

Statement of Reasons for a Decision on the Approval of the Black-footed Tree-rat Offset Plan for the Lee Point Master-planned urban development, Darwin, NT under the *Environment Protection and Biodiversity Conservation Act 1999*

I, Brendan Linton-Smith, provide the following Statement of Reasons for my decision of 1 August 2025 made under section 134 of the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) as an acting delegate of the Minister for the Environment and Water. This decision was the approval of the Black-footed Tree-rat Offset Plan submitted by approval holder Defence Housing Australia, in accordance with the requirements of Conditions 8 and 8(a) of the EPBC Act approval for the Lee Point Master-planned Urban Development, Darwin, Northern Territory.

Legislation

- 1) The legislative provisions relevant to my decision and to which I refer in my reasons below are set out at Annexure A. My decision is bound by the legislation.

Background and Description of the proposed Action

- 2) A referral for the proposed action was received by the department on 7 October 2015. The proposed action was referred by Defence Housing Australia, for assessment under the EPBC Act.
- 3) The proposed Action is to develop a master-planned urban area at the northern end of Lee Point Road on the outer edge of Darwin's northern suburbs. The area proposed for development is 132 ha of land located on the northern extent of Darwin's northern suburbs, approximately 14 km north-north-east of the Darwin city centre.
- 4) The development will include urban residential housing at varying densities, rural residential allotments, land for community development including a primary school, a mixed-use urban centre including a tourism precinct; and open space areas incorporating parklands and drainage reserves.
- 5) The proposed action involves land clearing, earthworks and excavation for the purpose of creating land suitable for construction of residential housing, commercial infrastructure and community facilities, and the provision of transport infrastructure and connection to utilities services. The total land area that will be cleared or disturbed is approximately 111 ha.
- 6) Excavations are required for the provision of civil engineering services including road works, stormwater drainage, sewerage reticulation, water reticulation, electrical provision and telecommunications.

Procedural History

- 7) The proposed action was determined to be a controlled action as a result of potential significant impacts on matters protected by the following controlling provisions:
 - a. Sections 18 and 18A: Listed threatened species and communities;
 - b. Sections 20 and 20A: Listed migratory species; and
 - c. Section 28: Commonwealth action.
- 8) On 17 March 2019, a delegate for the then Minister for Environment and Energy decided, in accordance with sections 130(1) and 133 of the EPBC Act, to approve with conditions, the

construction of a master-planned urban residential development on Lot 4873 and Lot 9370 at Lee Point, approximately 14km northeast of Darwin, Northern Territory (EPBC 2015/7591). The approval holder is Defence Housing Australia.

- 9) The conditions of approval imposed by the delegate of the Minister under section 134 of the EPBC Act included offset requirements for the Black-footed Tree-rat.

Request to approve the Black-footed Tree-rat Offset Plan

- 10) On 13 June 2025, the approval holder submitted version 2 of the Black-footed Tree-rat Offset Plan, dated 29 May 2025 for approval. The power to approve action management plans arises under section 134 of the Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act). The specific requirements than an action management plan must meet before it can be approved under section 134 are unique and tailored to the matter being protected and the circumstances of the overarching EPBC Act approval. These requirements are prescribed as conditions of approval.
- 11) Version 2 of the Black-footed Tree-rat Offset Plan, dated 29 May 2025, was submitted in accordance with condition 8 of EPBC Act approval 2019/7591. This condition requires offsets for Black-footed Tree-rat impacts at Muirhead North.
- 12) Condition 8 separates Black-footed Tree-rat offset requirements for impacts at Muirhead North into two distinct approval stages:
 - i. Condition 8(a) sets-out the requirements for a framework that explains how the clearance of Black-footed Tree-rat habitat will be offset. In summary the framework must draw on relevant conservation advices, recovery plans and threat abatement plans and identify threats and potential recovery actions and research opportunities. In addition, the framework must specify a process for developing and submitting proposed Offset Projects to the Department for approval by the Minister.
 - ii. Condition 8(b) sets-out the detailed requirements for specific Offset Projects submitted in accordance with the Black-footed Tree-rat Offset Plan approved under condition 8(a), including demonstrating alignment with the requirements of the EPBC Act Environmental Offsets Policy.
- 13) Condition 8(a) contains the requirements relevant to this decision. Condition 8(b) contains additional requirements that must, and can only, be met once the overarching framework required under condition 8(a) has been approved.

Evidence or other material on which my findings were based

- 14) My decision was made after considering the briefing package prepared by the Department and submitted to me for consideration on 25 July 2025 in advance of my decision of 1 August 2025. The decision brief contained the following attachments:
 - a. The Black-footed Tree-rat (*Mesembriomys gouldii gouldii*) Offset Plan for the Lee Point Development, version 2, dated 29 May 2025.
 - b. A letter to the approval holder which I was instructed to sign if I agreed to approve the Black-footed Tree-rat Offset Plan.

- c. The referral document for the Lee Point Master-planned Urban Development, Darwin, Northern Territory, dated 7 October 2015.
 - d. The conditions of approval as varied on 15 June 2023 and corrected on 21 June 2023.
 - e. Defence Housing Australia's request to approve the Black-footed Tree-rat Offset Plan as made on 13 July 2025.
 - f. The Department's evaluation of the Black Footed tree-rat Offset Plan, version 2, dated 29 May 2025, against the relevant conditions of approval.
- 15) Through the Black-footed Tree-rat Rat Offset Plan, Version 2, dated 29 May 2025, I had access to the following documents relevant to my decision:
- a. The Black-footed Tree-rat (Kimberley and mainland Northern Territory) Conservation Advice (Threatened Species Scientific Committee 2015)
 - b. The Threat abatement plan for predation by feral cats (Department of Climate Change, Energy, the Environment and Water 2024)
 - c. The Weed management plan for gamba grass 2020 – 2030 (Department of Environment, Parks and Water Security 2024)
 - d. The threat abatement plan for the biological effects, including lethal toxic ingestion, caused by cane toads (Department of Sustainability, Environment, Water, Population and Communities 2011)
 - e. Approximately 98 additional pieces of scientific literature, advice and information on threats, impacts and recovery opportunities relevant to the Black-footed Tree-rat.
- 16) On the basis of information listed above I was satisfied that sufficient information was available for me to decide whether or not to approve the Black-footed Tree-rat Offset Plan, version 2, dated 29 May 2025.

Findings on material questions of fact

- 17) I noted that the approval conditions for the Lee Point Master-planned Urban Development, Darwin, Northern Territory (EPBC 2015/7591) contain separate, and distinct offset requirements for the Black-footed Tree-rat.
- 18) Condition 7 prescribes offset requirements for impacts to the Black-footed Tree-rat on the portion of the development known as 2CRU (lot 4873). Condition 7 was not relevant to my decision.
- 19) I noted that condition 8 prescribes offset requirements for impacts to the Black-footed Tree-rat on the Muirhead North portion of the development (lot 9370). I noted that condition 8 contains two separate decision-making points, as noted at paragraph 15 above, and that the portion of this condition that was relevant to my decision is as follows:

8. To offset the loss of 10 ha of Black-footed Tree-rat habitat from Muirhead North, within 12 months of commencement of the action at Muirhead North the approval holder must submit a Black-footed Tree Rat Offset Plan to the department for the Minister's approval. The approval holder must not undertake the action at Muirhead North for more than 24 months

from the date of commencement of the action unless the Minister has approved the Black-footed Tree Rat Offset Plan in writing, and the provisions of condition 2A and 8B have been met.

8a) The Black-footed Tree Rat Offset Plan must provide a framework for how the clearance of Black-footed Tree-rat habitat will be offset, and must:

i. Include a review of relevant approved conservation advices, recovery plans and threat abatement plans;

ii. identify threats to Black-footed Tree-rat, and potential recovery actions and research opportunities; and

iii. specify a process for developing Black-footed Tree Rat Offset Projects, and a staged process for submitting proposed Black-footed Tree Rat Offset Projects and milestones for completion of Black-footed Tree Rat Offset Projects to the Department for approval by the Minister.

- 20) I noted that condition 8 outlines the impact quantum to be offset, timing for submission of an initial draft Black-footed Tree-rat Offset Plan and stop work provisions that apply if the Black-footed Tree-rat Offset Plan is not approved within 24 months of commencing the action. I noted that the department's evaluation determined that these requirements had been met, and included information to support this finding. I agreed with the department's assessment.
- 21) Condition 8(a) requires the Black-footed Tree-rat Offset plan to provide a framework that demonstrates how Black-footed Tree-rat habitat clearance will be offset. I noted that the Black-footed Tree-rat Offset Plan proposes an offset framework that comprises of a combination of direct and indirect offsets, supported by four specific offset projects that focus on threat abatement and ecological research. I noted that the department was satisfied with the detail contained within the plan to support this framework and that it was satisfied this requirement had been adequately addressed. I agreed with this determination.
- 22) I noted that condition 8(a)(i) requires the Black-footed Tree-rat Offset plan to include a review of relevant conservation advices, recovery plans and threat abatement plans. I noted that there were over 100 pieces of relevant information attached to the Black-footed Tree-rat Offset Plan. I noted that this included the relevant conservation advice which explained that a recovery plan had not been made for this species. I confirmed this through accessing departmental systems and noted the department's assessment determined this requirement had been adequately addressed. I agreed with that determination.
- 23) I noted that condition 8(a)(ii) requires the Black-footed Tree-rat Offset plan to identify threats, potential recovery actions and research opportunities for the species. I noted that the Black-footed Tree-rat Offset Plan, version 2, dated 29 May 2025, contains a table of information that summarises threats to the species in accordance with consequence and relevance to the Darwin sub-population and that this is followed by a comprehensive analysis and detailed referencing to justify the proposed offset framework and recovery actions. I noted the department's assessment determined this requirement had been adequately addressed, and I agreed with that advice.

24) I noted that condition 8(a)(iii) requires the Black-footed Tree-rat Offset plan to propose timing for submission of the proposed projects for approval under condition 8(b) as well as implementation timeframes and milestones. I considered that the Black-footed Tree-rat Offset plan demonstrated an understanding of the EPBC Act Offset Policy which these projects will be assessed against when submitted for approval, including an awareness of the importance of offset site suitability. I further considered that the Black-footed Tree-rat Offset plan contained tables containing proposed delivery timeframes and milestones, and that the department was satisfied with the commitments contained within these tables and that they had been determined through appropriate consultation with relevant stakeholders. I agreed with the department's advice that this requirement had been adequately addressed.

Reasons for decision

25) Having considered all relevant matters I determined that the Black-footed Tree-rat Offset Plan, version 2, dated 29 May 2025 proposes a suitable framework of projects to offset impacts to this species caused by the clearance of habitat at Muirhead North. I was satisfied that the plan meets the requirements of relevant EPBC Act legislation and the conditions of approval for the Lee Point Master-planned Urban Development, Darwin, Northern Territory (EPBC 2015/7591).

26) For the reasons given above, I decided to approve the Black-footed Tree-rat Offset Plan, version 2, dated 29 May 2025.

name and position

Brendan Linton-Smith
A/g Branch Head (at time of decision)
Environment Assessments (Vic and Tas) and Post Approvals Branch
Environment Regulation Division

signature



date of decision

13 October 2025

Annexure A – Legislation

Section 130 of the EPBC Act relevantly provides:

Basic rule

- (1) The Minister must decide whether or not to approve, for the purposes of each controlling provision for a controlled action, the taking of the action.
- (2) The Minister must make the decision within the relevant period specified in subsection (1B) that relates to the controlled action, or such longer period as the Minister specifies in writing.

Notice of extension of time

- (4) If the Minister specifies a longer period for the purposes of subsection (1A), he or she must:
 - a) (a) give a copy of the specification to the person proposing to take the action; and
 - (b) publish the specification in accordance with the regulations.

Section 131 of the EPBC Act relevantly provides:

(1) Before the Minister (the Environment Minister) decides whether or not to approve, for the purposes of a controlling provision, the taking of an action, and what conditions (if any) to attach to an approval, he or she must:

- b) (a) inform any other Minister whom the Environment Minister believes has administrative responsibilities relating to the action of the decision the Environment Minister proposes to make; and
- c) (b) invite the other Minister to give the Environment Minister comments on the proposed decision within 10 business days.

(2) A Minister invited to comment may make comments that:

- d) (a) relate to economic and social matters relating to the action; and
- e) (b) may be considered by the Environment Minister consistently with the principles of ecologically sustainable development.

This does not limit the comments such a Minister may give.

Section 131AA of the EPBC Act relevantly provides:

(1) Before the Minister decides whether or not to approve, for the purposes of a controlling provision, the taking of an action, and what conditions (if any) to attach to an approval, he or she must:

- a) (a) inform the person proposing to take the action, and the designated proponent of the action (if the designated proponent is not the person proposing to take the action), of:
 - i) (i) the decision the Minister proposes to make; and
 - ii) (ii) if the Minister proposes to approve the taking of the action – any conditions the Minister proposes to attach to the approval; and

- b) (b) invite each person informed under paragraph (a) to give the Minister, within 10 business days (measured in Canberra), comments in writing on the proposed decision and any conditions.

(2) If the Minister proposes not to approve, for the purposes of a controlling provision, the taking of the action, the Minister must provide to each person informed under paragraph (1)(a), with the invitation given under paragraph (1)(b):

- (a) a copy of whichever of the following documents applies to the action:
 - an assessment report;
 - a finalised recommendation report given to the Minister under subsection 93(5);
 - a recommendation report given to the Minister under section 95C, 100 or 105; and
- (b) any information relating to economic and social matters that the Minister has considered; and
- (c) any information relating to the history of a person in relation to environmental matters that the Minister has considered under subsection 136(4); and
- (d) a copy of any document, or part of a document, containing information of a kind referred to in paragraph 136(2)(e) that the Minister has considered.

(3) The Minister is not required to provide under subsection (2):

- (a) information that is in the public domain; or
- (b) a copy of so much of a document as is in the public domain; or
- (c) in the case of information referred to in paragraph (2)(b) or (c) – any conclusions or recommendations relating to that information included in documents or other material prepared by the Secretary for the Minister.

(6) In deciding whether or not to approve, for the purposes of a controlling provision, the taking of the action, the Minister must take into account any relevant comments given to the Minister in response to an invitation given under paragraph (1)(b).

Section 131A of the EPBC Act relevantly provides:

Before the Minister decides whether or not to approve, for the purposes of a controlling provision, the taking of an action, and what conditions (if any) to attach to an approval, he or she may publish on the Internet:

- (a) the proposed decision and, if the proposed decision is to approve the taking of the action, any conditions that the Minister proposes to attach to the approval; and
- (b) an invitation for anyone to give the Minister, within 10 business days (measured in Canberra), comments in writing on the proposed decision and any conditions.

Section 133 of the EPBC Act relevantly provides:

Approval

(1) After receiving the assessment documentation relating to a controlled action, or the report of a commission that has conducted an inquiry relating to a controlled action, the Minister may approve for the purposes of a controlling provision the taking of the action by a person.

(1A) If the referral of the proposal to take the action included alternative proposals relating to any of the matters referred to in subsection 72(3), the Minister may approve, for the purposes of subsection (1), one or more of the alternative proposals in relation to the taking of the action.

Content of approval

(2) An approval must:

- (a) be in writing; and
- (b) specify the action (including any alternative proposals approved under subsection (1A)) that may be taken; and
- (c) name the person to whom the approval is granted; and
- (d) specify each provision of Part 3 for which the approval has effect; and
- (e) specify the period for which the approval has effect; and
- (f) set out the conditions attached to the approval.

Persons who may take action covered by approval

(2A) An approval granted under this section is an approval of the taking of the action specified in the approval by any of the following persons:

- (a) the holder of the approval;
- (b) a person who is authorised, permitted, or requested by the holder of the approval, or by another person with the consent or agreement of the holder of the approval, to take the action.

Notice of approval

(4) The Minister must:

- (a) give a copy of the approval to the person named in the approval under paragraph 133(2)(c); and
- (b) provide a copy of the approval to a person who asks for it (either free or for a reasonable charge determined by the Minister).

Notice of refusal of approval

If the Minister refuses to approve for the purposes of a controlling provision the taking of an action by the person who proposed to take the action, the Minister must give the person notice of the refusal.

Section 134 of the EPBC Act relevantly provides:

Condition to inform persons taking action of conditions attached to approval

(1A) An approval of the taking of an action by a person (the first person) is subject to the condition that, if the first person authorises, permits, or requests another person to undertake any part of the action, the first person must take all reasonable steps to ensure:

- (a) that the other person is informed of any condition attached to the approval that restricts or regulates the way in which that part of the action may be taken; and
- (b) that the other person complies with any such condition.

For the purposes of this Chapter, the condition imposed by this subsection is attached to the approval.

Generally

(1) The Minister may attach a condition to the approval of the action if he or she is satisfied that the condition is necessary or convenient for:

- (a) protecting a matter protected by a provision of Part 3 for which the approval has effect (whether or not the protection is protection from the action); or
- (b) repairing or mitigating damage to a matter protected by a provision of Part 3 for which the approval has effect (whether or not the damage has been, will be or is likely to be caused by the action).

Conditions to protect matters from the approved action

(2) The Minister may attach a condition to the approval of the action if he or she is satisfied that the condition is necessary or convenient for:

- (a) protecting from the action any matter protected by a provision of Part 3 for which the approval has effect; or
- (b) repairing or mitigating damage that may or will be, or has been, caused by the action to any matter protected by a provision of Part 3 for which the approval has effect.

This subsection does not limit subsection (1).

Examples of kinds of conditions that may be attached

(3) The conditions that may be attached to an approval include:

- (aa) conditions requiring specified activities to be undertaken for:
 - protecting a matter protected by a provision of Part 3 for which the approval has effect (whether or not the protection is protection from the action); or
 - repairing or mitigating damage to a matter protected by a provision of Part 3 for which the approval has effect (whether or not the damage may or will be, or has been, caused by the action); and
- (ab) conditions requiring a specified financial contribution to be made to a person for the purpose of supporting activities of a kind mentioned in paragraph (aa); and
- (a) conditions relating to any security to be given by the holder of the approval by bond, guarantee or cash deposit:

to comply with this Act and the regulations; and

not to contravene a condition attached to the approval; and

to meet any liability of a person whose taking of the action is approved to the Commonwealth for measures taken by the Commonwealth under section 499 (which lets the Commonwealth repair and mitigate damage caused by a contravention of this Act) in relation to the action; and

- (b) conditions requiring the holder of the approval to insure against any specified liability of the holder to the Commonwealth for measures taken by the Commonwealth under section 499 in relation to the approved action; and
- (c) conditions requiring a person taking the action to comply with conditions specified in an instrument (including any kind of authorisation) made or granted under a law of a State or self-governing Territory or another law of the Commonwealth; and
- (d) conditions requiring an environmental audit of the action to be carried out periodically by a person who can be regarded as being independent from any person whose taking of the action is approved; and
- (e) if an election has been made, or is taken to have been made, under section 132B in respect of the approval – conditions requiring:
 - an action management plan to be submitted to the Minister for approval, accompanied by the fee (if any) prescribed by the regulations; and
 - implementation of the plan so approved; and
- (f) conditions requiring specified environmental monitoring or testing to be carried out; and
- (g) conditions requiring compliance with a specified industry standard or code of practice; and
- (h) conditions relating to any alternative proposals in relation to the taking of the action covered by the approval (as permitted by subsection 133(1A)).

This subsection does not limit the kinds of conditions that may be attached to an approval.

Certain conditions require consent of holder of approval

(3A) The following kinds of condition cannot be attached to the approval of an action unless the holder of the approval has consented to the attachment of the condition:

- (a) a condition referred to in paragraph (3)(aa), if the activities specified in the condition are not reasonably related to the action;
- (b) a condition referred to in paragraph (3)(ab).

(3B) If the holder of the approval has given consent, for the purposes of subsection (3A), to the attachment of a condition:

- (a) the holder cannot withdraw that consent after the condition has been attached to the approval; and
- (b) any person to whom the approval is later transferred under section 145B is taken to have consented to the attachment of the condition and cannot withdraw that consent.

Conditions attached under paragraph (3)(c)

(3C) A condition attached to an approval under paragraph (3)(c) may require a person taking the action to comply with conditions specified in an instrument of a kind referred to in that paragraph:

- (a) as in force at a particular time; or
- (b) as is in force or existing from time to time;

even if the instrument does not yet exist at the time the approval takes effect.

Considerations in deciding on condition

(4) In deciding whether to attach a condition to an approval, the Minister must consider:

- (a) any relevant conditions that have been imposed, or the Minister considers are likely to be imposed, under a law of a State or self-governing Territory or another law of the Commonwealth on the taking of the action; and
- (aa) information provided by the person proposing to take the action or by the designated proponent of the action; and
- (b) the desirability of ensuring as far as practicable that the condition is a cost effective means for the Commonwealth and a person taking the action to achieve the object of the condition.

Effect of conditions requiring compliance with conditions specified in another instrument

(4A) If:

- (a) a condition (the **principal condition**) attached to an approval under paragraph (3)(c) requires a person taking the action to comply with conditions (the **other conditions**) specified in an instrument of a kind referred to in that paragraph; and
- (b) the other conditions are in excess of the power conferred by subsection (1);

the principal condition is taken to require the person to comply with the other conditions only to the extent that they are not in excess of that power.

Validity of decision

(5) A failure to consider information as required by paragraph (4)(aa) does not invalidate a decision about attaching a condition to the approval.

Section 136 of the EPBC Act relevantly provides:

Mandatory considerations

(1) In deciding whether or not to approve the taking of an action, and what conditions to attach to an approval, the Minister must consider the following, so far as they are not inconsistent with any other requirement of this Subdivision:

- (a) matters relevant to any matter protected by a provision of Part 3 that the Minister has decided is a controlling provision for the action;
- (b) economic and social matters.

Factors to be taken into account

(2) In considering those matters, the Minister must take into account:

- (a) the principles of ecologically sustainable development; and
- (b) the assessment report (if any) relating to the action; and
- (ba) if Division 3A of Part 8 (assessment on referral information) applies to the action – the finalised recommendation report relating to the action given to the Minister under subsection 93(5); and
- (bc) if Division 4 of Part 8 (assessment on preliminary documentation) applies to the action:
 - the documents given to the Minister under subsection 95B(1), or the statement given to the Minister under subsection 95B(3), as the case requires, relating to the action; and
 - the recommendation report relating to the action given to the Minister under section 95C; and
- (c) if Division 5 (public environment reports) of Part 8 applies to the action:
 - the finalised public environment report relating to the action given to the Minister under section 99; and
 - the recommendation report relating to the action given to the Minister under section 100; and
- (ca) if Division 6 (environmental impact statements) of Part 8 applies to the action:
 - the finalised environmental impact statement relating to the action given to the Minister under section 104; and
 - the recommendation report relating to the action given to the Minister under section 105; and
- (d) if an inquiry was conducted under Division 7 of Part 8 in relation to the action – the report of the commissioners; and
- (e) any other information the Minister has on the relevant impacts of the action (including information in a report on the impacts of actions taken under a policy, plan, or program under which the action is to be taken that was given to the Minister under an agreement under Part 10 (about strategic assessments)); and
- (f) any relevant comments given to the Minister in accordance with an invitation under section 131 or 131A; and
- a) (fa) any relevant advice obtained by the Minister from the Independent Expert Scientific Committee on Unconventional Gas Development and Large Coal Mining Development in accordance with section 131AB;
- (g) if a notice relating to the action was given to the Minister under subsection 132A(3) – the information in the notice.

Person's environmental history

(4) In deciding whether or not to approve the taking of an action by a person, and what conditions to attach to an approval, the Minister may consider whether the person is a suitable person to be granted an approval, having regard to:

- (a) the person's history in relation to environmental matters; and
- (b) if the person is a body corporate – the history of its executive officers in relation to environmental matters; and
- (c) if the person is a body corporate that is a subsidiary of another body or company (the parent body) – the history in relation to environmental matters of the parent body and its executive officers.

Minister not to consider other matters

(5) In deciding whether or not to approve the taking of an action, and what conditions to attach to an approval, the Minister must not consider any matters that the Minister is not required or permitted by this Division to consider.

Section 139 of the EPBC Act relevantly provides:

(1) In deciding whether or not to approve for the purposes of a subsection of section 18 or section 18A the taking of an action, and what conditions to attach to such an approval, the Minister must not act inconsistently with:

- (a) Australia's obligations under:
 - the Biodiversity Convention; or
 - the Apia Convention; or
 - CITES; or
- (b) a recovery plan or threat abatement plan.

(2) If:

- (a) the Minister is considering whether to approve, for the purposes of a subsection of section 18 or section 18A, the taking of an action; and
- (b) the action has or will have, or is likely to have, a significant impact on a particular listed threatened species or a particular listed threatened ecological community;

the Minister must, in deciding whether to so approve the taking of the action, have regard to any approved conservation advice for the species or community.

Section 140 of the EPBC Act relevantly provides:

In deciding whether or not to approve for the purposes of section 20 or 20A the taking of an action relating to a listed migratory species, and what conditions to attach to such an approval, the Minister must not act inconsistently with Australia's obligations under whichever of the following conventions and agreements because of which the species is listed:

- (a) the Bonn Convention;
- (b) CAMBA;

- (c) JAMBA;
- (d) an international agreement approved under subsection 209(4).