



Australian Government

Department of Climate Change, Energy,  
the Environment and Water

## Statement of Reasons for Approval Decision under the *Environment Protection and Biodiversity Conservation Act 1999*

I, KYLIE CALHOUN, Branch Head of Environment Assessments West Branch, Nature Positive Regulation Division, Department of Climate Change, Energy, the Environment and Water (the **department**), delegate for the Minister for the Environment (the **Minister**), provide the following statement of reasons for my decision of 16 September 2024, under subsection 130(1) and section 133 of the *Environment Protection and Biodiversity Conservation Act 1999* (**EPBC Act**), to approve the action proposed by Satterley Property Group Pty Ltd (the **proponent**) to facilitate and develop a residential development on Lot 48 Stoneville Road in the Shire of Mundaring, 30 km north-east of Perth, WA (see EPBC Act referral 2018/8382 subject to the variation of the proposed action accepted by the Minister under section 156B on 24 April 2023) (**proposed action**).

### Legislation

Relevant legislation is set out in Annexure A.

### Background

#### *Description of proposed action*

- 1) The proponent proposes to facilitate and develop a residential development on Lot 48 Stoneville Road in the Shire of Mundaring, 30 km north-east of Perth, WA (see EPBC Act referral 2018/8382 subject to the variation of the proposed action accepted by the Minister under section 156B on 24 April 2023).
- 2) The proposed action will include:
  - a) earthworks and the construction of roads, drainage basins, and infrastructure to service the development, including sewerage, water, and electricity;
  - b) the construction of housing, schools, retail outlets and a recycled wastewater facility;
  - c) revegetation of at least 5 ha within a 193.2 ha Conservation Area (**CA**);
  - d) partial clearing within Asset Protection Zones (85% cleared) and the implementation of a Bushfire Management Plan. The areas of partial clearing are included within the overall 163.8 ha clearing value; and
  - e) offsets to compensate for residual adverse impacts to Matters of National Environmental Significance (**MNES**).
- 3) I noted that the proponent has lodged a Structure Plan (SP34) for lot 48 Stoneville Road, Stoneville, in the Shire of Mundaring, which is indicative of the proposed action. This includes the following:
  - a) urban land uses (approximately 959 lots);

- b) natural living land uses (approximately 42 lots);
  - c) two school sites;
  - d) recycled wastewater infrastructure;
  - e) internal road network;
  - f) areas of Public Open Space and drainage; and
  - g) 193.2 ha CA.
- 4) The proposed action will be undertaken within the Jarrah Forest bioregion of Western Australia, under the Interim Biogeographic Regionalisation of Australia. The project area is bounded by Cameron Road to the north, by Woodlands Road and rural housing lots to the east, by rural lots to the south, and Roland Road to the west.
- 5) I noted that the Preliminary Documentation package (**PD**) states that the project area includes a mixture of Marri (*Corymbia calophylla*) woodland, Jarrah (*Eucalyptus marginata*) – Marri woodlands over varying compositions of understoreys, and degraded/cleared and highly degraded/parkland cleared areas.
- 6) I also noted that the Strategen Flora, Vegetation and Fauna Survey conducted by the proponent states that vegetation within the project area comprises five vegetation types (VT1-VT5):
- a) VT1 – VT4 are comprised of Jarrah – Marri woodland to forest over understoreys of varying composition; and
  - b) VT5 is dominated by Marri and is associated with minor drainage lines.
- 7) The PD states that according to the Keighery scale, vegetation condition ranges from ‘Completely Degraded’ where vegetation had been cleared (approximately 43% of the project area) to ‘Very Good-Excellent’ (approximately 11% of the project area) within intact patches of remnant vegetation.

## Procedural history

### *Referral history*

- 8) On 4 March 2019, the referral for the proposed action was published on the department's website. Public comments were invited until 18 March 2019.
- 9) One public submission was received on the referral. I noted that the submission by [REDACTED] and [REDACTED] of Murdoch University raised issues including the following:
- a) potential use of the proposed action area for Black Cockatoo roosting and foraging;
  - b) the importance of conducting Black Cockatoo habitat assessments in the appropriate season; and
  - c) misrepresentation of data published by Murdoch University in the referral.

### *Controlling provisions and assessment approach*

- 10) On 5 April 2019, a delegate of the Minister determined the proposal to be a controlled action under section 75 of the EPBC Act due to likely significant impacts on listed threatened species and communities (sections 18 & 18A).

- 11) On that same date, a delegate of the Minister decided under section 87(1) of the EPBC Act that the proposed action was to be assessed by PD under the EPBC Act.

*Assessment documentation*

- 12) On 26 July 2019, the department requested further information from the proponent.
- 13) On 6 May 2020, the proponent provided the draft PD to the department.
- 14) On 19 June 2020, the department reviewed the draft PD and requested further information. On 9 July 2020, the proponent provided further information.
- 15) On 10 August 2020, I, as a delegate of the minister, issued a direction to publish the PD dated 9 July 2020 for a period of 20 business days under section 95A(3) of the EPBC Act.
- 16) The proponent published the preliminary documentation for twenty business days, between 4 September 2020 and 2 October 2020.

*Public comments*

- 17) The proponent received 53 submissions as part of public consultation on the PD. I noted that the submissions raised a range of topics, including, but not limited to:
- a) concern over increased bushfire risk for residents, including significant concern over the potential for increased traffic at main evacuation routes;
  - b) the misalignment between the proposed action and local community values;
  - c) concern regarding the appropriateness and potential impacts of the proposed wastewater treatment plant;
  - d) that the Western Australian Planning Commission (**WAPC**) and local Mundaring Council have refused the project;
  - e) concern that there has been insufficient survey work and unsatisfactory methodology;
  - f) concern that the project will result in unacceptable impacts to threatened and locally important species;
  - g) concern there has been inadequate consultation with Indigenous stakeholders;
  - h) the inadequacy of the compensatory measures proposed, including the number of artificial hollows proposed;
  - i) that the project will sever ecological linkages between Jane Brook and Susannah Brook;
  - j) the potential for significant impacts to public health and wellbeing;
  - k) that the clearance of vegetation will contribute to climate change;
  - l) that the cumulative impacts of the proposed action with other developments in the local area has not been adequately considered;
  - m) that there is the possibility for impacts from site runoff into Susannah Brook and Clutterbuck Creek, which flow into Jane Brook and the adjacent John Forrest National Park and Swan River; and
  - n) inconsistencies within the PD.

- 18) I noted that, on 18 December 2020, the proponent finalised the response to public comments on the PD, and submitted to the department a further revised PD.
- 19) On 1 February 2021, the department decided the proponent's response to the public submissions was inadequate and issued a request for further information required to progress the assessment of the proposed action. The department received two subsequent revisions of the PD between March 2021 and September 2022.
- 20) On 22 February 2023, the proponent requested a formal variation to the proposed action under section 156A of the EPBC Act.
- 21) On 24 April 2023, a delegate of the Minister accepted the variation under section 156B of the EPBC Act. This variation reduced the development envelope from 555 ha to 534 ha and the total vegetation clearing impact was reduced from 180.3 ha to 163.8 ha, inclusive of areas subject to vegetation thinning for fire management purposes. Total undisturbed vegetation preserved within the designated CA was increased from 82.5 ha to 133 ha. The variation also changed the designation of the CA from "avoidance and mitigation" to "offset". The request to change the designation of the CA was accepted by the delegate of the minister as the habitat quality improvement measures proposed for the CA went beyond that required for avoidance and mitigation. This included the proposed protection of the site through the imposition of a conservation covenant and long-term management commitments defined in a dedicated management plan to prevent degradation and increase habitat quality.
- 22) I noted that six revisions of the PD occurred between April 2023 and May 2024, with the final version of the PD being dated 15 May 2024.
- 23) I noted that the final PD differs from the PD that was published for public comment, in that it reflects the proposed action after the variation was accepted by a delegate of the Minister on 24 April 2023. The final PD also includes additional appendices; namely a Local Water Management Strategy, an Offset Strategy and the Williams Site Offset Implementation Plan.
- 24) The department determined the PD to be adequate on the 23 May 2024 and on that same date, issued a direction to publish for information only. The PD was published for a period of 20 business days from 7 June 2024 to 4 July 2024.
- 25) The proponent paid the stage 3 and 4 cost recovery fees on 29 May 2024, commencing the 40-business day statutory timeframe for decision on approval or refusal on 30 May 2024.
- 26) On 16 July 2024, a delegate of the minister agreed to extend the statutory timeframe for making a decision on approval by 40 business days, making the due date for this decision 18 September 2024.
- 27) On 19 and 20 June 2024, I noted that the Save Perth Hills community group emailed the department to provide comment on the proposed action. These comments raised a range of topics, including, but not limited to:
  - a) concern that the proponent's offset does not align with the integrity or intent of the federal environmental assessment process and offset requirements;
  - b) concern that the proponent is using outdated planning data and information to justify the project;

- c) that the Shire of Mundaring and WAPC's current position is to oppose the development of urban cells in the region due to bushfire risk and environmental impacts;
- d) that the Shire of Mundaring and Shire of Perth Hills have submitted applications to the WAPC to amend the Metropolitan Region Scheme and rezone lot 48 Stoneville Road from urban to rural; and
- e) concern that Baudin's Black Cockatoo (*Zanda baudinii* listed as *Calyptorhynchus baudinii*) (BBC) have not been recorded at the Williams Offset site.

***Proposed approval and consultation***

- 28) On 27 August 2024, I proposed to approve the proposed action, with conditions, as delegate of the Minister. In accordance with sections 131 and 131AA of the EPBC Act, I also invited comments on the proposed decision from the:
- a) Proponent; and
  - b) Mr Alistair Jones, Director General, Western Australian Department of Water and Environmental Regulation, Delegated contact for the Western Australian Minister for Environment and Climate Change, the Hon Reece Raymond MLA.
- 29) The Department considered, and I agreed, that sufficient public consultation had occurred for the proposed action and that the views of the public were well understood. I decided to not release the proposed decision for public comment under section 131A of the EPBC Act. On 29 August 2024, the person preparing the referral information (JBS&G) responded to the department's invitation to comment on the proposed decision. These comments sought to ensure that implementation of the conditions was practicable and that timeframes were achievable. JBS&G also requested the removal of conditions relating to habitat outside the project area as they would not have control over these areas.
- 30) JBS&G provided a number of comments, in relation to the following summarised matters:
- a) length of the approval;
  - b) status of Chuditch habitat;
  - c) clearance limits on the number of potential breeding trees extrapolated from quadrat data;
  - d) management of vegetation outside the project area;
  - e) requirement for arrangement of veterinary care for injured Chuditch, CBC, BBC or FRTBC within and surrounding the project area;
  - f) dieback management measures;
  - g) baseline surveys for the offset sites;
  - h) timeframe for control of offset sites;
  - i) ongoing monitoring of the offset sites;
  - j) timeframe for the Artificial Nest Hollow Management Plan; and
  - k) definition of construction in the proposed approval conditions;

- 31) The department conducted consultation with JBS&G on behalf of the proponent, to come to an agreement on the amendments required to be made to the proposed conditions to address the comments on the matters listed above.
- 32) I noted that on 11 September 2024 the proponent indicated their acceptance of the amended proposed conditions.

*State assessment and approval*

- 33) I noted email correspondence dated 19 July 2023 between my department and the WA Department of Water and Environmental Regulation (**DWER**), which advised that the proposed action did not warrant formal assessment under the *Environmental Protection Act 1986 (WA)* (**EP Act**) at this stage, as the proposed action did not yet require a native vegetation clearing permit under Part V of the EP Act 1986.

*Local assessment and approval*

- 34) I noted that on 14 July 2020, the WAPC refused the proposed action's structure plan under the *Planning and Development Act 2005 (WA)*. I was advised that the department understood that refusal of the plan was made due to:
  - a) the potential bushfire risk of the proposal;
  - b) the lack of vehicular access in a bushfire event;
  - c) the reliance on clearing high quality vegetation as part of the proposal's bushfire management plan; and
  - d) the lack of satisfaction that the proposal appropriately addressed the objectives and policy measures of *State Planning Policy 3.4 – Natural Hazards and Disasters*, *State Planning Policy 2.0 – Environment and Natural Resources* and *State Planning Policy 2.8 – Bushland Policy for the Perth Metropolitan Region*.
- 35) I noted that the proponent appealed the WAPC's decision and applied to the State Administrative Tribunal (**SAT**) for a review of the refusal. At a directions hearing on 4 November 2022, the SAT made orders for the proponent to provide an amended structure plan and any supporting information to the WAPC.
- 36) I am aware that, on 30 November 2023, the Statutory Planning Commission (**SPC**) endorsed a recommendation from the department of Planning, Lands and Heritage that the WAPC refuse the revised structure plan. I understand that on 7 December 2023, the WAPC refused the revised structure plan in accordance with the recommendation of the SPC.
- 37) I noted that on 2 February 2024, the SAT granted orders for the matter to be listed for a directions hearing at the SAT on 8 March 2024, and that the matter was listed for a further directions hearing at the SAT at 2.00pm on 30 August 2024. I noted that the hearing had been postponed to 4 October 2024.

**Evidence or other material on which my findings were based**

- 38) My decision under subsection 130(1) and section 133 of the EPBC Act to approve the taking of the proposed action was made after considering the recommendation report, its attachments, the approval decision brief, and its attachments, prepared by the department and dated 16

September 2024 (**approval decision brief**). The recommendation report and approval decision brief contained the attachments set out at Annexure B.

### **Findings on material questions of fact**

- 39) In deciding whether to approve the proposed action, I considered all impacts that the proposed action would have or would likely have on each matter protected by the controlling provisions for the proposed action (being sections 18 and 18A of the EPBC Act).
- 40) I considered that the information before me was sufficient to decide whether or not to approve the proposed action.

### **Mandatory considerations – section 136(1)(a)**

- 41) Section 136(1)(a) of the EPBC Act requires me, in deciding whether or not to approve the taking of an action and what conditions to attach to an approval, to consider matters relevant to any matter protected by a provision of Part 3 that is a controlling provision for the action, so far as they are not inconsistent with any other requirement of Subdivision B of Division 1 of Part 9 of the EPBC Act.
- 42) The proposed action was determined to be a controlled action and sections 18 and 18A (listed threatened species and ecological communities) were the controlling provisions for the proposed action.

### **Listed threatened species and communities (sections 18 and 18A)**

- 43) I noted that at the time of the controlled action decision, eight threatened species were considered likely, or potentially, significantly impacted by the proposed action. These species are as follows:
  - a) *Carnaby's Black Cockatoo* (*Calyptorhynchus latirostris* – *Zanda latirostris*) (**CBC**) – endangered;
  - b) *Forest Red-tailed Black Cockatoo* (*Calyptorhynchus banksii naso*) (**FRTBC**) – vulnerable;
  - c) *Baudin's Black Cockatoo* (*Calyptorhynchus baudinii* = *Zanda baudinii*) (**BBC**) – endangered;
  - d) *Chuditch* (*Dasyurus geoffroii*) – vulnerable;
  - e) *Carter's Freshwater Mussel* (*Westralunio carteri*) (CFM) – vulnerable;
  - f) *Star Sun Orchid* (*Thelymitra stellata*) – endangered;
  - g) *Zig Zag Grevillea* (*Grevillea flexuosa*) – vulnerable; and
  - h) *Leafless Rock Wattle* (*Acacia aphylla*) – vulnerable.

### **Listed threatened species and ecological communities (sections 18 and 18A)**

#### ***Carnaby's Black Cockatoo* (*Calyptorhynchus latirostris* – *Zanda latirostris*) (**CBC**) – endangered**

#### *Protected matter biology and ecology*

- 44) I noted the *Carnaby's Cockatoo* (*Calyptornynchus latirostris*) *Recovery Plan* dated 2013 (CBC Recovery Plan) provides that CBC is a long-lived, slow-breeding bird species whose populations are currently in decline and that the species is primarily threatened by habitat loss, nest shortage and competition, injury and death from feral bees (*Apis mellifera*), and vehicle strike.



- 45) I noted that the CBC Recovery Plan defines habitat critical to the survival of CBC as:
- a) the eucalypt woodlands that provide nest hollows used for breeding, together with nearby vegetation that provides feeding, roosting, and watering habitat that supports successful breeding;
  - b) woodland sites known to have supported breeding in the past and which could be used in the future, provided adequate nearby food and/or water resources are available or are re-established; and
  - c) in the non-breeding season, the vegetation that provides food resources as well as the sites for nearby watering and night roosting that enable the cockatoos to effectively utilise the available food resources.
- 46) I noted that CBC breed and roost in taller trees such as Jarrah, Marri, and Wandoo (*Eucalyptus wandoo*) and that breeding typically occurs in the hollows of trees of certain sizes, usually those measuring >30-50cm in diameter at breast height, depending on the species.
- 47) I noted that further information on the characteristics, status and habitat requirements for CBC can be found in the following statutory documents:
- a) Carnaby's Cockatoo (*Calyptorhynchus latirostris*) Recovery Plan; and
  - b) Referral guidelines for 3 WA threatened black cockatoo species: Carnaby's Cockatoo (*Zanda latirostris*), Baudin's Cockatoo (*Zanda baudinii*) and the Forest Red-tailed Black-cockatoo (*Calyptorhynchus banksii naso*) dated 2022.

*Species presence and habitat*

- 48) I observed that the project area is located within the modelled foraging, roosting and breeding range of CBC.
- 49) The proponent conducted two Flora, Vegetation and Fauna Assessment site visits across 2016 and 2017 (which I refer to as the '**Flora, Vegetation and Fauna Assessment**' in the remainder of my reasons). I noted the Flora, Vegetation and Fauna Assessment included assessments of the suitability of the project area for use by CBC. In 2019, the proponent conducted a targeted assessment of CBC breeding habitat within the project area (which I subsequently refer to as the '**Black Cockatoo Breeding Habitat Assessment**'). I also noted that the Chuditch (*Dasyurus geoffroii*) habitat assessment conducted in 2020 (which I subsequently refer to as the '**Chuditch Habitat Assessment**') opportunistically recorded evidence of CBC.
- 50) I noted that section 3.3.1 of the PD addresses the occurrence of CBC in the project area and surrounds and states that there is 296.8 ha of suitable foraging habitat for CBC within the project area. The PD also states that the relevant surveys recorded several instances where evidence of CBC foraging was located within the project area. The PD states that of the 296.8 ha of foraging habitat, 119 ha is 'excellent foraging quality', 113.5 ha is 'Good foraging quality', and 64.2 ha is 'Moderate foraging quality'. The department accepted, and I agreed, with these findings, and that the project area represents 296.8 ha of high-quality CBC foraging habitat.
- 51) I noted that section 3.3.1 of the PD states that the project area is located within a confirmed Western Australian Government Department of Biodiversity Conservation and Attractions (DBCA) breeding area, and that the nearest known breeding site for CBC occurs 2.5 km from the



project area. The PD concludes that there is approximately 296.8 ha of suitable breeding habitat for CBC within the project area, including approximately 5940 potential breeding trees. The PD also states that 27 hollows suitable for use by CBC were recorded within the project area, of which, 16 showed evidence of past use, and the remaining 11 had entrances of suitable size but did not show evidence of use. One of these hollows was inhabited by feral bees. The department accepted, and I agreed, with these conclusions.

- 52) While no roosting activity was recorded during the surveys conducted within the project area, the PD concludes that the project area represents 296.8 ha of suitable CBC roosting habitat. I noted that the recommendation report refers to section 3.3.1 of the PD, which states that the project area is located within the buffer of a confirmed DBCA roosting area and that there are two confirmed CBC and/or BBC roost sites within 1 km of the project area. After considering this information I agreed with the department that the project area represents habitat suitable for CBC roosting.

#### *Impact assessment*

- 53) I noted that the impact assessment for CBC conducted by the proponent can be found in section 4.1 of the PD.
- 54) The PD states that impacts to CBC will arise through the clearing of 163.8 ha of CBC habitat suitable for foraging, breeding, and roosting, and the clearance of 23 hollows with entrances considered to be of suitable size for use by CBC. I agreed with this assessment and noted that the CBC Recovery Plan highlights the loss and degradation of foraging, breeding and roosting habitat as a key driver of CBC populations declines.
- 55) The PD also states that the proposed action will have the potential to indirectly and consequentially impact adjacent and retained CBC habitat through spread of dieback, erosion, uncontrolled access, dust deposition, spills of hazardous waste material, the spread of weeds, vehicle collisions, negative interactions between CBC and non-native species such as dogs and cats, and consequential clearing of CBC habitat to facilitate a growing Stoneville population. I agreed with this assessment and noted that the CBC Recovery Plan highlights weed and spread of dieback as degrading processes for CBC habitat and that vehicle strike is a known threat to CBC populations.
- 56) I considered that the CBC Recovery Plan also highlights increased nest competition as a key threatening process for CBC. As the proposed action will clear 163.8 ha of breeding habitat, including 23 hollows and 3280 potential breeding trees, I considered that the proposed action will impact CBC through an increase in nest competition.

#### *Avoidance and mitigation measures*

- 57) I noted that the proponent provided avoidance, mitigation and management measures in the PD and that the proponent also prepared a Construction Environmental Management Plan (**CEMP**), as part of the PD, that gave further detail on avoidance and mitigation measures.
- 58) I noted that on 24 April 2023, a delegate of the Minister accepted a variation under section 156B of the EPBC Act to reduce the total vegetation clearing impact from 180.3 ha to 163.8 ha, inclusive of areas subject to vegetation thinning for fire management purposes. I also noted that the total undisturbed vegetation to be preserved within the designated CA was increased from

82.5 ha to 133 ha. I noted the department's advice that the request to change the designation of the CA was accepted by the delegate of the minister, during the variation process, as the habitat quality improvement measures proposed for the CA went beyond that required for avoidance and mitigation.

- 59) The PD states the proposed action has been designed to maximise the use of existing cleared areas (182.2 ha) and assign the remnant vegetation of the highest condition to the CA (193.2 ha).
- 60) I accepted the recommendation from the department to impose conditions to minimise threats to CBC individuals and set maximum limits to the amount of CBC habitat that can be cleared, in order to minimise the potential impacts to CBC as a result of the proposed action (which I discussed at paragraphs 53-56 above). I imposed these conditions, which are included as conditions 1 to 5 in the conditions of approval.
- 61) I noted that, in the PD, the proponent committed to implementing the CEMP which provides for waste management, vegetation management actions to protect CBC habitat marked for inclusion within the proposed CA, dieback and weed management actions to prevent degradation of the proposed CA, and fauna management actions to protect CBC individuals that may occur onsite.
- 62) I considered that the mitigation measures outlined in the CEMP that are of particular value for CBC include:
  - a) Potential breeding trees will be checked by a fauna specialist no more than 7 days before the commencement of clearing of native vegetation. Should a CBC individual be detected during these inspections, the following actions will be taken:
    - i) the tree or trees identified will be clearly identified with flagging or fencing (as would be done for trees to be retained, regardless); and
    - ii) demarcate, with flagging or fencing, a 10 m buffer zone around the tree or trees so that no earthworks/clearing occurs within the buffer zone until it is confirmed that the hollow is no longer being used.
  - b) The implementation of 40 km/hr speed limits during construction.
- 63) The department recommended, and I agreed, to impose a condition requiring the proponent to implement the CEMP to avoid and mitigate impacts from the proposed development, from the commencement of the action until all clearing and construction involving the movement of soil is complete. I noted the CEMP is included as condition 8 to the conditions of approval.
- 64) The department recommended, and I agreed, that as the proponent did not provide evidence to support its claim that the dieback management measures proposed in the CEMP are best practice, that the dieback management measures are inadequate. I therefore accepted the department's recommendation to impose additional dieback management conditions to further avoid and mitigate impacts to protected matters. I imposed these conditions, which are included as conditions 6, 7 and 9 in the conditions of approval.
- 65) The department considered, and I agreed, that, with the additional dieback management conditions, the avoidance and mitigation measures proposed by the proponent will be effective in minimising harm to CBC and CBC habitat.

- 66) The department considered, and I agreed, that the mitigation measures proposed by the proponent and the above-mentioned conditions are relevant to the known threats to this species and are not inconsistent with the management actions identified in the CBC Recovery Plan.

*Residual adverse impacts and offsets*

- 67) I noted that the PD states that after the implementation of the proposed avoidance and mitigation measures, the proposed action will result in residual adverse impacts through the clearance of 163.8 ha of CBC habitat suitable for foraging, breeding, and roosting, and the clearance of 23 hollows suitable for use by CBC for breeding. I agreed with this conclusion and considered that, in accordance with the EPBC Act Environmental Offsets Policy (2012), an environmental offset is required to compensate for the residual adverse impacts to CBC.
- 68) I noted that, as part of the PD, the proponent provided an Offset Strategy which includes two separate offset proposals, namely the CA and a supplementary site in Williams, WA. The proponent also supplied an Offset Management Plan for each offset proposal, as part of the PD, which include measures to compensate for the residual adverse impacts to CBC. I noted that the two offset proposals are as follows:
- a) The CA – within the project area, the proponent has designated 193.2 ha to be a formal conservation area (the CA), that will contain 133 ha of CBC habitat suitable for foraging, breeding, and roosting. I considered that key threat abatement and habitat quality improvement measures proposed for the CA are:
    - i) delineation and access measures;
    - ii) weed and pathogen control;
    - iii) waste management measures;
    - iv) fauna and pest management control;
    - v) 5 ha of revegetation using foraging species for CBC, BBC and FRTBC; and
    - vi) installation of 69 artificial nest hollows (ANH).
  - b) The Williams Site - a 632 ha site located in Williams, WA, containing 577.2 ha of CBC habitat suitable for foraging, breeding, and roosting. I considered that key threat abatement and habitat quality improvement measures for the Williams site are:
    - i) removal of livestock;
    - ii) repairing fence lines;
    - iii) feral predator control;
    - iv) repairing soil damage;
    - v) rehabilitation of gravel pits with primary foraging species for CBC, BBC and FRTBC;
    - vi) weed management and reduction;
    - vii) installation of watering sites for CBC, BBC and FRTBC;
    - viii) introduction of a prescribed burning program; and
    - ix) 55 ha of revegetation using foraging species for CBC, BBC and FRTBC.

- 69) The department recommended, and I agreed, that to adequately compensate for residual adverse impacts to CBC breeding habitat, conditions requiring the proponent to install, maintain and monitor at least 69 ANH within the onsite conservation area are required. I imposed these conditions, which are included in the conditions of approval at conditions, 30 to 32.
- 70) I accepted the department's recommendation that the proposed offset sites and beneficial actions are consistent with the EPBC Act Offsets Policy and will adequately compensate for residual adverse impacts to CBC.
- 71) I accepted the department's recommendation to impose conditions requiring the proponent to conduct baseline surveys of the offset sites. This will provide a baseline against which the department will be able to measure the ongoing success of the offset management plans once implemented. I imposed these conditions, which are included as conditions 10 and 11 in the conditions of approval.
- 72) I accepted the department's recommendation to condition the control and protection of the offset sites. I imposed these conditions, which are included as conditions 12 to 15 in the conditions of approval.
- 73) I accepted the department's recommendation to apply conditions to require the proponent to implement the offset management plans from the commencement of the action and for a period of 20 years. This is addressed through conditions 16 to 29.

#### *Conclusion*

- 74) Based on the nature and scale of the impacts, and after the implementation of the avoidance and mitigation measures and approval conditions including implementation of approved action management plans, I was satisfied that the impacts of the proposed action on CBC will be acceptable. I was satisfied that the proposed offsets will compensate for residual adverse impacts, provided the proposed action is undertaken in accordance with the proposed conditions.

#### **Forest Red-tailed Black Cockatoo (*Calyptorhynchus banksii naso*) (FRTBC) – Vulnerable**

##### *Protected matter biology and ecology*

- 75) I noted the Approved Conservation Advice for *Calyptorhynchus banksii naso* (Forest Red-tailed Black Cockatoo) dated 2009 (FRTBC conservation advice) which provides that the FRTBC is a long-lived, slow-breeding bird species whose populations are currently in decline and that the species is primarily threatened by habitat loss, nest shortage and competition, and injury and death from feral bees.
- 76) I considered according to the FRTBC conservation advice that habitat critical to the survival of FRTBC includes all Marri, Karri (*Eucalyptus diversicolour*), and Jarrah forests, woodlands, and remnants in the south-west of WA receiving more than 600 mm of annual average rainfall.
- 77) I noted according to the FRTBC conservation advice, that FRTBC breed and roost in taller trees such as Jarrah, Marri, and Wandoo and that breeding typically occurs in the hollows of trees of certain sizes, usually those measuring >30-50cm in diameter at breast height, depending on the species of tree.

- 78) I noted that further information on the characteristics, status and habitat requirements for FRTBC are available in the:
- a) Approved Conservation Advice for *Calyptorhynchus banksii naso* (Forest Red-tailed Black Cockatoo) dated 2009;
  - b) Referral guidelines for 3 WA threatened black cockatoo species: Carnaby's Cockatoo (*Zanda latirostris*), Baudin's Cockatoo (*Zanda baudinii*) and the Forest Red-tailed Black-cockatoo (*Calyptorhynchus banksii naso*) dated 2022; and
  - c) Forest Black Cockatoo (Baudin's Cockatoo *Calyptorhynchus baudinii* and Forest Red-tailed Black Cockatoo *Calyptorhynchus banksii naso*) Recovery Plan dated 2008.

#### *Proposed Action Area*

- 79) I observed that the project area is located within the modelled range of FRTBC.
- 80) As I noted in my reasons above at paragraph 49 the proponent conducted the Flora, Vegetation and Fauna Assessment across 2016 and 2017. The Flora, Vegetation and Fauna Assessment included assessments of the suitability of the project area for use by FRTBC. The 2019 Black Cockatoo Breeding Habitat Assessment included a targeted assessment of FRTBC breeding habitat within the project area. I also noted that the Chuditch Habitat Assessment conducted in 2020 opportunistically recorded evidence of FRTBC.
- 81) I noted that section 3.3.3 of the PD addresses the occurrence of FRTBC in the project area and surrounds and states that there is 296.8 ha of suitable foraging habitat for FRTBC within the project area. The PD also notes that the relevant surveys recorded several instances where evidence of FRTBC foraging was located within the project area. The PD states that of the 296.8 ha of foraging habitat, 119 ha is 'excellent foraging quality', 113.5 ha is 'Good foraging quality', and 64.2 ha is 'moderate foraging quality'. I agreed with these findings.
- 82) I noted that section 3.3.3 of the PD states that the nearest known breeding site for FRTBC occurs 1.2 km from the project area. The PD concludes that there is approximately 296.8 ha of suitable breeding habitat for FRTBC within the project area, including approximately 5940 potential breeding trees. The PD also states that 27 hollows suitable for use by FRTBC were recorded within the project area, of which, 16 showed evidence of past use, and the remaining 11 had entrances of suitable size but did not show evidence of use. One of these hollows was inhabited by feral bees. I agreed with these findings.
- 83) While no roosting activity was recorded during the surveys conducted within the project area, the PD concludes that the project area represents 296.8 ha of suitable FRTBC roosting habitat. I noted that the recommendation report refers to section 3.3.3 of the PD, which states that there are two confirmed FRTBC roost sites within 1 km of the project area. After considering this information I agreed with the department that the project area represents habitat suitable for FRTBC roosting.

#### *Impact assessment*

- 84) I noted that the impact assessment for FRTBC conducted by the proponent can be found in section 4.1 of the PD.
- 85) The PD states that impacts to FRTBC will arise through the clearing of 163.8 ha of FRTBC habitat suitable for foraging, breeding, and roosting, as well as the clearance of 23 hollows with

entrances considered to be of suitable size for use by FRTBC. I agreed with this assessment and noted that the Forest Black Cockatoo (Baudin's Cockatoo *Calyptorhynchus baudinii* and Forest Red-tailed Black Cockatoo *Calyptorhynchus banksii naso*) Recovery Plan highlights habitat loss as a key threat to FRTBC populations.

- 86) The PD also states that the proposed action will have the potential to indirectly and consequentially impact adjacent and retained FRTBC habitat through the spread of dieback, erosion, uncontrolled access, dust deposition, spills of hazardous waste material, the spread of weeds, vehicle collisions, negative interactions between FRTBC and non-native species such as dogs and cats, and consequential clearing of FRTBC habitat to facilitate a growing Stoneville population. I agreed with this assessment and noted that the Forest Black Cockatoo (Baudin's Cockatoo *Calyptorhynchus baudinii* and Forest Red-tailed Black Cockatoo *Calyptorhynchus banksii naso*) Recovery Plan highlights weeds and the spread of dieback as degrading processes for FRTBC habitat.
- 87) I considered that the Forest Black Cockatoo (Baudin's Cockatoo *Calyptorhynchus baudinii* and Forest Red-tailed Black Cockatoo *Calyptorhynchus banksii naso*) Recovery Plan also notes increased nest competition as a key threatening process for FRTBC. As the proposed action will clear 163.8 ha of breeding habitat, including 23 hollows and 3280 potential breeding trees, I considered that the proposed action will also impact FRTBC through an increase in nest competition.

#### *Avoidance and mitigation measures*

- 88) I noted that the proponent provided avoidance, mitigation and management measures in the PD, and that the proponent also prepared a CEMP, as part of the PD, that gave further detail on avoidance and mitigation measures.
- 89) I noted that on 24 April 2023, a delegate of the Minister accepted a variation under section 156B of the EPBC Act to reduce the total vegetation clearing impact from 180.3 ha to 163.8 ha, inclusive of areas subject to vegetation thinning for fire management purposes. I also noted that the total undisturbed vegetation to be preserved within the designated CA was increased from 82.5 ha to 133 ha. I noted the department's advice that the request to change the designation of the CA was accepted by the delegate of the minister, during the variation process, as the habitat quality improvement measures proposed for the CA went beyond that required for avoidance and mitigation.
- 90) I noted that the PD states the proposed action has been designed to maximise the use of existing cleared areas (182.2 ha) and assign the remnant vegetation of the highest condition to the CA (193.2 ha).
- 91) I accepted the recommendation from the department to impose conditions to minimise threats to FRTBC individuals and set maximum limits to the amount of FRTBC habitat that can be cleared. I imposed these conditions, which are included as conditions 1 to 5 in the conditions of approval.
- 92) I noted that, in the PD, the proponent has committed to implementing the CEMP provides for waste management, vegetation management actions to protect FRTBC habitat marked for inclusion within the proposed CA, dieback and weed management actions to prevent

degradation of the proposed CA, and fauna management actions to protect FRTBC individuals that may occur onsite.

- 93) I considered that the mitigation measures outlined in the CEMP that are of particular value for FRTBC include:
- a) Potential breeding trees will be checked by a fauna specialist no more than 7 days before the commencement of clearing of native vegetation. Should a FRTBC individual be detected during these inspections, the following actions will be taken:
    - i) the tree or trees identified will be clearly identified with flagging or fencing (as would be done for trees to be retained, regardless); and
    - ii) demarcate, with flagging or fencing, a 10 m buffer zone around the tree or trees so that no earthworks/clearing occurs within the buffer zone until it is confirmed that the hollow is no longer being used.
- 94) The department recommended, and I agreed, to impose a condition requiring the proponent to implement the CEMP to avoid and mitigate the impacts of the proposed development from the commencement of the action until all clearing and construction involving the movement of soil is complete. I noted the CEMP is included as condition 8 to the conditions of approval.
- 95) The department recommended, and I agreed, that as the proponent did not provide evidence to support its claim that the dieback management measures proposed in the CEMP are best practice, that the dieback management measures are inadequate. I therefore accepted the department's recommendation to impose additional dieback management conditions to further avoid and mitigate impacts to protected matters. I imposed these conditions, which are included as conditions 6, 7 and 9 in the conditions of approval.
- 96) The department considered, and I agreed, that with the additional dieback management measures, that the avoidance and mitigation measures proposed by the proponent will be effective in minimising harm to FRTBC and FRTBC habitat.
- 97) The department considered, and I agreed, that the mitigation measures proposed by the proponent and the above-mentioned conditions are relevant to the known threats to this species and not inconsistent with the management actions identified in FRTBC conservation advice and the Forest Black Cockatoo (Baudin's Cockatoo *Calyptorhynchus baudinii* and Forest Red-tailed Black Cockatoo *Calyptorhynchus banksii naso*) Recovery Plan.

#### *Residual adverse impacts and offsets*

- 98) I noted that the PD states that after the implementation of the proposed avoidance and mitigation measures, the proposed action will result in residual adverse impacts through the clearance of 163.8 ha of FRTBC habitat suitable for foraging, breeding, and roosting, and the clearance of 23 hollows suitable for use by FRTBC for breeding. I agreed with this conclusion and considered that in accordance with the EPBC Act Environmental Offsets Policy (2012), an environmental offset is required to compensate for the residual adverse impact to FRTBC.
- 99) I noted that, as part of the PD, the proponent provided an Offset Strategy which includes two separate offset proposals, namely the CA and a supplementary site in Williams, WA. The proponent has also supplied an offset management plan, as part of the PD, for each offset



proposal, which include measures to compensate for the residual adverse impacts to FRTBC. I noted that the two offset proposals are as follows:

- a) The CA –which will contain 133 ha of FRTBC habitat suitable for foraging, breeding and roosting. I have outlined the key threat abatement and habitat quality improvement measures for the CA above in my reasons at paragraph 68.
- b) The Williams Site – which will contain 577.2 ha of FRTBC habitat for foraging, breeding and roosting. I have outlined the key threat abatement and habitat quality improvement measures for the Williams Site above in my reasons at paragraph 68.

100) The department recommended, and I agreed, that to adequately compensate for residual adverse impacts to FRTBC breeding habitat, conditions requiring the proponent to install, maintain and monitor at least 69 ANH within the onsite conservation area are required. I imposed these conditions, which are included in the conditions of approval at conditions 30 to 32.

101) I accepted the department's recommendation that the proposed offset sites and beneficial actions are consistent with the EPBC Act Offsets Policy and will adequately compensate for residual adverse impacts to FRTBC.

102) The department recommended, and I agreed, to impose conditions requiring the proponent to conduct baseline surveys of the offset sites. This will provide a baseline against which the department will be able to measure the ongoing success of the offset management plans once implemented. I imposed these conditions, which are included as conditions 10 and 11 in the conditions of approval.

103) I accepted the department's recommendation, to condition the control and protection of the offset sites. I imposed these conditions, which are included as conditions 12 to 15 in the conditions of approval.

104) I accepted the department's recommendation to apply conditions to require the proponent to implement the offset management plans from the commencement of the action and for a period of 20 years. I imposed these conditions, which are included as conditions 16 to 29 in the conditions of approval.

### *Conclusion*

105) Based on the nature and scale of the impacts, and after the implementation of the avoidance and mitigation measures and approval conditions including implementation of approved action management plans and strategies, I was satisfied that the impacts of the proposed action on the FRTBC will be acceptable. I was satisfied that the proposed offsets will compensate for residual adverse impacts, provided the proposed action is undertaken in accordance with the proposed conditions.

### **Baudin's Black Cockatoo (*Calyptorhynchus baudinii* = *Zanda baudinii*) (BBC) – (Endangered)**

#### *Protected matter biology and ecology*

106) I noted the Conservation Advice (*Calyptorhynchus baudinii*) Baudin's Cockatoo dated 2018 (BBC conservation advice), which provides that BBC is a long-lived, slow-breeding bird species whose

populations are currently in decline, and that the species is primarily threatened by habitat loss, nest shortage and competition, and injury and death from feral bees

- 107) I noted according to the BBC conservation advice that habitat critical to the survival of BBC includes all Marri, Karri (*Eucalyptus diversicolour*), and Jarrah forests, woodlands, and remnants in the south-west of WA receiving more than 600 mm of annual average rainfall.
- 108) I noted that further information on the characteristics, status and habitat requirements for BBC are available in the:
- a) Conservation Advice (*Calyptorhynchus baudinii*) Baudin's Cockatoo dated 2018;
  - b) Referral guidelines for 3 WA threatened black cockatoo species: Carnaby's Cockatoo (*Zanda latirostris*), Baudin's Cockatoo (*Zanda baudinii*) and the Forest Red-tailed Black-cockatoo (*Calyptorhynchus banksii naso*) dated 2022; and
  - c) Forest Black Cockatoo (Baudin's Cockatoo *Calyptorhynchus baudinii* and Forest Red-tailed Black Cockatoo *Calyptorhynchus banksii naso*) Recovery Plan dated 2008.

#### *Proposed Action Area*

- 109) I observed that the project area is located within the modelled foraging and roosting range of BBC.
- 110) As I noted in my reasons above at paragraph 49, the proponent conducted the Flora, Vegetation and Fauna Assessment across 2016 and 2017 which included assessments of the suitability of the project area for use by BBC. I also noted that the Chuditch Habitat Assessment conducted in 2020 opportunistically recorded evidence of BBC.
- 111) I noted that section 3.3.2 of the PD addresses the occurrence of BBC in the project area and surrounds and states that there is 296.8 ha of suitable foraging habitat for BBC within the project area. The PD also notes that the relevant surveys recorded several instances where evidence of BBC foraging was located within the project area. The PD states that of the 296.8 ha of foraging habitat, 119 ha is 'excellent foraging quality', 113.5 ha is 'Good foraging quality', and 64.2 ha is 'moderate foraging quality'. I agreed, with these findings.
- 112) While no roosting activity was recorded during the surveys conducted within the project area, the PD concludes that the project area represents 296.8 ha of suitable BBC roosting habitat. I noted that the recommendation report refers to section 3.3.2 of the PD, which states that there are two confirmed CBC and/or BBC roost sites within 1 km of the project area. After considering this information I agreed with the department that the project area represents habitat suitable for BBC roosting.

#### *Impact assessment*

- 113) I noted that the impact assessment for BBC conducted by the proponent can be found in section 4.1 of the PD.
- 114) The PD states that impacts to BBC will arise through the clearing of 163.8 ha of BBC habitat suitable for foraging and roosting. I agreed with this assessment and noted that the BBC conservation advice highlights habitat loss is a key threat to BBC populations.

115) The PD also states that the proposed action will also have the potential to indirectly and consequentially impact adjacent and retained BBC habitat through the spread of dieback, erosion, uncontrolled access, dust deposition, spills of hazardous waste material, the spread of weeds, vehicle collisions, negative interactions between BBC and non-native species such as dogs and cats, and consequential clearing of BBC habitat to facilitate a growing Stoneville population. I agreed with this assessment and noted that the Forest Black Cockatoo (Baudin's Cockatoo *Calyptorhynchus baudinii* and Forest Red-tailed Black Cockatoo *Calyptorhynchus banksii naso*) Recovery Plan highlights weeds and the spread of dieback as degrading processes for BBC habitat.

*Avoidance and mitigation measures*

116) I noted that the proponent provided avoidance, mitigation and management measures in the PD, and that the proponent also prepared a CEMP, as part of the PD, that gave further detail on avoidance and mitigation measures.

117) I noted that on 24 April 2023, a delegate of the Minister accepted a variation under section 156B of the EPBC Act to reduce the total vegetation clearing impact from 180.3 ha to 163.8 ha, inclusive of areas subject to vegetation thinning for fire management purposes. I also noted that the total undisturbed vegetation to be preserved within the designated CA was increased from 82.5 ha to 133 ha. I noted the department's advice that the request to change the designation of the CA was accepted by the delegate of the minister, during the variation process, as the habitat quality improvement measures proposed for the CA went beyond that required for avoidance and mitigation.

118) I noted that the PD states the proposed action has been designed to maximise the use of existing cleared areas (182.2 ha) and assign the remnant vegetation of the highest condition to the CA (193.2 ha).

119) The department recommended, and I agreed, to impose conditions to minimise threats to BBC individuals and set maximum limits to the amount of BBC habitat that can be cleared, in order to minimise impacts to BBC as a result of the proposed action. I imposed these conditions, which are included in the conditions of approval at conditions 1 to 5.

120) I noted that, in the PD, the proponent has committed to implementing the CEMP which provides for waste management, vegetation management actions to protect BBC habitat marked for inclusion within the proposed CA, dieback and weed management actions to prevent degradation of the proposed CA, and fauna management actions to protect BBC individuals that may occur onsite.

121) The department recommended, and I agreed, to impose a condition requiring the proponent to implement the CEMP in order to avoid and mitigate impacts from the proposed development, from the commencement of the action until all clearing and construction involving the movement of soil is complete. I imposed this condition, which is included in the conditions of approval at condition 8.

122) The department recommended, and I agreed, that as the proponent did not provide evidence to support its claim that the dieback management measures proposed in the CEMP are best practice, that the dieback management measures are inadequate. I therefore accepted the

department's recommendation to impose additional dieback management conditions to further avoid and mitigate impacts to protected matters. I imposed these conditions, which are included as conditions 6, 7 and 9 in the conditions of approval.

123) The department considered, and I agreed, that with the additional dieback management measures, that the avoidance and mitigation measures proposed by the proponent will be effective in minimising harm to BBC and BBC habitat.

124) The department considered, and I agreed, that the mitigation measures proposed by the proponent and the above-mentioned conditions are relevant to the known threats to this species and not inconsistent with the management actions identified in the BBC conservation advice and the Forest Black Cockatoo (Baudin's Cockatoo *Calyptorhynchus baudinii* and Forest Red-tailed Black Cockatoo *Calyptorhynchus banksii naso*) Recovery Plan.

*Residual adverse impacts and offsets*

125) I noted that the PD states that after the implementation of the proposed avoidance and mitigation measures, the proposed action will result in residual adverse impacts through the clearance of 163.8 ha of BBC habitat suitable for foraging and roosting. I agreed with this conclusion and considered that in accordance with the EPBC Act Environmental Offsets Policy (2012), an environmental offset is required to compensate for the residual adverse impacts to BBC.

126) I noted that, as part of the PD, the proponent provided an Offset Strategy which refers to two separate offset proposals, the CA and a supplementary site in Williams, WA. The proponent also supplied an offset management plan, as part of the PD, for each offset proposal, which include measures to compensate for the residual adverse impacts to BBC. I noted that the two offset proposals are as follows:

- a) The CA – which will contain 133 ha of BBC habitat suitable for foraging, breeding and roosting. I have outlined the key threat abatement and habitat quality improvement measures for the CA above in my reasons at paragraph 68.
- b) The Williams Site - which will contain 577.2 ha of BBC habitat for foraging, breeding and roosting. I have outlined the key threat abatement and habitat quality improvement measures for the Williams Site above in my reasons at paragraph 68.

127) The department considered, and I agreed, that the proposed offset sites and beneficial actions are consistent with the EPBC Act Offsets Policy and will adequately compensate for residual adverse impacts to BBC.

128) The department recommended, and I agreed, to impose conditions requiring the proponent to conduct baseline surveys of the offset sites. This will provide a baseline against which the department will be able to measure the ongoing success of the offset management plans once implemented. I imposed these conditions, which are included in the conditions of approval at conditions 10 and 11.

129) The department recommended, and I agreed, to condition the control and protection of the offset sites. I imposed these conditions, which are included in the conditions of approval at conditions 12 to 15.

130) I accepted the department's recommendation to apply conditions to require the proponent to implement the offset management plans from the commencement of the action and for a period of 20 years. I imposed these conditions, which are included in the conditions of approval at conditions 16 to 19.

#### *Conclusion*

131) Based on the nature and scale of the impacts, and after the implementation of the avoidance and mitigation measures and approval conditions including implementation of approved action management plans and strategies, I was satisfied that the impacts of the proposed action on the BBC will be acceptable. I was satisfied that the proposed offsets will compensate for residual adverse impacts provided the proposed action is undertaken in accordance with the proposed conditions.

#### **Chuditch (*Dasyurus geoffroii*) – Vulnerable**

##### *Protected matter biology and ecology*

132) I noted the Chuditch (*Dasyurus geoffroii*) Recovery Plan (Chuditch recovery plan) dated 2012, which provides that free-ranging populations of Chuditch occur in varying densities in Jarrah forests and woodlands in the south-west corner of WA and that major threats to Chuditch currently include land clearing, predation by foxes and cats, and vehicle strike.

133) I noted according to the Chuditch recovery plan that habitats critical to Chuditch survival include, but are not limited to:

- a) areas currently occupied by Chuditch;
- b) areas where they breed or forage; and
- c) areas of natural vegetation that Chuditch use to move from one area to another.

134) I noted that information on the characteristics, status, and habitat requirements of Chuditch are available in the:

- a) Chuditch (*Dasyurus geoffroii*) Recovery Plan dated 2012;
- b) Threat Abatement Plan for Competition and Land Degradation by Rabbits dated 2016;
- c) Threat Abatement Plan for Predation by Feral Cats dated 2015; and
- d) Threat Abatement Plan for Predation by the European Red Fox dated 2008.

##### *Species presence and habitat*

135) As I noted in my reasons above at paragraph 49, the proponent conducted two Flora, Vegetation and Fauna Assessment site visits across 2016 and 2017 which I noted included preliminary assessments of Chuditch habitat across the project area. I also noted that in 2020 a targeted Chuditch Habitat Assessment was conducted, which included a two-week motion-sensitive camera study.

136) I noted that section 3.3.6 of the PD addresses the occurrence of Chuditch in the project area and surrounds. According to the PD, no direct or indirect evidence indicating the presence of Chuditch (such as scats, tracks or during camera trapping) was found during surveys for the species between 2016 and 2020, however a road-killed Chuditch was found near the junction

between McDowell Loop and Roland Road, adjacent to the south-west corner of the project area. The Chuditch Habitat Assessment, included as an annexure to the PD, states that the road-killed individual was a juvenile male, likely from the previous year's brood, suggesting that a breeding female is present in the area and that individuals of the species are present and likely to be dependent on the site for at least part of each year. I agreed with this assessment.

- 137) The PD concludes that the project area contains 296.8 ha of suitable Chuditch habitat. I agreed with this conclusion.

#### *Impact Assessment*

- 138) I noted that the impact assessment for Chuditch conducted by the proponent can be found in section 4.2 of the PD.

- 139) The PD states that impacts to Chuditch will arise through the clearance of 163.8 ha of Chuditch habitat. I agreed with this conclusion and noted that the recovery plan highlights habitat clearing as a major threat to Chuditch.

- 140) The PD also states that the proposed action will indirectly and consequentially impact Chuditch and adjacent and retained Chuditch habitat through the spread of dieback, erosion, uncontrolled access, dust deposition, spills of hazardous waste material, the spread of weeds, vehicle collisions, negative interactions between Chuditch and non-native species such as dogs and cats, and consequential clearing of Chuditch habitat to facilitate a growing Stoneville population. I accepted this assessment and noted that the Chuditch recovery plan highlights vehicle strike and predation by, and competition from, feral cats as major threats to Chuditch. I also considered that the Threat Abatement Plan for Predation by Feral Cats dated 2015 notes feral cats as a threatening process for Chuditch.

#### *Avoidance and mitigation measures*

- 141) I noted that the proponent provided avoidance, mitigation and management measures in the PD, and that the proponent also prepared a CEMP, as part of the PD, that gave further detail on avoidance and mitigation measures.

- 142) I noted that on 24 April 2023, a delegate of the Minister accepted a variation under section 156B of the EPBC Act to reduce the total vegetation clearing impact from 180.3 ha to 163.8 ha, inclusive of areas subject to vegetation thinning for fire management purposes. I also noted that the total undisturbed vegetation to be preserved within the designated CA was increased from 82.5 ha to 133 ha. I noted the department's advice that the request to change the designation of the CA was accepted by the delegate of the minister, during the variation process, as the habitat quality improvement measures proposed for the CA went beyond that required for avoidance and mitigation.

- 143) I noted that the PD states the proposed action has been designed to maximise the use of existing cleared areas (182.2 ha) and assign the remnant vegetation of the highest condition to the CA (193.2 ha).

- 144) The department recommended, and I agreed, to impose conditions to minimise threats to Chuditch individuals and set maximum limits to the amount of Chuditch habitat that can be cleared, in order to minimise the impacts to Chuditch that I discuss above, as a result of the

proposed action. I imposed these conditions, which are included as conditions 1 to 5 in the conditions of approval.

- 145) I noted that, in the PD, the proponent committed to implementing the CEMP which provides for waste management, vegetation management actions to protect Chuditch habitat marked for inclusion within the proposed CA, dieback and weed management actions to prevent degradation of the proposed CA, and fauna management actions to protect Chuditch individuals that may occur onsite.
- 146) The department recommended, and I agreed, that the mitigation measures outlined in the CEMP that are of particular value for Chuditch include:
- a) targeted trapping and relocation of conservation significant species prior to clearing in a given area;
  - b) maintaining housekeeping so as not to attract fauna to site, and not permitting feeding of fauna;
  - c) ensuring no domestic animals are brought to the site by construction personnel; and
  - d) in line with the relevant recovery plan, the implementation of 40 km/hr speed limits during construction to reduce probability of vehicle strike.
- 147) The department recommended, and I agreed, to implement a condition requiring the proponent to implement the CEMP in order to avoid and mitigate the impacts of the proposed development from the commencement of the action until all clearing and construction involving the movement of soil is complete. I noted the CEMP is included as condition 8 in the conditions of approval.
- 148) The department recommended, and I agreed, that as the proponent did not provide evidence to support its claim that the dieback management measures proposed in the CEMP are best practice, that the dieback management measures are inadequate. I therefore accepted the department's recommendation to impose additional dieback management conditions to further avoid and mitigate impacts to protected matters. I imposed these conditions, which are included as conditions 6, 7 and 9 in the conditions of approval.
- 149) The department considered, and I agreed, that with the additional dieback management measures, that the avoidance and mitigation measures proposed by the proponent will be effective in minimising harm to Chuditch and Chuditch habitat.
- 150) The department considered, and I agreed, that the mitigation measures proposed by the proponent and the above-mentioned conditions are relevant to the known threats to this species and not inconsistent with the management actions identified in the Chuditch recovery plan and the threat abatement plans listed in paragraph 134 above.

*Residual adverse impacts and offsets*

- 151) I noted that the PD states that after the implementation of the proposed avoidance and mitigation measures, the proposed action will result in residual adverse impacts through the clearance of 163.8 ha of Chuditch habitat. I agreed with this conclusion and considered that, in accordance with the EPBC Act Environmental Offsets Policy (2012), an environmental offset is required to compensate for the residual adverse impacts to Chuditch.



152) I noted that, as part of the PD, the proponent provided an Offset Strategy which includes two separate offset proposals, the CA and a supplementary site in Williams, WA. The proponent also supplied an Offset Management Plan, as part of the PD, for each offset proposal, which include measures to compensate for the residual adverse impacts to Chuditch. I considered that the two offset proposals are as follows:

- a) The CA – within the project area, will contain 133 ha of Chuditch habitat. I outlined the key threat abatement and habitat quality improvement measures proposed for the CA above in my reasons at paragraph 68. In addition to those measures outlined above, the proponent proposes to:
  - i) Implement fauna and pest management control, including the development and implementation of a feral fauna management plan which will reduce the threat of predation to Chuditch, in line with the Chuditch recovery plan and threat abatement plans; and
  - ii) relocate felled trees with hollows to the CA to act as additional denning opportunities.
- b) The Williams Site - will contain 577.2 ha of Chuditch habitat. I outlined the key threat abatement and habitat quality improvement measures proposed for the CA above in my reasons at paragraph 68.

153) I accepted the department's recommendation that the proposed offset sites and beneficial actions are consistent with the EPBC Act Offsets Policy and will adequately compensate for residual adverse impacts to Chuditch.

154) I accepted the department's recommendation to impose conditions, requiring the proponent to conduct baseline surveys of the offset sites. This will provide a baseline against which the department will be able to measure the ongoing success of the offset management plans once implemented. I imposed these conditions, which are included as conditions 10 and 11 in the conditions of approval

155) I accepted the department's recommendation to condition the control and protection of the offset sites. I imposed these conditions, which are included as conditions 12 to 15 in the conditions of approval.

156) I accepted the department's recommendation to apply conditions to require the proponent to implement the offset management plans from the commencement of the action and for a period of 20 years. I imposed these conditions, which are included as conditions 16 to 29 in the conditions of approval.

### *Conclusion*

157) Based on the nature and scale of the impacts, and after the implementation of the avoidance and mitigation measures and approval conditions including implementation of approved action management plans and strategies, I was satisfied that the impacts of the proposed action on the Chuditch will be acceptable. I was satisfied the proposed offsets will compensate for residual adverse impacts, provided the proposed action is undertaken in accordance with the proposed conditions.

### **Carter's Freshwater Mussel (*Westralunio carteri*) (CFM) – (Vulnerable)**

- 158) I noted the Conservation Advice for *Westralunio carteri* (Carter's Freshwater Mussel) dated 2018 (CFM conservation advice) which provides that CFM is found in freshwater streams, rivers, reservoirs, and lakes within 50-100 km of the coast, from Gingin Brook southward to the Kent River, Goodga River and Waychinicup River, and that the species is patchily distributed in sandy/muddy sediments of freshwater lakes, rivers and streams, with greatest densities associated with woody debris and overhanging riparian vegetation near stream banks and edges of lakes/dams.
- 159) I noted that threats to the species include increasing salinity, predation by feral pigs, water extraction, nutrient pollution resulting in low dissolved oxygen and high ammonia concentrations, and water pollution by heavy metals.
- 160) I noted that further information on the characteristics, status, and habitat requirements of CFM are available in the Approved Conservation Advice for *Westralunio carteri* (Carter's Freshwater Mussel) dated 2018.
- 161) I noted that the PD states the project area occurs within the modelled distribution of CFM and potential habitat for CFM occurs in four main streamlines across the site, all of which have had surface water capture dams constructed in the past. These four main dams have historically served as water sources for agricultural uses.
- 162) I noted that the PD states the closest confirmed location of the CFM to the project area is approximately 4 km to the south and is associated with a hydrological system that converges with Jane Brook 3 km southwest and downstream of the project area.
- 163) I noted that the PD includes an assessment of the likelihood of CFM occurrence within the project area based on the factors that are listed within the Conservation Advice for *Westralunio carteri* (Carter's Freshwater Mussel) as known to effect CFM presence. The PD concludes that the availability of perennial water, levels of total nitrogen, vegetation cover and salinity, and the paucity of host fish in the project area are likely to preclude the occurrence of CFM. I agreed with this conclusion.

#### Conclusion

- 164) Based on the information before me, and the recommendation of the department, I was satisfied that the proposed action is unlikely to have a significant impact on CFM.

#### Threatened flora

##### *Star Sun Orchid (Thelymitra stellata) – Endangered*

- 165) I noted that information on the characteristics, status, and habitat requirements of the Star Sun Orchid are available in the Approved Conservation Advice for *Thelymitra stellata* (Star Sun Orchid) dated 2008 and the Threat Abatement Plan for Competition and Land Degradation by Rabbits dated 2016.
- 166) I noted that the PD states that no records of the Star Sun Orchid are known from within or near the project area, with the nearest known population situated approximately 15 km away based on Western Australian State Herbarium records.
- 167) I noted that the PD states that this species was not recorded in either the 2016 or 2017 Flora, Vegetation and Fauna Surveys (which I discuss above in my reasons at paragraph 49) and whilst

the project area was not considered to be suitable habitat, areas supporting scattered low shrubs were investigated further during the field survey for the presence of the Star Sun Orchid.

168) I noted that the PD suggests that due to historical degradation within and adjacent to the project area, most patches of remnant vegetation comprise a degraded or absent understorey, meaning that the low heath and scrub known to support the Star Sun Orchid is not present, or has been degraded to a level that it is unlikely to support small herbaceous species such as orchids.

169) Based on the information before me, and the recommendation of my department, I was satisfied that the proposed action is unlikely to have a significant impact on the Star Sun Orchid.

*Zig Zag Grevillea (Grevillea flexuosa) – Vulnerable*

170) I noted that Information on the characteristics, status, and habitat requirements of the Zig Zag Grevillea are available in the Approved Conservation Advice for *Grevillea flexuosa* (Zig Zag Grevillea) dated 2008 and the Threat Abatement Plan for Disease in Natural Ecosystems Caused by *Phytophthora cinnamomii* dated 2018.

171) I noted that the PD states that this species was not recorded within the project area in either the 2016 or 2017 Flora, Vegetation and Fauna Surveys, or the 2019 Targeted Flora Survey (I discussed these surveys above in my reasons at paragraph 49). Potential habitat for this species was located within the project area and these areas were surveyed during the known flowering period for the species, however no individuals were recorded. The 2019 Targeted Flora Survey concluded that this is not unexpected, as much of the proposed action area has been heavily grazed over many years and lacks a diverse understorey layer. The PD concludes that the Zig Zag Grevillea is unlikely to occur in the project. I agreed with this conclusion.

172) Based on the information before me, and the recommendation of my department, I was satisfied that the proposed action is unlikely to have an impact on the Zig Zag Grevillea.

*Leafless Rock Wattle (Acacia aphylla) – Vulnerable*

173) I noted that information on the characteristics, status, and habitat requirements of the Leafless Rock Wattle are available in the Approved Conservation Advice for *Acacia aphylla* (Leafless Rock Wattle) dated 2008.

174) I noted that the PD states that this species was not recorded within the project area in either the 2016 or 2017 Flora, Vegetation and Fauna Surveys, or the 2019 Targeted Flora Survey (I discussed these surveys above in my reasons at paragraph 49). Potential habitat for this species was located within the project area and these areas were surveyed during the known flowering period for the species, however no individuals were recorded. The 2019 Targeted Flora Survey concluded that this is not unexpected, as much of the proposed action area has been heavily grazed over many years and lacks a diverse understorey layer.

175) The PD concludes that the Leafless Rock Wattle is unlikely to occur in the project area. I agreed with this conclusion.

176) Based on the information before me, and the recommendation of my department, I was satisfied that the proposed action is unlikely to have a significant impact on the Leafless Rock Wattle.

**Overall conclusion on sections 18 & 18A**

- 177) Based on the above information, I concluded that, the likely impacts of the proposed action on CBC, FRTBC, BCB and Chuditch will be acceptable, provided the action is undertaken in accordance with the recommended conditions.
- 178) I did not consider the proposed action will have a significant impact on Carter's Freshwater Mussel, the Star Sun Orchid, the Zig Zag Grevillea, the Leafless Rock Wattle, or any other relevant listed threatened species or community.
- 179) In addition, I also concluded that the action is not inconsistent with any applicable in-force conservation advices, recovery plans or threat abatement plans for listed threatened species and ecological communities.
- 180) Having considered all matters required to be considered under the EPBC Act, I concluded the proposed action be approved, subject to the recommended conditions.

**Social and economic matters (section 136(1)(b))**

- 181) In deciding whether or not to approve the taking of the proposed action, I considered the social and economic matters relevant to the proposal in accordance with section 136(1)(b) of the EPBC Act.
- 182) I noted that the proposed action will include the construction of 1,350 residential lots and 60 rural residential lots, as well as the proposed construction of two primary schools, an activity centre, a childcare centre and retail spaces. I also took into account that the PD estimated an average total project construction employment impact of 265 jobs and that long term employment may be up to approximately 99 jobs following project completion.
- 183) I understood the financial costs of the proposed action are likely to total approximately \$198 million AUD over a 15-year timeframe, and that the house construction costs are likely to total approximately \$350 million (assuming a \$250,000 average cost per lot). I noted that the further construction inputs for the activity centre and schools were predicted in the PD, but not quantified. However, I considered that social benefits will arise from the delivery of the proposed residential lots, 2 schools and retail outlets.
- 184) I noted that there are six registered indigenous heritage sites within the project area, and that an application was submitted in 1998 under section 18 of the *Aboriginal Heritage Act 1972* (WA). The purpose of the application was to allow residential subdivision, and this application was approved subject to a number of conditions set out by the WA Minister for Aboriginal Affairs. I understood that consultation was undertaken with the Aboriginal Cultural Material Committee as part of the referral under section 18 of the *Aboriginal Heritage Act 1972* (WA). I also noted that the National Indigenous Australians Agency did not respond to the department's request for comment at the referral stage.
- 185) As discussed in my reasons at paragraphs 17 and 27, I am aware of opposition from the local community towards the proposed action. In particular, I noted concerns about impacts to CBC, FRTBC and BBC, offsets and bushfire risk, and I noted the proponent's response to these issues as discussed in its response to submissions provided on 18 December 2020 along with an updated PD. I understood that on 1 February 2021, the department advised the proponent, that

its response to public comments was inadequate and that the PD was further updated between March 2021 and September 2022.

- 186) I considered that the final PD includes changes in response to public comments, including an updated assessment of impacts and a revised offset strategy. I noted that, in recommending the proposed action be approved, the department advised that, for CBC, BBC and FRTBC, based on the nature and scale of the impacts, and after the implementation of the avoidance and mitigation measures, offsets to compensate for residual adverse impacts, and approval conditions, the impacts of the proposed action on CBC, FRTBC and BBC are acceptable.
- 187) I noted that the PD included information on bushfire risk and that the proponent's response to this issue include asset protection zones and a commitment, by the proponent, to provide a bushfire management plan.
- 188) I also noted that the project also requires local council approval and that my department identified that that on 12 August 2019, the Shire of Mundaring Council recommended that the WAPC refuse the Stoneville Townsite Structure Plan, and on 14 July 2020 the WAPC refused the proposal's structure plan under the *Planning and Development Act 2005 (WA)*, including for reasons of bushfire risk. I noted that the matter is still being considered by the State Administrative Appeals Tribunal.

## **Factors to be taken into account**

### ***Ecologically sustainable development (section 136(2)(a))***

- 189) In deciding whether or not to approve the taking of the proposed action, I took into account (among other matters) the principles of ecologically sustainable development (ESD) as I was required to, under section 136(2)(a) of the EPBC Act.
- 190) The principles of ESD, as defined in Part 1, section 3A of the EPBC Act, are:
- a) decision-making processes should effectively integrate both long-term and short-term economic, environmental, social and equitable considerations;
  - b) if there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation;
  - c) the principle of inter-generational equity – that the present generation should ensure that the health, diversity and productivity of the environment is maintained or enhanced for the benefit of future generations;
  - d) the conservation of biological diversity and ecological integrity should be a fundamental consideration in decision-making;
  - e) improved valuation, pricing and incentive mechanisms should be promoted.
- 191) I took into account the information contained in the PD and the assessment documentation and considered that it provided sufficient information on the long-term and short-term economic, environmental, social and equitable considerations and impacts that are relevant to the decision and these have been addressed.
- 192) In particular, I considered the following matters:

- a) That the recommendation report and the assessment documentation contain sufficient information on the long-term and short-term economic, environmental, social and equitable considerations and impacts that are relevant to the decision;
- b) That there was no lack of certainty in determining the potential impacts of the projects and the impacts are proposed to be mitigated by conditions that avoid and/or restrict environmental impacts, impose strict monitoring requirements and adopt environmental standards which, if not achieved, require the application of response mechanisms in a timely manner;
- c) That the proposed conditions will ensure protection of EPBC listed species and communities. Those conditions allow for the project to be delivered and operated in a sustainable way to protect the environment for future generations and preserve EPBC listed species and communities into perpetuity;
- d) The importance of conserving biological diversity and ecological integrity in relation to all of the controlling provisions for this project; and
- e) The department's recommendation report includes reference to and consideration of a range of information on the economic costs, benefits and impacts of the project.

***Precautionary principle (section 391)***

- 193) In deciding whether or not to approve the taking of the action I took into account the precautionary principle, as required under section 391 of the EPBC Act.
- 194) I took into account the precautionary principle by considering whether there were threats of serious or irreversible environmental damage with respect to the relevant matters protected by the EPBC Act, and whether there was a lack of full scientific certainty. The department recommended, and I agreed, that sufficient information on the on the impacts of the proposed action has been supplied to the department, allowing adequate assessment of these impacts. I agreed with the department that there is no scientific uncertainty as to the impacts of the proposed action. For these reasons, the department considered, and I agreed, that the precautionary principle does not apply.

***Preliminary documentation – section 136(2)(bc)***

- 195) In accordance with section 136(2)(bc)(i), I took into account the document given to me under section 95B(1).
- 196) In accordance with section 136(2)(bc)(ii), I took into account the recommendation report relating to the proposed action which I was given under section 95C of the EPBC Act.

***Relevant comments – section 136(2)(f)***

- 197) I noted that public comments were invited on the referral and the draft assessment documentation. The department recommended and I agreed, that adequate public consultation for the proposed action had occurred. Therefore, I agreed with the department that I should not invite public comment under section 131A on the proposed decision and recommended conditions of approval, as additional public comment was unlikely to elicit views or information that have not already been considered in relation to the proposed action.

198) As required under section 131, I invited the following Ministers, who I considered may have administrative responsibilities relating to the proposed action, to comment within 10 business days:

- a) Mr Alistair Jones, Director General, DWER I noted that a comment was received from DWER on the day the final decision was signed, outside the 10 business day period for comment. On this basis, I did not take the comment into account.

199) As required under section 131AA(1), I invited the proponent to provide comments on the proposed decision and recommended conditions of approval within 10 business days of the proposed decision date. I discuss my consideration of the proponent's response to this invitation at paragraphs 29 to 32.

### **Other matters for decision making**

#### ***Environmental history of the proponent – section 136(4)***

200) In deciding whether or not to approve the taking of an action by a person, and what conditions to attach to an approval, I 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.

201) The Compliance and Enforcement Branch (**CEB**) within the department, advised that the proponent has been involved in several non-compliance cases, however these have been successfully resolved in a timely manner, and that CEB is not aware of any contraventions of national environmental laws.

202) The CEB also recommended that they could not advise on whether there has been a contravention of state environmental laws, as at this time, CEB had been unable to check the historical compliance databases which held records up until September 2021.

203) The department recommended, and I agreed, that based on the environmental history check completed by the CEB and the Proponent's Environmental Policy that the proponent is a suitable person to be granted an approval under the EPBC Act in accordance with section 136(4).

#### ***Minister not to consider other matters – section 136(5)***

204) I noted that in deciding whether or not to approve the taking of an action, and what conditions to attach to an approval, I must not consider any matters that the Minister is not required or permitted to consider by Division 1, Part 9 of the EPBC Act or Division 2, Part 9 of the EPBC Act.

205) In forming my decision about whether or not to approve the proposed action, and what conditions (if any) to attach, I did not consider any matters that I was not required or permitted to consider under Division 1, Part 9 of the EPBC Act

#### ***Requirements for decisions about threatened species and endangered communities (section 139)***



*Section 139(1)(a)*

206) As required by section 139(1)(a) of the EPBC Act, I considered Australia's obligations under the Biodiversity Convention, [Convention on the Conservation of Nature in the South Pacific \(Apia Convention\)](#) and Convention on International Trade in Endangered Species of Wild Fauna and Flora (**CITES**). I considered that approving the action subject to conditions would not be inconsistent with these three conventions.

*Biodiversity Convention*

207) I noted that the objectives of the Biodiversity Convention are the conservation of biological diversity, the sustainable use of its components and the fair and equitable sharing of the benefits arising out of the utilisation of genetic resources, including by appropriate access to genetic resources and by appropriate transfer of relevant technologies, taking into account all rights over those resources and to technologies, and by appropriate funding.

208) I considered that my decision to approve the taking of the action is not inconsistent with the Biodiversity Convention, which promotes environmental impact assessment (such as this process) to avoid and minimise adverse impacts on biological diversity. I also gave particular consideration to an appropriate combination of avoidance and mitigation measures for the management of species potentially impacted by the proposed action.

209) I considered that the Biodiversity Convention is not inconsistent with my decision to approve the taking of the action, subject to avoidance, mitigation, and management measures for listed threatened species and communities. The approval required information related to the action to be publicly available to ensure equitable sharing of information and improved knowledge relating to biodiversity.

*Apia Convention*

210) I noted that Apia Convention encourages the creation of protected areas which together with existing protected areas will safeguard representative samples of the natural ecosystems occurring therein (particular attention being given to endangered species), as well as superlative scenery, striking geological formations, and regions and objects of aesthetic interest or historic, cultural or scientific value.

211) I further noted that the Apia Convention was suspended with effect from 13 September 2006. While this Convention has been suspended, Australia's obligations under the Convention were taken into consideration by the department in preparing its recommendation. I agree that the recommendation for approval was not inconsistent with the Convention which has the general aims of conservation of biodiversity.

*CITES*

212) I noted that the [Convention on International Trade in Endangered Species of Wild Fauna and Flora \(CITES\)](#) is an international agreement between governments. Its aim is to ensure that international trade in specimens of wild animals and plants does not threaten their survival.

213) I was satisfied with the department's recommendations that approving the proposed action, subject to conditions, would not be inconsistent with CITES as the proposed action does not involve international trade.

### *Recovery Plans and Threat Abatement Plans*

214) As required by section 139(1)(b), I considered the relevant Recovery Plans, that I discussed above in my reasons, at the relevant protected matter:

- a) Department of Parks and Wildlife (2013). Carnaby's Cockatoo (*Calyptorhynchus latirostris*) Recovery Plan;
- b) Department of Environment and Conservation (2012). Chuditch (*Dasyurus geoffroii*) Recovery Plan; and
- c) Department of Environment and Conservation (2008). Forest Black Cockatoo (Baudin's Cockatoo *Calyptorhynchus baudinii* and Forest Red-tailed Black Cockatoo *Calyptorhynchus banksii naso*) Recovery Plan.

215) I also considered the following Threat Abatement Plans, that I discussed above in my reasons, at the relevant protected matter:

- a) Department of the Environment and Energy (2018). Threat abatement plan for disease in natural ecosystems caused by *Phytophthora cinnamomi*;
- b) Department of the Environment (2015). Threat abatement plan for predation by feral cats;
- c) Department of the Environment and Energy (2016). Threat abatement plan for competition and land degradation by rabbits; and
- d) Department of the Environment, Water, Heritage and the Arts (2008). Threat abatement plan for predation by the European red fox.

216) The department considered, and I agreed, that provided the proponent implements the approval conditions, the action would not be inconsistent with any relevant Recovery Plan or Threat Abatement Plan.

217) I agreed with the department that the approval conditions will ensure that significant impacts are avoided, and mitigated to an acceptable level and will provide for compensatory measures where is likely to be a residual impact to ensure viable habitat for the CBC, FRTBC, BBC and Chuditch.

### *Conservation Advice*

218) In deciding whether or not to approve the taking of the action, as required by section 139(2), I had regard to the following approved Conservation Advices:

- a) Department of the Environment, Water, Heritage and the Arts (2009). Approved Conservation Advice for *Calyptorhynchus banksii naso* (Forest Red-tailed Black Cockatoo);
- b) Threatened Species Scientific Committee (2018). Conservation Advice *Calyptorhynchus baudinii* (Baudin's cockatoo);
- c) Department of the Environment, Water, Heritage and the Arts (2008). Approved Conservation Advice for *Grevillea flexuosa* (Zig Zag Grevillea);
- d) Threatened Species Scientific Committee (2018). Conservation Advice *Westralunio carteri* (Carter's freshwater mussel);

- e) Department of the Environment, Water, Heritage and the Arts (2008). Approved Conservation Advice for *Acacia aphylla* (Leafless Rock Wattle); and
- f) Department of the Environment, Water, Heritage and the Arts (2008). Approved Conservation Advice for *Thelymitra stellata* (Star Sun-orchid).

219) The department advised, and I agreed, that approval of this action would not be inconsistent with the conservation advice for these EPBC Act listed species.

#### ***Bioregional Plans - section 176(5)***

220) In accordance with section 176(5), I must have regard to a bioregional plan in making any decision under the EPBC Act to which the plan is relevant.

221) I noted that the proposed action is not located within or near an area designated by a bioregional plan, and that there are no bioregional plans relevant to the proposed action.

#### ***Conditions of approval***

222) In accordance with section 134(1) of the EPBC Act, I may attach conditions to the approval of the action if I was 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).

223) I considered the likely scope and severity of the impacts to MNES, and the proposed avoidance and mitigation measures, and accepted the department's advice that it is likely the proposed action will result in residual significant impact to CBC, FRTBC, BBC and Chuditch.

224) The department advised, and I agreed, that it is necessary or convenient to apply approval conditions to this project, as detailed in the proposed decision notice. The key conditions relating to protected matters have been discussed above under each controlling provision.

225) I accepted the department's advice that the conditions met the requirements of section 134(1) of the EPBC Act since they were necessary to protect, repair or mitigate damage to CBC, FRTBC, BBC and Chuditch, which are the matters protected by a provision of Part 3 for which this approval would have effect.

#### ***Additional considerations for conditions***

226) In accordance with section 134(4) of the EPBC Act, in deciding whether to attach a condition to an approval, I must consider all of the following:

*s134(4)(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*

227) I noted that the department was not aware of any conditions that may be imposed on the taking of the action under a law of a State or self-governing Territory or another law of the Commonwealth.

228) In accordance with section 134(4)(aa) of the EPBC Act, I must consider the following:

*s134(4)(aa) Information provided by the person proposing to take the action or by the designated proponent of the action*

229) I took into account the information in the documentation provided by the proponent in making my decision on whether or not to approve the proposed action.

230) In accordance with section 134(4)(b) of the EPBC Act, I must consider the following:

*s134(4)(b) The desirability of ensuring as far as practicable that the condition is a cost-effective means for the Commonwealth and the person taking the action to achieve the object of the condition.*

231) I noted that, subsection 134(3A) states certain conditions cannot be attached to the approval of an action unless the holder of the approval has consented to the attachment of the condition. I noted that, prior to the decision being made, the proponent agreed to the conditions.

### **Conclusion**

232) I concluded that the proposed action was likely to impact on important habitat for EPBC listed species. I considered that the likely impacts of the proposed action on MNES would not be unacceptable, provided the proposed action was undertaken in accordance with the conditions of approval recommended by the department.

233) Having considered all matters required to be considered under the EPBC Act and in light of my findings above, I decided to approve the taking of the proposed action, subject to conditions, for the purposes of sections 18 and 18A of the EPBC Act.

234) My approval will have effect until 18 September 2134.

235) In light of the findings above, and having not considered any other matter which I was not required or permitted to consider, I decided to approve, subject to conditions, the taking of the proposed action.

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<b>name and position</b>	Kylie Calhoun Branch Head Environment Assessments West
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**Signature**




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<b>date of decision</b>	16 December 2024
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## Annexure A

Section 130 of the (EPBC Act) relevantly provides:

### *Basic rule*

236) 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.

1A) 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) 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:
  - 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
  - b) invite the other Minister to give the Environment Minister comments on the proposed decision within 10 business days.

A Minister invited to comment may make comments that:

- c) relate to economic and social matters relating to the action; and
- d) 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) 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) the decision the Minister proposes to make; and
    - ii) if the Minister proposes to approve the taking of the action – any conditions the Minister proposes to attach to the approval; and

- 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.

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):

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

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

- g) information that is in the public domain; or
  - h) a copy of so much of a document as in the public domain; or
  - i) 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*

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*

The Minister must:

- c) give a copy of the approval to the person named in the approval under paragraph 133(2)(c); and
- d) 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*

- 7) 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*

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:

- c) protecting from the action any matter protected by a provision of Part 3 for which the approval has effect; or
- d) 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*

The conditions that may be attached to an approval include:

- aa) conditions requiring specified activities to be undertaken for:
  - i) 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
  - ii) 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:

- i) to comply with this Act and the regulations; and
- ii) not to contravene a condition attached to the approval; and
- iii) 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:
  - i) an action management plan to be submitted to the Minister for approval, accompanied by the fee (if any) prescribed by the regulations; and
  - ii) 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*

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

- c) 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
- d) 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*

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*

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

- c) the principles of ecologically sustainable development; and
- d) 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:
  - i) 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
  - ii) the recommendation report relating to the action given to the Minister under section 95C; and
- e) if Division 5 (public environment reports) of Part 8 applies to the action:
  - i) the finalised public environment report relating to the action given to the Minister under section 99; and
  - ii) 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:
  - i) the finalised environmental impact statement relating to the action given to the Minister under section 104; and
  - ii) the recommendation report relating to the action given to the Minister under section 105; and
- f) if an inquiry was conducted under Division 7 of Part 8 in relation to the action – the report of the commissioners; and
- g) 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
- h) any relevant comments given to the Minister in accordance with an invitation under section 131 or 131A; and
- i) 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*

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 in part:

- 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.

## Annexure B

### A: Recommendation report

A1. Final Preliminary Documentation – 15 May 2024

A2. Proposed Approval Decision Notice

A3. Letters FOR SIGNATURE

A3i. Letter to Proponent

A3ii. Letter to DWER

A4. Proposed Approval Decision Brief

A5. Referral Documentation

A5i. Decision Notice

A5ii. Letter to Proponent

A5iii. Letter to DWER

A5iv. Fee Schedule with Justifications

A5v. Fee Schedule without Justifications

A5vi. PMST Report 1 April 2019

A5vii. EPBC Species and Communities Update 29 March 2019

A5viii. Black Cockatoo Referral Guidelines

A5ix. Significant Impact Guidelines

A5x. Referral Document

A5xi. Environmental Assessment Report November 2018

A5xii. Flora, Vegetation and Fauna Survey Parts 1, 2 and 3

A5xiii. Site location

A5xiv. Concept Masterplan

A5xv. Department of Agriculture and Water Resources Invitation and Comment

A5xvi. Minister for Indigenous Affairs Invitation to Comment

A5xvii. DWER Invitation to Comment

A5xviii. Public Comment

A5xix. Referral Decision Brief

A6. Variation Documentation

A6i. Variation Decision Notice

A6ii. Letter to Proponent

A6iii. Letter to DWER

A6iv. Referral Decision Notice

A6v. Proponent Request for Variation

A6vi. EPBC Act Regulations 5.07 and 5.08

A6vii. Email from Proponent Clarifying Project Components

A6viii. Variation Decision Brief

A7. Assessment Documentation

A7i. DCCEEW Initial Request for Further Information 26 July 2019

A7ii. PD Revision 0 received 6 May 2020, parts 1, 2, 3, 4 and 5

A7iii. DCCEEW Comments on PD Revision 0, 19 June 2020

A7iv. PD Revision 1 – 9 July 2020, parts 1, 2, 3, 4 and 5

A7v. Direction to Public Documentation

A7v.a. Letter to Proponent

A7v.b. Publication Requirements

A7v.c. Fee Schedule with Justifications

A7v.d. Fee Schedule without Justifications

A7v.e. Original Fee Schedule with Justifications

A7v.f. RFI 26 July 2019

A7v.g. RFI 19 June 2020

A7v.h. Original Referral

A7v.i. Draft PD

A7v.j. Revised PD

A7v.k. Direction to Publish Brief



- A7vi. Proponent Response to Public Submissions – 18 December 2020
- A7vii. PD Revision 2 – 20 December 2020 11 January 2021, parts 1 and 2
- A7viii. Comments on Response to Public Submissions and PD Revision 2, 1 February 2021
- A7ix. PD Revision 3 – March/April 2021 30 March 2021, parts 1, 2, 3, 4 and 5
- A7x. Comments on PD Revision 3, 2 July 2021
- A7xi. PD Revision 4 – August/September 2022, parts 1, 2, 3, 4, 5 and 6
- A7xii. Comments on PD Revision 4, 24 November 2022
- A7xiii. PD Revision 5 – 5 April 2023, parts 1, 2 and 3
- A7xiv. Comments on PD Revision 5, 16 June 2023
- A7xv. PD Revision 6 – updated documents dated 23 August 2023, parts 1, 2 and 3
- A7xvi. Comments on PD Revision 6, 4 September 2023
- A7xvii. PD Revision 7 – October 2023, parts 1 and 2
- A7xviii. Comments on PD Revision 7, 9 November 2023
- A7xix. PD Revision 8 – 16 November 2023
- A7xx. Comments on PD Revision 8, 18 December 2023
- A7xxi. PD Revision 9 – March 2024, part 1 and 2
- A7xii. Comments on PD Revision 9, 9 May 2024
- A7xiii. PD Revision 10 – 15 May 2024
- A7xxiv. Direction to Public (Information Only)
  - A7xxiv.a. Notification that PD is Adequate – 23 May 2024
  - A7xxiv.b. Notification that Notice is Adequate – 28 May 2024
  - A7xxiv.c. Notice of Publication

#### A8. DCCEE Offset Calculations

- A8i. Conservation Area Calculations
  - A8i.a. CBC and justifications
  - A8i.b. FRTBC and justifications
  - A8i.c. BBC and justifications

A8i.d. Chuditch and justifications

A8ii. Williams Site (vegetated area) Calculations

A8ii.a. CBC and justifications

A8ii.b. FRTBC and justifications

A8ii.c. BBC and justifications

A8ii.d. Chuditch and justifications

A8iii. Williams Site (revegetation area) Calculations

A8iii.a. CBC and justifications

A8iii.b. FRTBC and justifications

A8iii.c. BBC and justifications

A8iii.d. Chuditch and justifications

A9. Recovery Plans

A9i. Department of Parks and Wildlife (2013). Carnaby's Cockatoo (*Calyptorhynchus latirostris*) Recovery Plan. Department of Parks and Wildlife, Perth, Western Australia.

A9ii. Department of Environment and Conservation (2012). Chuditch (*Dasyurus geoffroii*) Recovery Plan. Wildlife Management Program No. 54. Department of Environment and Conservation, Perth, Western Australia.

A9iii. Department of Environment and Conservation (2008). Forest Black Cockatoo (Baudin's Cockatoo *Calyptorhynchus baudinii* and Forest Red-tailed Black Cockatoo *Calyptorhynchus banksii naso*) Recovery Plan. Department of Environment and Conservation, Canberra, ACT. (This recovery plan ceased to be in effect from 1/10/21 but contains relevant information).

A10. Conservation Advice

A10i. Department of the Environment, Water, Heritage and the Arts (2009). Approved Conservation Advice for *Calyptorhynchus banksii naso* (Forest Red-tailed Black Cockatoo). Department of the Environment, Water, Heritage and the Arts, Canberra, ACT.

A10ii. Threatened Species Scientific Committee (2018). Conservation Advice *Calyptorhynchus baudinii* (Baudin's cockatoo). Department of the Environment and Energy, Canberra, ACT.

A10iii. Threatened Species Scientific Committee (2018). Conservation Advice *Westralunio carteri* (Carter's freshwater mussel). Department of the Environment and Energy, Canberra, ACT.

A10iv. Department of the Environment, Water, Heritage and the Arts (2008). Approved Conservation Advice for *Thelymitra stellata* (Star Sun-orchid). Department of the Environment, Water, Heritage and the Arts, Canberra, ACT.

A10v. Department of the Environment, Water, Heritage and the Arts (2008). Approved Conservation Advice for *Grevillea flexuosa* (Zig Zag Grevillea). Department of the Environment, Water, Heritage and the Arts, Canberra, ACT.

A10vi. Department of the Environment, Water, Heritage and the Arts (2008). Approved Conservation Advice for *Acacia aphylla* (Leafless Rock Wattle). Department of the Environment, Water, Heritage and the Arts, Canberra, ACT.

#### A11. Threat Abatement Plans

A11i. Department of the Environment (2015). Threat abatement plan for predation by feral cats. Department of the Environment, Canberra, ACT.

A11ii. Department of the Environment and Energy (2016). Threat abatement plan for competition and land degradation by rabbits. Department of the Environment and Energy, Canberra, ACT.

A11iii. Department of the Environment, Water, Heritage and the Arts (2008). Threat abatement plan for predation by the European red fox. Department of the Environment, Water, Heritage and the Arts, Canberra, ACT.

A11iv. Department of the Environment and Energy (2018). Threat abatement plan for disease in natural ecosystems caused by *Phytophthora cinnamomi*. Department of the Environment and Energy, Canberra, ACT.

#### A12. Other Guidance Documents

A12i. Department of Agriculture, Water and the Environment (2022). Referral Guideline for 3 WA threatened black cockatoo species.

A12ii. Department of the Environment, Water, Heritage and the Arts (2010). Survey Guidelines for Australia's Threatened Birds. EPBC Act survey guidelines 6.2.

A12iii. Department of Sustainability, Environment, Water, Population and Communities (2011). Survey guidelines for Australia's threatened mammals. EPBC Act survey guidelines 6.5.

#### A13. Internal Consultation

A13i. Environmental History Check, parts 1 and 2

A13ii. PMST Report – 6 August 2024

A13iii. Protected Species and Communities Update - 2 August 2024

A13iv. Advice from Protected Species and Communities Branch – 7 August 2024

A13v. Advice from EPBC Conditions Team, parts 1, 2, and 3

#### A14. Other Documentation

A14i. Black Cockatoo Foraging Habitat Scoring Tool

A14ii. Chuditch Habitat Scoring Tool

A14iii. Meeting Minutes for Local Planning Refusal Decision

A14iv. Confirmation of No State Referral Requirements From DWER

A14v. Schedule for Appeals Process at WAPC and SAT

A14vi. Department of Sustainability, Environment, Water, Population and Communities (2012). Environment Protection and Biodiversity Conservation Act 1999 Environmental Offsets Policy

A14vii. Save Perth Hills Comment 19 June 2024 and attachment

A14viii. Save Perth Hills Comment 20 June 2024

A14ix. EPBC Condition-setting Policy

A14x. Extension of Timeframe Brief

A14xi. Satterley Request for Extension of Directions Hearing Timeframe

**B: Letters to relevant parties FOR SIGNATURE:**

B1. Letter to Proponent

B2. Letter to DWER

**C: Final approval decision notice FOR SIGNATURE**

**D: Consultation with proponent on conditions**

D1. Response to Invitation to Comment on Proposed Decision

D2. Proposed decision notice with changes addressed (track changes)

D3. Proponent Agreement to Conditions

**E: Proposed Decision Package**

E1. Proposed Decision Brief

E2. Finalised preliminary documentation – 15 May 2024

E3. Letters to relevant parties:

E3i. Letter to Proponent

E3ii. Letter to DWER

E4. Proposed approval decision notice

E5. Assessment Documentation:

- E5i. PD Revision 0 – 6 May 2020, parts 1, 2, 3, 4 and 5
- E5ii. PD Revision 1 – 9 July 2020, parts 1, 2, 3, 4 and 5
- E5iii. Proponent Response to Public Submissions – 18 December 2020
- E5iv. PD Revision 2 – 20 December 2020, parts 1 and 2
- E5v. PD Revision 3 – March/April 2021, parts 1, 2, 3, 4 and 5
- E5vi. PD Revision 4 – August/September 2022, parts 1, 2, 3, 4, 5 and 6
- E5vii. PD Revision 5 – 5 April 2023, parts 1, 2 and 3
- E5viii. PD Revision 6 – updated documents dated 23 August 2023, parts 1, 2 and 3
- E5ix. PD Revision 7 – October 2023, parts 1 and 2
- E5x. PD Revision 8 – 16 November 2023
- E5xi. PD Revision 9 – March 2024, parts 1 and 2
- E5xii. PD Revision 10 – 15 May 2024
- E5xiii. Direction to Public (Information Only)
- E5xiv. Notification that PD is Adequate – 23 May 2024
- E5xv. Notice of Publication

E6. Consultation:

- E6i. Environmental History Check, parts 1 and 2
- E6ii. PMST Report – 6 August 2024
- E6iii. Protected Species and Communities Update – 2 August 2024
- E6iv. Advice from Protected Species and Communities Branch – 7 August 2024
- E6v. Advice from EPBC Conditions Team, parts 1, 2, and 3
- E6vi. Correspondence with DWER regarding Western Australian assessment processes
- E6vii. Save Perth Hills Comment 19 June 2024 and attachment
- E6viii. Save Perth Hills Comment 20 June 2024
- E6ix. Clarification of conditions 22 and 29

E7. Other Documentation:

E7i. Referral Decision Brief

E7ii. Direction to Publish Brief

E7iii. Variation Decision Brief

E7iv. Meeting Minutes for Local Planning Refusal Decision

E7v. Schedule for Appeals Process at WAPC and SAT

E7vi. Extension of Timeframe Brief

E7vii. 22 February 2023 Variation Request

E7viii. Satterley Request for Extension of Directions Hearing Timeframe

E7ix. 6 September Protected Species and Communities Report