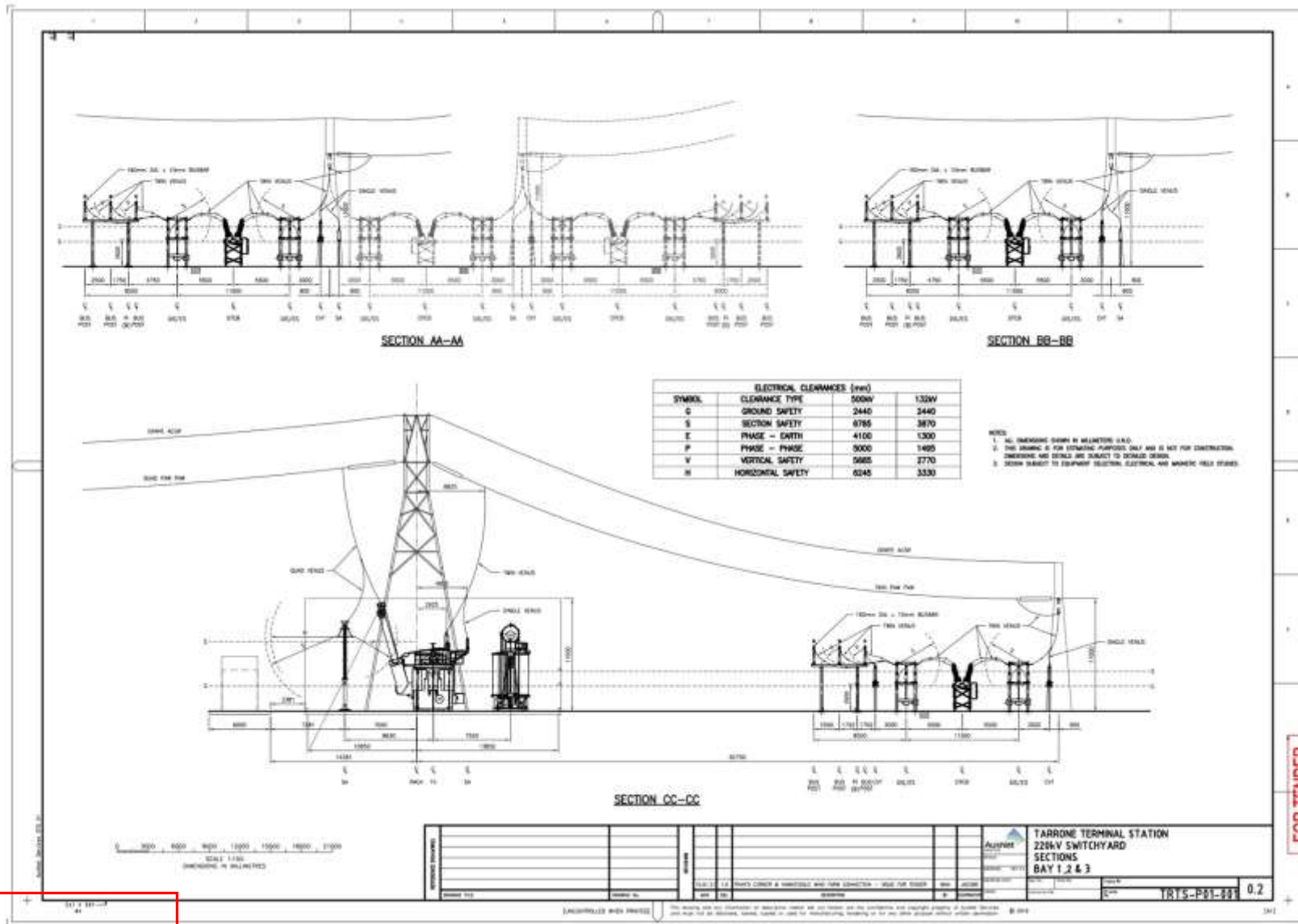
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## Preliminary Plans for Works

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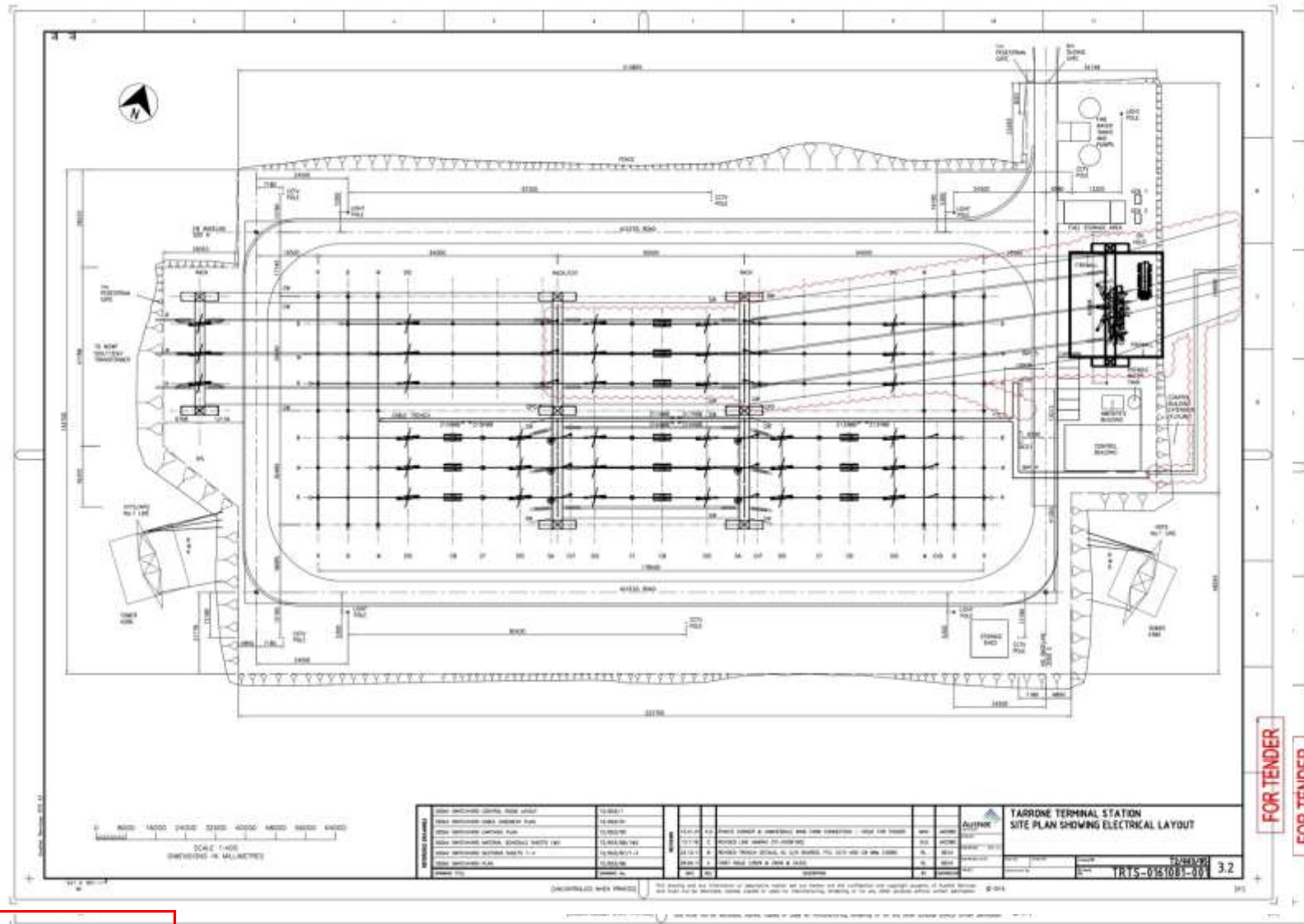
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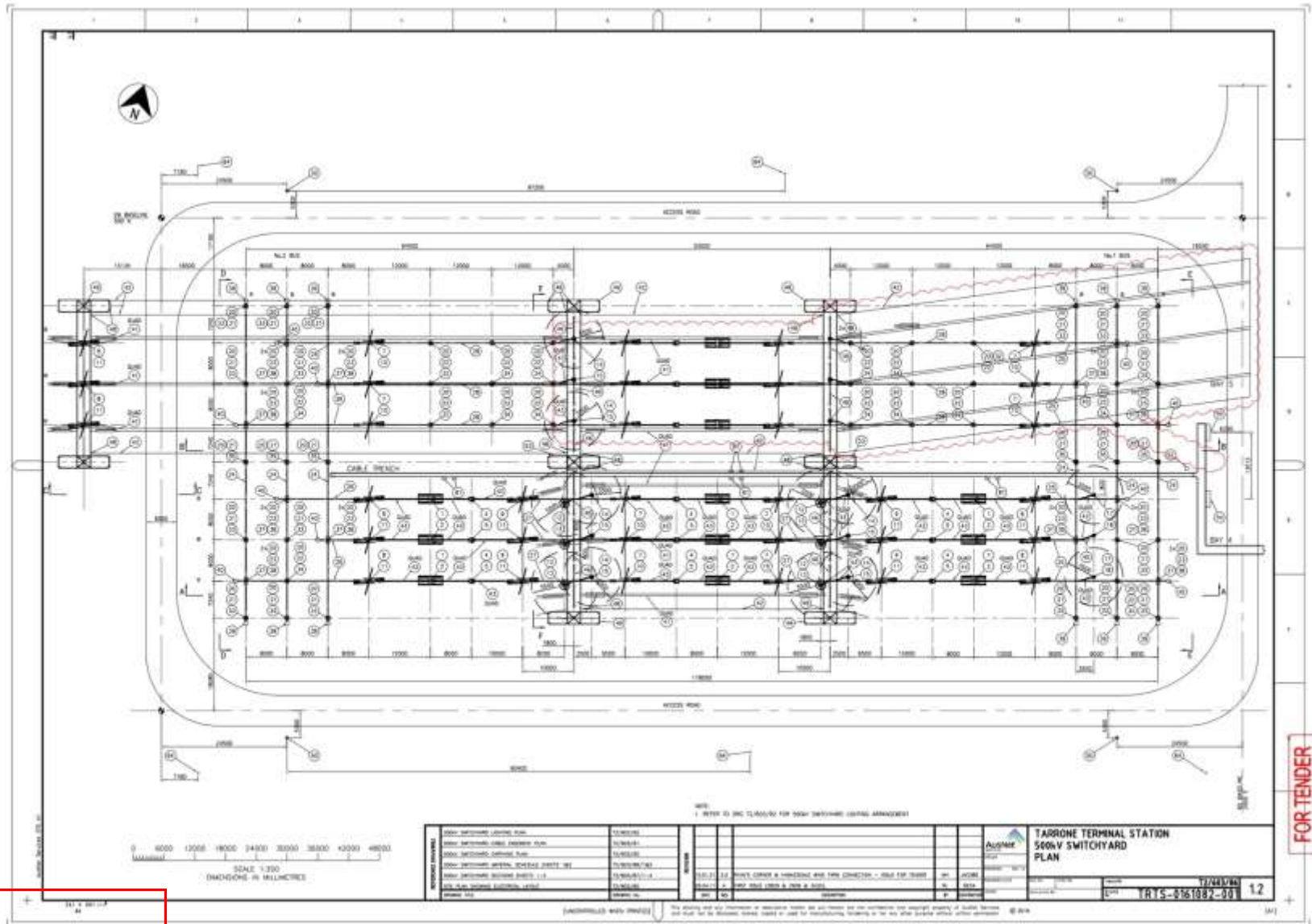
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