



## APPROVAL

### The Poplars, Jerrabomberra, NSW (EPBC 2020/8801)

This decision is made under sections 130(1) and 133(1) of the *Environment Protection and Biodiversity Conservation Act 1999* (Cth) (the EPBC Act). Note that section 134(1A) of the EPBC Act applies to this approval, which provides in general terms that if the approval holder authorises another person to undertake any part of the action, the approval holder must take all reasonable steps to ensure that the other person is informed of any conditions attached to this approval, and that the other person complies with any such condition.

#### Details

|                                                                 |                                                                                                                                                                       |
|-----------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Person to whom the approval is granted (approval holder)</b> | Poplars Developments Pty Ltd                                                                                                                                          |
| <b>ACN of approval holder</b>                                   | 128 465 887                                                                                                                                                           |
| <b>Action</b>                                                   | A mixed-use commercial development at The Poplars Jerrabomberra, NSW [See EPBC Act referral 2020/8801, subject to the variation request accepted on 19 November 2020] |

#### Approval decision

My decision on whether or not to approve the taking of the action for the purposes of the controlling provision for the action is as follows.

#### Controlling Provisions

| Listed Threatened Species and Communities |         |
|-------------------------------------------|---------|
| Section 18                                | Approve |
| Section 18A                               | Approve |

#### *Period for which the approval has effect*

This approval has effect until 31 December 2060

#### Decision-maker

|                          |                                                                                     |
|--------------------------|-------------------------------------------------------------------------------------|
| <b>Name and position</b> | Kate Gowland, Acting Assistant Secretary, Environment Assessments (NSW, ACT) Branch |
| <b>Signature</b>         |  |
| <b>Date of decision</b>  | 13/9/2021                                                                           |

#### Conditions of approval

This approval is subject to the conditions under the EPBC Act as set out in ANNEXURE A.

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## ANNEXURE A – CONDITIONS OF APPROVAL

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### Part A – Conditions specific to the action

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1. The approval holder must not **clear** outside the **development footprint**.
2. The approval holder must not **clear** inside the **White Box-Yellow Box-Blakely's Red Gum Woodland and Derived Native Grassland retained area**.
3. Within the **development footprint**, the approval holder must not **clear** more than:
  - a. 13.51 hectares of **Golden Sun Moth habitat**; and
  - b. 0.42 hectares of **White Box-Yellow Box-Blakely's Red Gum Woodland and Derived Native Grassland**.

#### Mitigation and management measures

4. For the protection of the **protected matters** in areas adjacent to the **development footprint**, the approval holder must submit, prior to the **commencement of the action**, a Construction Environmental Management Plan (CEMP) for the **Minister's** written approval. The approval holder must not **commence the action** unless the CEMP has been approved in writing by the **Minister**.
5. The approval holder must implement the CEMP approved by the **Minister** within the **development footprint**.
6. For the protection of the **protected matters** in areas adjacent to the **development footprint**, the CEMP must prevent **impacts** of the action on adjacent areas and be consistent with the **Department's Environmental Management Plan Guidelines 2014**, and must specify full details of:
  - a. Signage, consistent with signage for the **North Poplars BioBanking Agreement**, including to be placed in or adjacent to the **White Box-Yellow Box-Blakely's Red Gum Woodland and Derived Native Grassland retained area** to prohibit public access and inform the public of the presence of the **protected matters**;
  - b. Methods, effort, timing and reporting of pre-clearance surveys;
  - c. Procedures to report and address unexpected finds of **protected matters** including a procedure to determine if **credits** should be **retired** in respect of the **protected matter(s)**, if so how many **credits**, and how the **Department** will be assured that this has happened;
  - d. Proposed management methods, effort and timing to exclude, control or eliminate **weeds** and pathogens;
  - e. Proposed management methods, effort and timing to prevent and address existing erosion and prevent sediments entering watercourses;
  - f. Proposed management methods, effort and timing to prevent surface water flows enabling the spread of harmful pollutants and excessive ponding of water in the **White Box-Yellow Box-Blakely's Red Gum Woodland and Derived Native Grassland retained area**;
  - g. The site induction program to ensure that all persons implementing the action or on the site of the action are aware of the need and how to avoid and protect the **protected matters**.

7. For the protection of the **White Box-Yellow Box-Blakely's Red Gum Woodland and Derived Native Grassland retained area** the approval holder must undertake on-ground management activities throughout the **White Box-Yellow Box-Blakely's Red Gum Woodland and Derived Native Grassland retained area** consistent with those specified in the **North Poplars BioBanking Agreement**.

#### **Compensation measures**

8. To compensate for the clearance of **White Box-Yellow Box-Blakely's Red Gum Woodland and Derived Native Grassland** and **Golden Sun Moth habitat**, prior to the **commencement** of each **development stage** the approval holder must provide the **Department** with written **evidence** that it has **retired** the number of **credits** below in respect of that **development stage**:
- a. 34 species **credits** for **Golden Sun Moth** for **Stage 1 of the Innovation Precinct**;
  - b. 9 species **credits** for **Golden Sun Moth** for the **Jerrabomberra High School**;
  - c. 33 species **credits** for **Golden Sun Moth** for the **remainder of the North Poplars development footprint**;
  - d. 26 species **credits** for **Golden Sun Moth** for the **remainder of the South Poplars development footprint**; and
  - e. 10 ecosystem **credits** for **White Box-Yellow Box-Blakely's Red Gum Woodland and Derived Native Grassland** for the **remainder of the North Poplars development footprint**.

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#### **Part B – Standard administrative conditions**

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##### **Notification of date of commencement of the action**

9. The approval holder must notify the **Department** in writing of the date of **commencement of the action** within 10 **business days** after the date of **commencement of the action**. The approval holder must notify the **Department** in writing of the date of **commencement** of each **development stage** within 10 **business days** after the date of **commencement** of each commenced **development stage**.
10. If the **commencement of the action** does not occur within 5 years from the date of this approval, then the approval holder must not **commence the action** without the prior written agreement of the **Minister**.

##### **Compliance records**

11. The approval holder must maintain accurate and complete **compliance records**.
12. If the **Department** makes a request in writing, the approval holder must provide electronic copies of **compliance records** to the **Department** within the timeframe specified in the request.

**Note:** **Compliance records** may be subject to audit by the **Department** or an independent auditor in accordance with section 458 of the **EPBC Act**, and or used to verify compliance with the conditions. Summaries of the result of an audit may be published on the **Department's** website or through the general media.

##### **Submission and publication of plans**

13. The approval holder must:
- a. submit **plans** electronically to the **Department** for approval by the **Minister**;
  - b. publish each **plan** on the **website** within 20 **business days** of the date the **plan** is approved by the **Minister** or of the date a revised action management plan is submitted to the **Minister** or the **Department**, unless otherwise agreed to in writing by the **Minister**;

- c. exclude or redact **sensitive ecological data** from **plans** published on the **website** or provided to a member of the public; and
  - d. keep **plans** published on the **website** until the end date of this approval.
14. The approval holder must ensure that any **monitoring data** (including **sensitive ecological data**), surveys, maps, and other spatial and metadata required under conditions of this approval, is prepared in accordance with the **Department's Guidelines for biological survey and mapped data** (2018) and submitted electronically to the **Department**.

#### **Annual compliance reporting**

15. The approval holder must prepare a **compliance report** for each 12 month period following the date of **commencement of the action**, or otherwise in accordance with an annual date that has been agreed to in writing by the **Minister**. The approval holder must:
- a. publish each **compliance report** on the **website** within 60 **business days** following the relevant 12 month period;
  - b. notify the **Department** by email that a **compliance report** has been published on the **website** and provide the weblink for the **compliance report** within 5 **business days** of the date of publication;
  - c. keep all **compliance reports** publicly available on the **website** until this approval expires;
  - d. exclude or redact **sensitive ecological data** from **compliance reports** published on the **website**;
  - e. where any **sensitive ecological data** has been excluded from the version published, submit the full **compliance report** to the **Department** within 5 **business days** of publication.

**Note:** **Compliance reports** may be published on the **Department's** website.

#### **Reporting non-compliance**

16. The approval holder must notify the **Department** in writing of any: **incident**; non-compliance with the conditions; or non-compliance with the commitments made in **plans**. The notification must be given as soon as practicable, and no later than two **business days** after becoming aware of the **incident** or non-compliance. The notification must specify:
- a. any condition which is or may be in breach;
  - b. a short description of the **incident** and/or non-compliance; and
  - c. the location (including co-ordinates), date, and time of the **incident** and/or non-compliance. In the event the exact information cannot be provided, provide the best information available.
17. The approval holder must provide to the **Department** the details of any **incident** or non-compliance with the conditions or commitments made in **plans** as soon as practicable and no later than 10 **business days** after becoming aware of the **incident** or non-compliance, specifying:
- a. any corrective action or investigation which the approval holder has already taken or intends to take in the immediate future;
  - b. the potential impacts of the **incident** or non-compliance; and
  - c. the method and timing of any remedial action that will be undertaken by the approval holder.

#### **Independent audit**

18. The approval holder must ensure that **independent audits** of compliance with the conditions are conducted as requested in writing by the **Minister**.
19. For each **independent audit**, the approval holder must:

- a. provide the name and qualifications of the independent auditor and the draft audit criteria to the **Department**;
  - b. only commence the **independent audit** once the audit criteria have been approved in writing by the **Department**; and
  - c. submit an audit report to the **Department** within the timeframe specified in the approved audit criteria.
20. The approval holder must publish the audit report on the **website** within 10 **business days** of receiving the **Department's** approval of the audit report and keep the audit report published on the **website** until the end date of this approval, or an earlier date agreed to by the **Department** in writing.

#### Revision of action management plans

21. The approval holder may, at any time, apply to the **Minister** for a variation to an action management plan approved by the **Minister** under condition 4, or as subsequently revised in accordance with these conditions, by submitting an application in accordance with the requirements of section 143A of the **EPBC Act**. If the **Minister** approves a revised action management plan (RAMP) then, from the date specified, the approval holder must implement the RAMP in place of the previous action management plan.
22. The approval holder may choose to revise an action management plan approved by the **Minister** under condition 4, or as subsequently revised in accordance with these conditions, without submitting it for approval under section 143A of the **EPBC Act**, if the taking of the action in accordance with the RAMP would not be likely to have a **new or increased impact**.
23. If the approval holder makes the choice under condition 22 to revise an action management plan without submitting it for approval, the approval holder must:
- a. notify the **Department** in writing that the approved action management plan has been revised and provide the **Department** with:
    - i. an electronic copy of the RAMP;
    - ii. an electronic copy of the RAMP marked up with track changes to show the differences between the approved action management plan and the RAMP;
    - iii. an explanation of the differences between the approved action management plan and the RAMP;
    - iv. the reasons the approval holder considers that taking the action in accordance with the RAMP would not be likely to have a **new or increased impact**; and
    - v. written notice of the date on which the approval holder will implement the RAMP (RAMP implementation date), being at least 20 **business days** after the date of providing notice of the revision of the action management plan, or a date agreed to in writing with the **Department**.
  - b. subject to condition 25, implement the RAMP from the RAMP implementation date.
24. The approval holder may revoke their choice to implement a RAMP under condition 22 at any time by giving written notice to the **Department**. If the approval holder revokes the choice under condition 22, the approval holder must implement the action management plan in force immediately prior to the revision undertaken under condition 22.
25. If the **Minister** gives a notice to the approval holder that the **Minister** is satisfied that the taking of the action in accordance with the RAMP would be likely to have a **new or increased impact**, then:
- a. condition 22 does not apply, or ceases to apply, in relation to the RAMP; and
  - b. the approval holder must implement the action management plan specified by the **Minister** in the notice.

26. At the time of giving the notice under condition 25, the **Minister** may also notify that for a specified period of time, condition 22 does not apply for one or more specified action management plans.

**Note:** conditions 22, 23, 24 and 25 are not intended to limit the operation of section 143A of the **EPBC Act** which allows the approval holder to submit a revised action management plan, at any time, to the **Minister** for approval.

### **Completion of the action**

27. Within 20 **business days** after the **completion of the action**, the approval holder must notify the **Department** in writing and provide **completion data**.

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## **Part C - Definitions**

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In these conditions, except where contrary intention is expressed, the following definitions are used:

**Business day** means a day that is not a Saturday, a Sunday or a public holiday in the state or territory of the action.

**Clear/Clearing/Cleared** means the cutting down, felling, thinning, logging, removing, killing, destroying, poisoning, ringbarking, uprooting or burning of vegetation (but not including **weeds**).

**Commencement** in relation to commencement of a **development stage**, means the first instance of any specified activity associated with the action, and including **clearing** and **construction**, undertaken within that **development stage**. **Commencement**, in relation to commencement of a **development stage**, does not include minor physical disturbance necessary to:

- i. undertake pre-clearance surveys or monitoring programs in that **development stage**;
- ii. undertake geotechnical investigations or similar tests in that **development stage**;
- iii. install signage and /or temporary fencing to prevent unapproved use of that **development stage**;
- iv. protect environmental and property assets within that **development stage** from fire, **weeds** and feral animals, including installation of temporary fencing, and use of existing surface access tracks;
- v. install temporary site facilities for persons undertaking pre-commencement activities within that **development stage** so long as these are located where they have no impact on the **protected matters**.

**Commencement of the action** means the first instance of any specified activity associated with the action, and including **clearing** and **construction**.

**Commencement of the action** does not include minor physical disturbance necessary to:

- i. undertake pre-clearance surveys or monitoring programs;
- ii. undertake geotechnical investigations or similar tests;
- iii. install signage and /or temporary fencing to prevent unapproved use of the **development footprint**;
- iv. protect environmental and property assets from fire, **weeds** and feral animals, including installation of temporary fencing, and use of existing surface access tracks;
- v. install temporary site facilities for persons undertaking pre-commencement activities so long as these are located where they have no impact on the **protected matters**.

**Commencement of the development stage for the remainder of the North Poplars development footprint** means the first instance of any specified activity associated with the **remainder of the North Poplars development footprint**, including **clearing** and **construction**, and does not include minor physical disturbances as described in the definition for **Commencement of the action**.

**Completion data** means an environmental report and spatial data clearly detailing how the conditions of this approval have been met. The **Department's** preferred spatial data format is **shapefile**.

**Completion of the action** means the date on which all specified activities associated with the action have permanently ceased.

**Compliance records** means all documentation or other material in whatever form required to demonstrate compliance with the conditions of approval in the approval holder's possession or that are within the approval holder's power to obtain lawfully.

**Compliance reports** means written reports:

- i. providing accurate and complete details of compliance, **incidents**, and non-compliance with the conditions and the **plans**;
- ii. consistent with the **Department's Annual Compliance Report Guidelines (2014)**;
- iii. include a **shapefile** of any clearance of any **protected matters**, or their habitat, undertaken within the relevant 12 month period; and
- iv. annexing a schedule of all **plans** prepared and in existence in relation to the conditions during the relevant 12 month period.

**Credits** means biodiversity credits under the *Biodiversity Conservation Act 2016 (NSW)*.

**Construction** means the erection of a building or structure that is or is to be fixed to the ground and wholly or partially fabricated on-site; the alteration, maintenance, repair or demolition of any building or structure; preliminary site preparation work which involves breaking of the ground (including pile driving); the laying of pipes and other prefabricated materials in the ground, and any associated excavation work; but excluding the installation of temporary fences and signage.

**Department** means the Australian Government agency responsible for administering the **EPBC Act**.

**Development footprint** means the 52.77 hectare area represented as the solid pink area and defined as the 'Proposed Action Area - Disturbance Footprint' in the legend of Attachment 1. The **development footprint** also includes the area within the yellow boundary line and defined as the 'Open Space Area' in the legend of Attachment 3 but with the exclusion of the **White Box-Yellow Box-Blakely's Red Gum Woodland and Derived Native Grassland retained area**.

**Development stage** means any work associated with one of the following specified stages of the action that will be undertaken sequentially, or concurrently: **Stage 1 of the Innovation Precinct**, the **Jerrabomberra High School**, the **remainder of the North Poplars development footprint** and the **remainder of the South Poplars development footprint**.

**EPBC Act** means the *Environment Protection and Biodiversity Conservation Act 1999 (Cth)*.

**Evidence** means written certified documentation from the relevant authority.

**Golden Sun Moth** means the Golden Sun Moth (*Synemon plana*) listed as critically endangered under the **EPBC Act**.

**Golden Sun Moth habitat** means the areas represented by the shapes with yellow hatching in Attachment 4, described in the legend as 'Golden Sun Moth habitat'.

**Hoary Sunray habitat** means the 700m<sup>2</sup> area covering the area represented by star shapes and described in the legend as 'Hoary Sunray' in Attachment 3.

**Impact** means any measurable direct or indirect disturbance or harmful change as a result of any activity associated with the action.

**Incident(s)** means any event which has the potential to, or does, impact on one or more **protected matter(s)** other than as authorised under this approval.

**Independent audit:** means an audit conducted by an independent and **suitably qualified person** as detailed in the *Environment Protection and Biodiversity Conservation Act 1999 Independent Audit and Audit Report Guidelines* (2019).

**Jerrabomberra High School** means the 3.25 hectare area within the **development footprint** where the Jerrabomberra High School will be built, enclosed by the light blue line in Attachment 2, identified in the legend as 'Jerrabomberra High School'.

**Monitoring data** means the data required to be recorded under the conditions of this approval.

**Minister** means the Australian Government Minister administering the **EPBC Act** including any delegate thereof.

**New or increased impact** means a new or increased environmental impact or risk relating to any **protected matter**, when compared to the likely impact of implementing the action management plan that has been approved by the **Minister** under condition 4, including any subsequent revisions approved by the **Minister**, as outlined in the *Guidance on 'New or Increased Impact' relating to changes to approved management plans under EPBC Act environmental approvals* (2017).

**North Poplars BioBanking Agreement** means the BioBanking Agreement ID number BA 310 for Poplars North BioBanking Site, for Robin Pty Ltd, made with the NSW Office of Environment and Heritage.

**North Poplars Biobanking Site** means the area coloured dark green in Attachment 1 and identified in the legend as 'North Poplars BioBanking Site'.

**Plan(s)** means any of the documents required to be prepared, approved by the **Minister**, implemented by the approval holder and/or published on the **website** in accordance with these conditions (includes action management plans).

**Protected matter(s)** means a matter protected under a controlling provision in Part 3 of the **EPBC Act** for which this approval has effect. Protected matters include **White Box-Yellow Box-Blakely's Red Gum Woodland and Derived Native Grassland** ecological community, Hoary Sunray (*Leucochrysum albicans* subsp. *tricolor*), and **Golden Sun Moth**.

**Remainder of the North Poplars development footprint** means the 8.71 hectare area of land in North Poplars represented by the solid blue shaded area in Attachment 2 described in the legend as 'Remainder of Development Footprint - North Poplars'.

**Remainder of the South Poplars development footprint** means the 31.56 hectare area in South Poplars represented by the pink shaded area in Attachment 2 described in the legend as the 'Remainder of Development Footprint - South Poplars'.

**Retired** means retirement of biodiversity credits under the *Biodiversity Conservation Act 2016 (NSW)*.

**Sensitive ecological data** means data as defined in the Australian Government Department of the Environment (2016) *Sensitive Ecological Data – Access and Management Policy V1.0*.

**Shapefile** means location and attribute information of the action provided in an Esri shapefile format. Shapefiles must contain '.shp', '.shx', '.dbf' files and a '.prj' file that specifies the projection/geographic coordinate system used. Shapefiles must also include an '.xml' metadata file that describes the shapefile for discovery and identification purposes.

**South Poplars BioBanking Agreement** means the BioBanking Agreement ID number BA 309 for Poplars South BioBanking Site, for Robin Pty Ltd, made with the NSW Office of Environment and Heritage.

**South Poplars BioBanking Site** means the area coloured light green in Attachment 1 identified in the legend as 'Poplars South BioBanking Site'.

**Stage 1 of the Innovation Precinct** means the 8.91 ha area enclosed by the yellow line identified in the legend as 'Stage 1 of the Innovation Precinct' in Attachment 2.

**Suitably qualified person** means a person who has professional qualifications, training, skills and/or experience related to the nominated subject matter and can give authoritative independent assessment, advice and analysis on performance relative to the subject matter using the relevant protocols, standards, methods and/or literature.

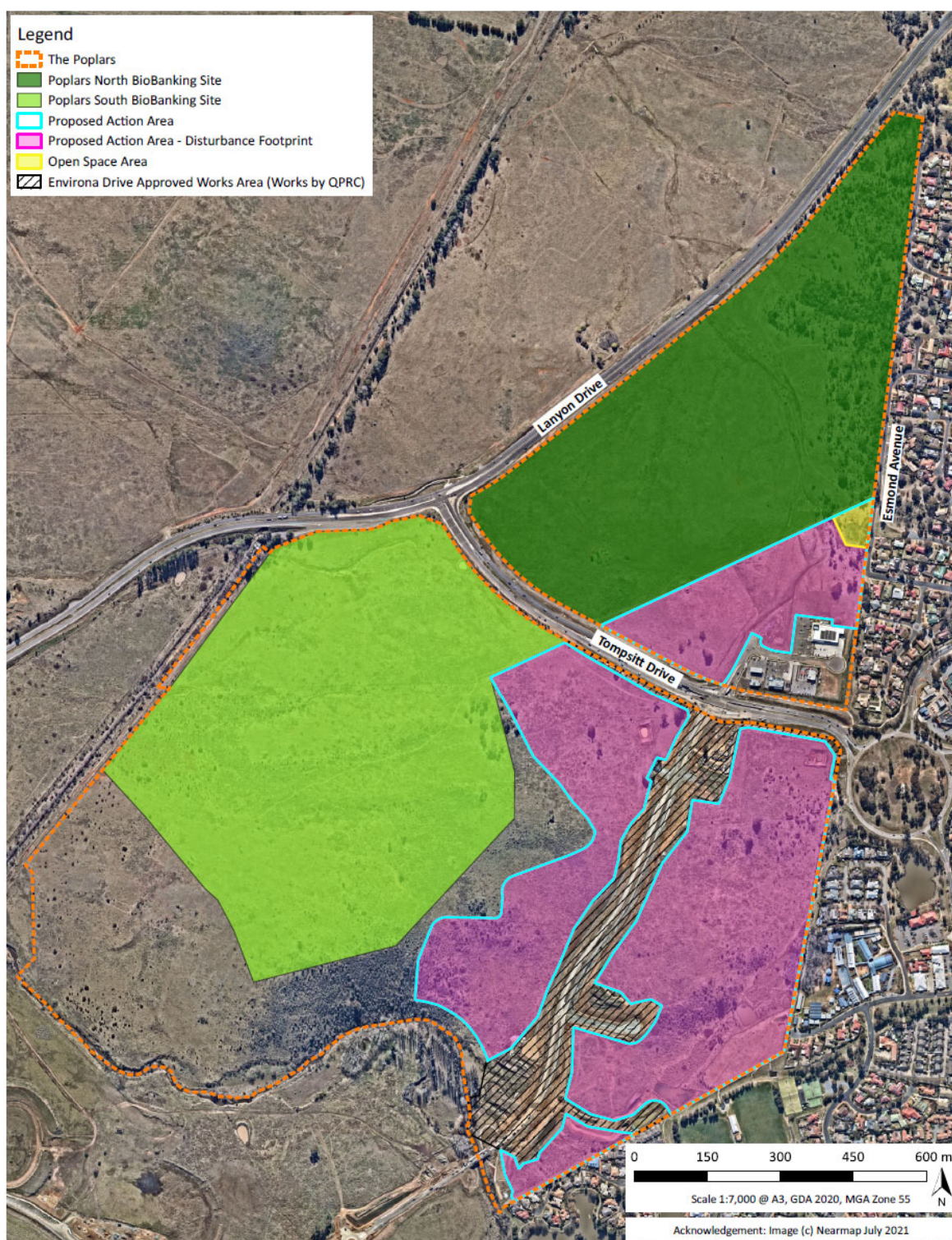
**Website** means a set of related web pages located under a single domain name attributed to the approval holder and available to the public.

**Weed(s)** means weed as defined in the *Australian weeds strategy 2017 to 2027*.

**White Box-Yellow Box-Blakely's Red Gum Woodland and Derived Native Grassland** is the critically endangered threatened ecological community of that name listed under the **EPBC Act** as represented by the two patches of blue hatching shown in Attachment 5 and described in the legend as 'EPBC Act Box-Gum Woodland'.

**White Box-Yellow Box-Blakely's Red Gum Woodland and Derived Native Grassland retained area** means the 0.18 hectares of land containing **White Box-Yellow Box-Blakely's Red Gum Woodland and Derived Native Grassland**, **Hoary Sunray habitat** and **Golden Sun Moth habitat** represented by the area north of the existing dam with blue hatching and green shading shown in Attachment 3, and described in the legend as 'PCT1334 Zone1 - Canopy - Regen - NativeDom - Mod-HighDiversity (EPBC Act BGW)', 'Golden Sun Moth Habitat' and 'Hoary Sunray'.

**Attachment 1.** The Poplars action area/development footprint, the White Box-Yellow Box-Blakely's Red Gum Woodland and Derived Native Grassland retained area, biobanking sites, and surrounds.

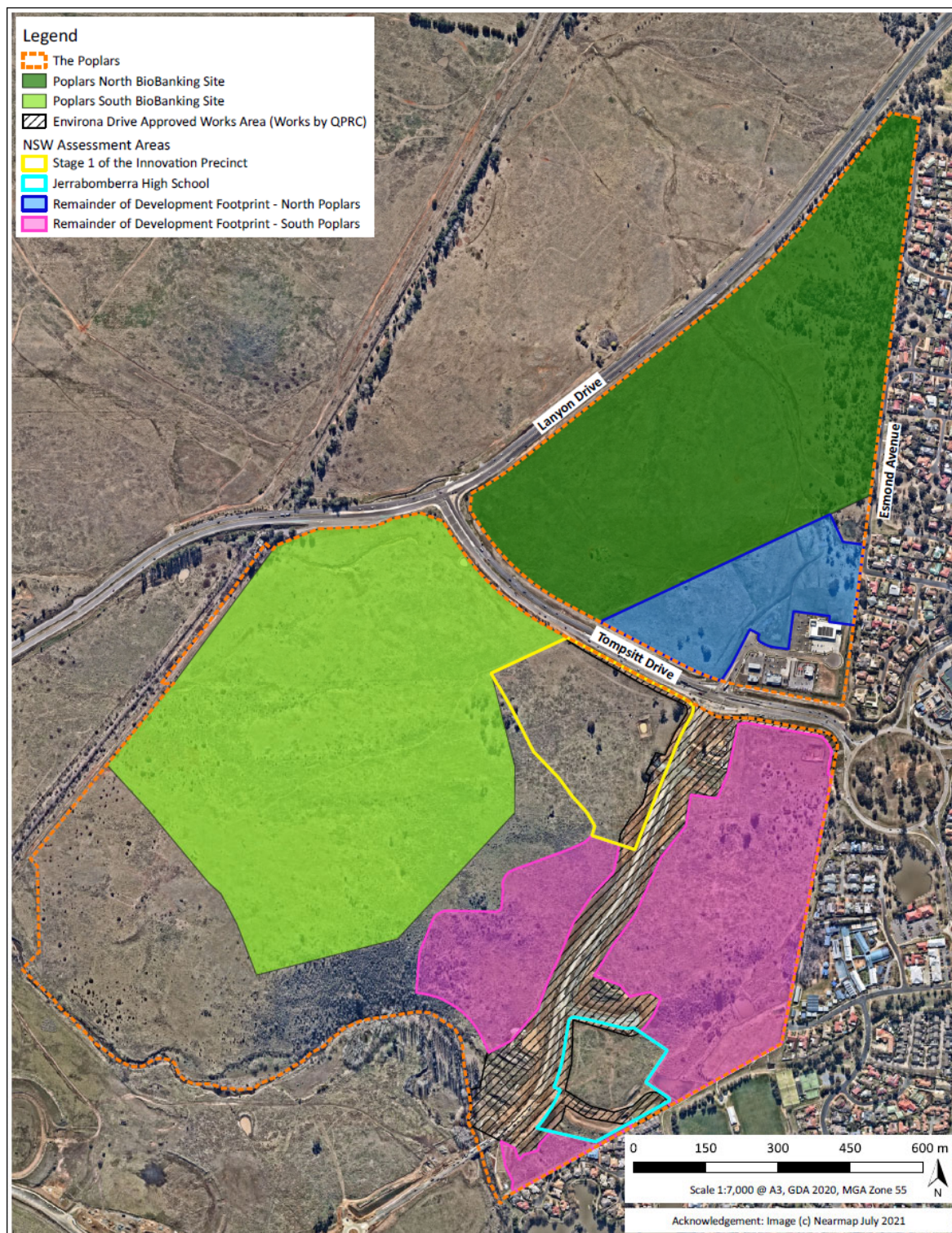


EPBC Act Conditions Figure 1. "The Poplars", Proposed Action Area, and BioBanking Sites

Capital Ecology Project No: 3027  
 Drawn by: R. speirs  
 Date: 27 August 2021



**Attachment 2.** Location of the development stages; Jerrabomberra High School, Stage 1 of Innovation Precinct, the remainder of the North Poplars development footprint, the remainder of the South Poplars development footprint.



EPBC Act Conditions Figure 2. NSW Assessment Areas

Capital Ecology Project No: 3027  
Drawn by: R. Speirs  
Date: 27 August 2021



**Attachment 3.** Location of the White Box-Yellow Box-Blakely's Red Gum Woodland and Derived Native Grassland retained area, Hoary Sunray, Golden Sun Moth habitat and the White Box-Yellow Box-Blakely's Red Gum Woodland and Derived Native Grassland.



**Attachment 4.** Golden Sun Moth Habitat in the Development Footprint, and the White Box-Yellow Box-Blakely's Red Gum Woodland and Derived Native Grassland retained area.

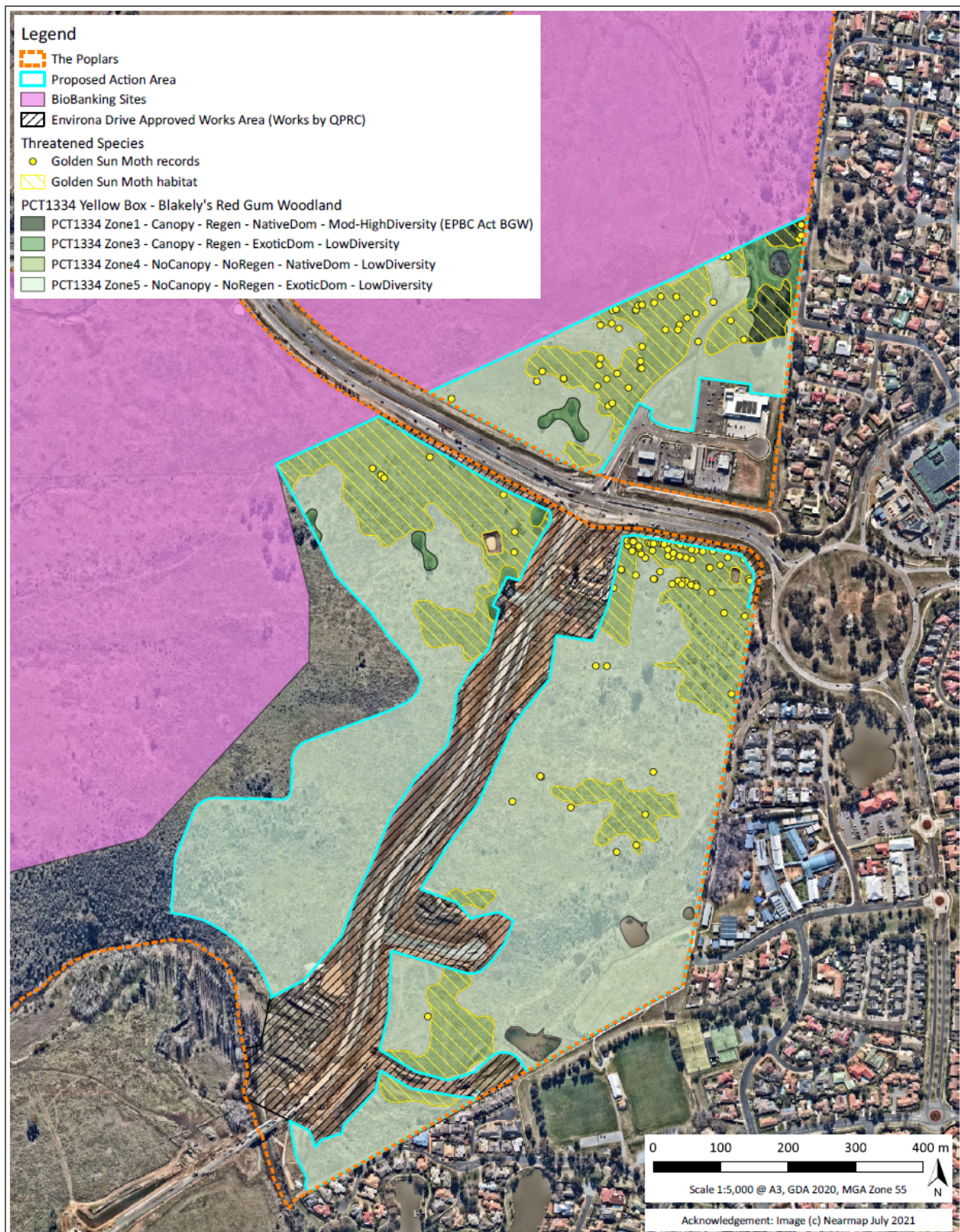


Figure 8. Golden Sun Moth Habitat in the Proposed Action Area

Capital Ecology Project No: 3027  
Drawn by: R. Speirs  
Date: 27 August 2021



**Attachment 5.** White Box-Yellow Box-Blakely's Red Gum Woodland and Derived Native Grassland in the Development Footprint, and the White Box-Yellow Box-Blakely's Red Gum Woodland and Derived Native Grassland retained area.



Figure 8. EPBC Act Box-Gum Woodland and Hoary Sunray Habitat in the Proposed Action Area

Capital Ecology Project No: 3027  
 Drawn by: S. Reid  
 Date: 26 March 2021

