

**GUIDELINES FOR THE CONTENT OF A DRAFT
PUBLIC ENVIRONMENT REPORT**

Outer Harbour Port Development, Kwinana

Environment Protection and Biodiversity Conservation Act 1999

(EPBC Reference: 2024/09859)

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**GUIDELINES FOR A DRAFT PUBLIC ENVIRONMENT REPORT FOR
OUTER HARBOUR PORT DEVELOPMENT, KWINANA**

DEPARTMENT OF TRANSPORT (WESTPORT PROJECT OFFICE) ABN: 27 285 643 255

1. PREAMBLE

The Department of Transport (Westport Project Office) (the proponent) proposes to construct and operate a new multimodal port facility including a second main shipping channel, offshore breakwater, access channels, turning basins, berthing areas, navigational aids, and landside development in the Kwinana Industrial Area (KIA) in proximity to the intersection of Beard Street and Leath Road Naval Base, approximately 30 km south of Perth, Western Australia (WA) (the proposed action).

1.1 Environmental referral and assessment process

The proposal was referred under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) to the Minister for the Environment on 15 April 2024 and validated on 28 June 2024. The Minister determined on 26 September 2024 that the proposal requires assessment prior to a decision being made on whether or not to approve, as the proposed action has the potential to have a significant impact on the following matters of national environmental significance (MNES) that are protected under Part 3 of the EPBC Act:

- Listed threatened species and communities (sections 18 and 18A)
- Listed migratory species (sections 20 and 20A)
- Commonwealth marine area (sections 23 and 24A)
- Commonwealth land (sections 26 & 27A)

On the same day as the controlled action decision, the delegate of the Minister determined that the proposed action be assessed through a Public Environment Report (PER).

Information about the proposed action and its relevant impacts, as outlined below, is to be provided in the PER. This information must be sufficient to allow the Minister to make an informed decision on whether or not to approve, under Part 9 of the EPBC Act, the taking of the action for the purposes of each controlling provision and inform any conditions that may be required for the protection of MNES.

The proponent has also referred the proposed action to the WA Environmental Protection Authority (EPA) under reference number 2416. The WA EPA has determined that the proposal is to be assessed, and a determination made, under Part IV of the *Environmental Protection Act 1986* (EP Act), with the level of assessment also being a Public Environmental Review. Details of this process can be found here: <https://www.epa.wa.gov.au/proposals/outer-harbour-port-development-kwinana>.

The following provides advice and guidance relating to content and structure of the PER required for assessment of the proposal under the EPBC Act only.

1.2 Components of the action relevant to the assessment

The components of the proposed action to be assessed for their impacts to MNES under the PER is comprised of both offshore and onshore components (Figure 1).

The onshore components of the proposed action are located in the Kwinana Industrial Area, near the intersection of Beard Street and Leath Road Naval Base, approximately 30 km south of Perth, Western Australia. The major onshore construction components include a permanent multimodal port facility and landside development, such as road and rail connections to existing infrastructure, and temporary infrastructure associated with the construction stage.

The offshore components of the proposed action are located entirely within West Australian state waters in Cockburn Sound between the coastline, Garden Island and Rottnest Island, within Lot 4552 on Deposited Plan 220690. The major offshore infrastructure components include creating and maintaining a second main shipping channel, access channels and turning basins, constructing an offshore breakwater and installing berthing infrastructure and navigational aids.

At the time of drafting these PER guidelines, the proposed action is at the preliminary design stage (15% of total design effort) which means that the proponent has referred a larger development envelope to allow flexibility in the final project design. The final layout will be determined in response to investigations into the environmental constraints.

The construction life of the proposed action is anticipated to be up to 15 years inclusive of commissioning. During this period, activities would include capital dredging, land reclamation works, terrestrial earthworks, pile driving, relocation, removal or upgrade of existing infrastructure, structures and buildings, and temporary construction infrastructure.

At the time of drafting these PER guidelines, maintenance activities are not fully defined but are proposed to include maintenance dredging of the second main channel, access channels, turning basins and berthing areas. The operational life of the proposed action is anticipated to be at least 50 years, subject to future state government decision making.

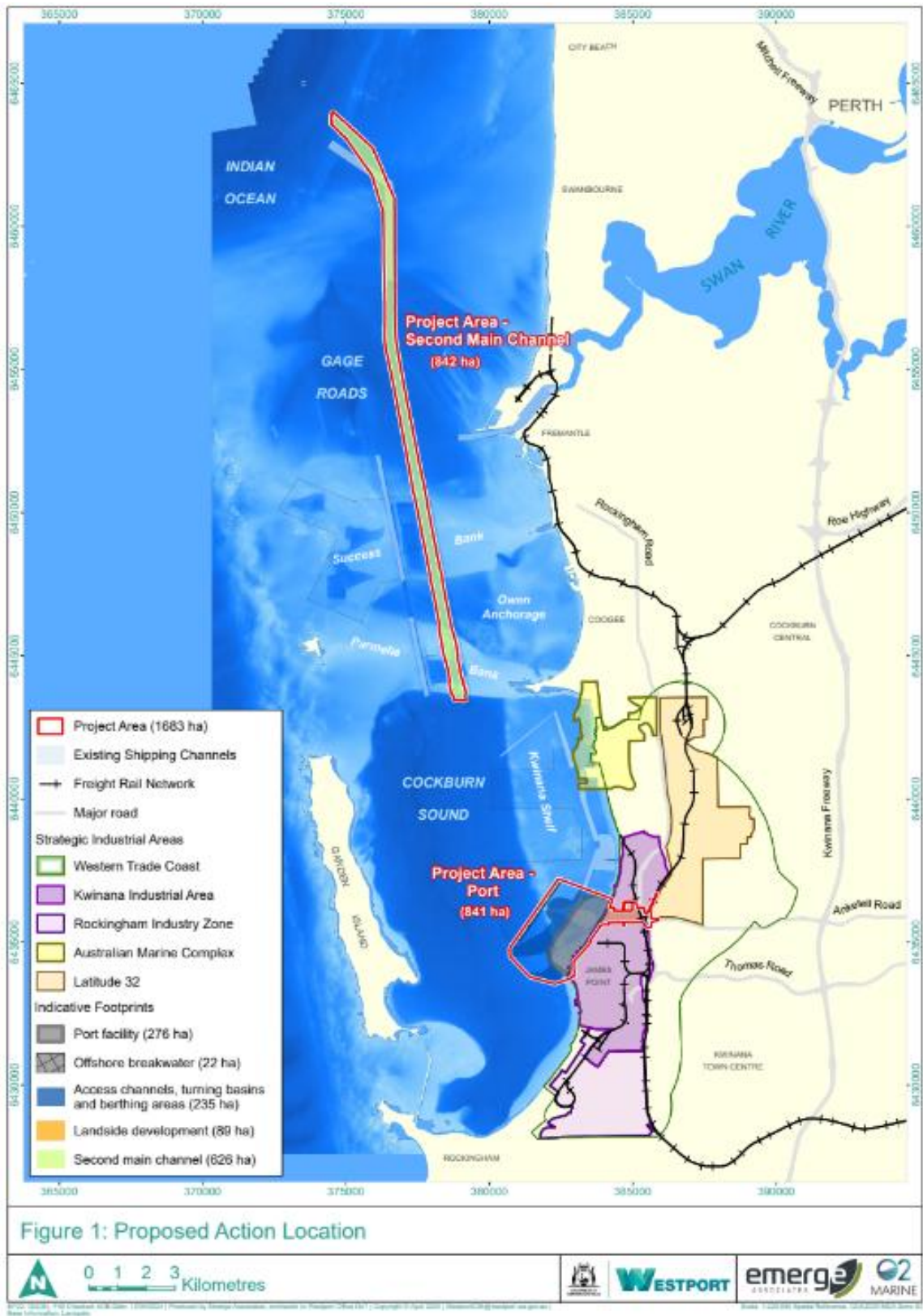


Figure 1. Location of the proposed action area of Outer Harbour Port Development, Kwinana, WA.

2. GENERAL ADVICE ON GUIDELINES FOR THE PUBLIC ENVIRONMENT REPORT

2.1 The objective of the Public Environment Report

The PER will discuss compliance with the Objects of the EPBC Act and the principles of Ecologically Sustainable Development, as set out in the EPBC Act.

The PER will provide a description of the existing environment in the proposed action area and how the environment may be affected by the proposed action. The PER must adequately define those elements of the environment that will be affected by the construction and operational activities of the proposed action, and must identify the significance, risks and consequences of any residual impacts that may result from the proposed action at a local, regional and national scale. All potential impacts and risks to MNES are to be investigated and analysed.

In drafting the PER, the proponent must consider the impact mitigation hierarchy which is fundamental to best practice environmental management and is a key factor in EPBC Act assessments. The hierarchy is outlined in the *EPBC Act Environmental Offsets Policy (2012)* (EPBC Act Offsets Policy) and is shown below in Figure 2.

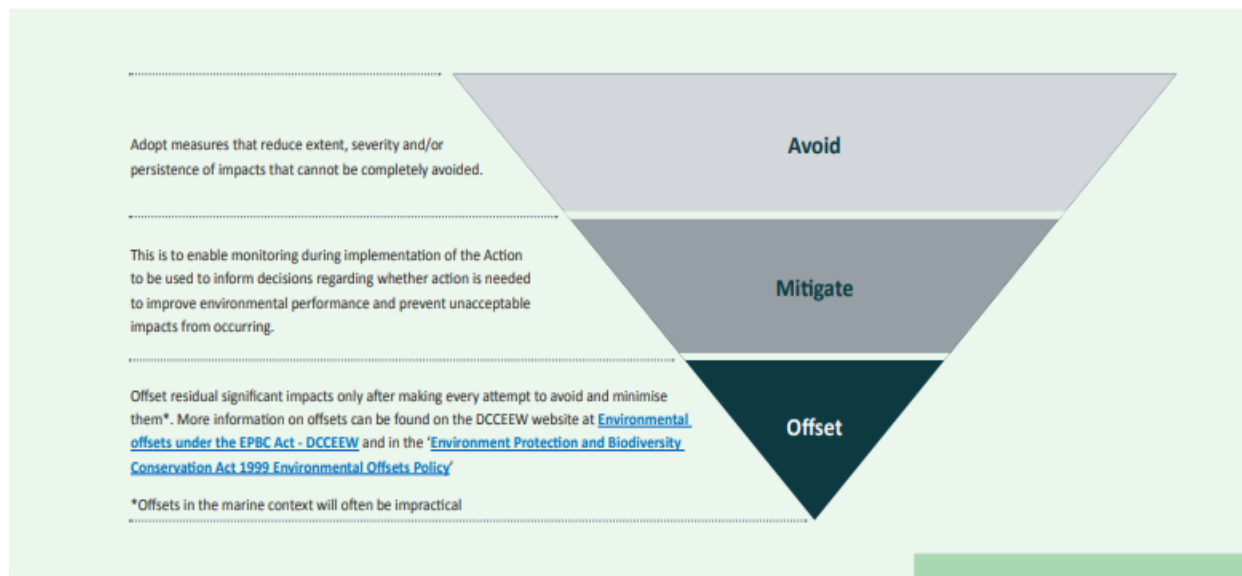


Figure 2. Offsets mitigation hierarchy

In all cases, it is the proponent's responsibility to investigate the efficacy of impact avoidance, minimisation and mitigation measures, and to tailor such measures to be fit for purpose in their specific circumstance and within the regional context.

In practice, a key mechanism to demonstrate the application of the impact mitigation hierarchy is through the identification, evaluation and adoption of alternative designs, locations, methods and approaches and to select those with the lowest risk to the environment, whilst considering the potential benefits of the proposed action. This is done as part of the environmental impact assessment process under the EPBC Act.

These tailored guidelines have been constructed under section 97 of the EPBC Act, to outline to the proponent the ecological and socio-economic investigations and data required to be

provided to inform such considerations and to support a final decision from the Minister for the Environment and Water on whether to approve or refuse the proposed action.

As such, the nature and level of investigation and data must relate to the likely extent and gravity of the potential impacts (likelihood, consequence, magnitude, extent and scale of impacts, including worst case scenarios). All relevant impacts to MNES from constructing and operating the proposed action are to be determined, investigated and analysed.

The final PER is a significant source of information to assess the environmental impacts from the proposed action and will be provided for public review and comment. The aim of the public comment process is:

- a) to provide a source of information from which interested individuals and groups may gain an understanding of the proposed action, the need for the proposed action, the alternatives, the environment which it could potentially affect, the impacts that may occur (an assessment of risk), the measures proposed to be taken to avoid, minimise, mitigate or compensate for these impacts, the final revised risk levels, and why these risks should be considered acceptable (e.g., can coexist with the natural environment);
- b) to provide a forum for public consultation and informed comment on the proposed action; and
- c) to provide a process by which the decision-maker can consider other environmental, social and economic aspects of the proposed action including biophysical aspects, cultural aspects, people, communities, natural and physical resources, heritage, technical and other factors (as applicable).

While the PER is designed to cover all relevant matters, the PER may also need to address other issues that emerge during the PER investigations, especially those relevant to MNES considered under the EPBC Act that will inform statutory decisions.

2.2 General content

The PER should be a stand-alone document that is specific to the MNES listed below. It should contain sufficient information to avoid the need to search out previous or supplementary reports. The PER should take into consideration the relevant *EPBC Act Significant Impact Guidelines 1.1 - Matters of National Environmental Significance* available at this web address; https://www.dcceew.gov.au/sites/default/files/documents/nes-guidelines_1.pdf and *EPBC Act Significant Impact Guidelines 1.2 - Actions on, or impacting upon, Commonwealth land, and Actions by Commonwealth Agencies* available at this web address; https://www.dcceew.gov.au/sites/default/files/documents/commonwealth-guidelines_1.pdf.

Information provided in the PER should be objective, clear, succinct and, where appropriate, be supported by technical information/surveys, maps, plans, diagrams or other descriptive detail.

In describing the surveys conducted, each report must discuss how the survey adheres to best practice, considering factors including spatial and temporal scale, design features (e.g. statistical power and replication), timing, methodologies, and training and competency of personnel conducting surveys, to be able to detect and describe aspects and impacts relevant to the assessment of the proposed action.

Important Note: *Technical information and surveys which were completed in reference to the preliminary design stage proposed action envelope may require revision before submission to ensure the content is relevant and specifically attributable to the final proposed action footprint.*

The body of the PER is to be written in a clear and concise style that is easily understood by the general reader. Technical jargon should be avoided. Cross-referencing should be used to avoid unnecessary duplication.

After receiving the Ministers approval to publish the PER, the proponent is required to make the draft PER available for a public review. Specific instructions regarding publication requirements will be provided as part of a direction to publish. It is expected that detailed technical information, studies, or investigations necessary to support the main text will be included as appendices to the PER. It is recommended that any additional supporting documentation and studies, reports, or literature not normally available to the public from which information has been extracted be made available online, or in hard copy upon request, during the period of public review.

If it is necessary to make use of material that is of a confidential nature, the proponent should consult with the department on the preferred presentation of that material, before submitting it to the Minister for approval for publication.

Any and all unknown variables or assumptions made must be clearly stated and discussed. The extent to which the limitations, if any, of available information may influence the conclusions of the environmental assessment should be discussed.

The proponent should ensure that the PER assesses the proposed action against the Objects and Principles of the EPBC Act at Attachment 1. A copy of Schedule 4 of the *Environment Protection and Biodiversity Conservation Regulations 2000* (EPBC Regulations), *Matters that must be addressed in a public environment report* is at Attachment 2.

2.3 Format and style

The PER should comprise three elements, namely:

- a) the executive summary;
- b) the main text of the document; and
- c) appendices containing detailed technical information and other information that can be made publicly available.

These guidelines have been set out in a manner that may be adopted as the format for the PER, however, this format need not be followed where the required information can be more effectively presented in an alternative way.

The PER should be written so that any conclusions reached are supported by evidence and can be independently assessed. To this end all sources must be appropriately referenced using the Harvard standard. The reference list should include the address of any Internet “web” pages used as data sources.

The main text of the PER should include a list of abbreviations, a glossary of terms and appendices containing:

- a) a copy of these guidelines;
- b) a list of persons and agencies consulted during the PER;
- c) contact details for the proponent; and
- d) the names of the persons involved in preparing the PER and work done by each of these persons.

Maps, diagrams and other illustrative material should be included in the PER at a resolution that enables legends and map details to be clearly read. Providing good-quality spatial information throughout the environmental assessment process will help to avoid compliance issues and administrative delays. Information about the department's expectations for providing maps and boundary data can be found within the *Guide to providing maps and boundary data for EPBC Act projects* available here;

<https://www.dcceew.gov.au/sites/default/files/documents/epbca-maps-data-guidelines.pdf>.

The PER should be produced on A4 size paper capable of being photocopied, with maps and diagrams on A4 or A3 size and in colour where possible. The PER should be electronically available in a searchable format and should contain hyperlinks to enable users to access chapters and appendices and return back to the table of contents without scrolling.

The proponent should consider the format and style of the document appropriate for publication on the Internet. The capacity of the website to store data and display the material may have some bearing on how the document is constructed.

The proponent is responsible for the editorial quality of the PER. It should not contain typographical errors and data inconsistencies. Confusing or incorrect information will be required to be clarified, fixed, and resubmitted to the department prior to finalisation and this process may delay the timely consideration of the PER.

2.4 Executive summary

An executive summary that outlines the key findings of the PER must be provided. The executive summary will briefly:

- a) state the background and purpose for the proposed action;
- b) outline the description and key elements of the proposed action;
- c) summarise the construction, operation and maintenance activities associated with putting the proposed action into practice;
- d) discuss alternatives to the proposed action, and the reasons for selecting the preferred option and rejecting alternatives;

- e) provide an overview of the existing regional and local environments, summarising the features and activities associated with each of the physical, biological, social, cultural and economic aspects of the environment relating to the proposed action;
- f) provide a summary discussion of the protected matters likely to be impacted by the proposed action;
- g) provide a comprehensive environmental risk assessment:
 - i) describe the expected, likely and potential impacts of the proposed action on MNES during the construction, operation and maintenance phases;
 - ii) set out conclusions on the acceptability of impacts on MNES;
 - iii) summarise the proposed application of the mitigation hierarchy, including environmental protection measures and safeguards; and
 - iv) describe any residual risk to MNES and the proposed management and offset measures.
- h) summarise the monitoring, review and adaptive management approach, and maintenance procedures to be implemented for the proposed action.

3. SPECIFIC CONTENT

3.1 General information

This section of the PER should provide the background, purpose and context of the proposed action including:

- a) the title of the proposed action;
- b) the full name and postal address of the designated proponent;
- c) a clear outline of the objective of the proposed action;
- d) the location of the proposed action, including confirmation of:
 - i) the development envelope of the port facility, associated terrestrial developments, and temporary construction infrastructure;
 - ii) the development envelope of the marine components including the second main channel, offshore breakwater, access channels, turning basins, berthing areas and navigational aids;
 - iii) temporary placement area(s) and/or storage area(s) of dredge material following dredging activities;
 - iv) indicative location of marine placement area(s) of dredge material that will require approval pursuant to the Environment Protection (Sea Dumping) Act 1981; and any additional ancillary components and activities likely to be required to support the proposed action.
- e) the background to the development of the proposed action;
- f) how the proposed action relates to any other actions (of which the proponent should reasonably be aware) that have been, or are being, taken or that have been approved in the region to be affected by the proposed action;
- g) the current status of the proposed action;
- h) the consequences of not proceeding with the proposed action;
- i) a brief explanation of the scope, structure and legislative basis of the PER; and
- j) the specific EPBC Act MNES affected by the proposed action.

Uncertainties around the magnitude of the impact during the proposed actions' design will be managed during the assessment by considering the largest impact and/or highest risk.

3.2 Description of the action

All construction, operational and maintenance components of the proposed action should be described in detail. This should include the indicative location (including coordinates) of all works and activities to be undertaken, structures to be built or elements of the proposed action that may have impacts on MNES.

The description of the proposed action must also include details on:

- a) how the works are to be undertaken, including stages of development, their timing and duration (including commencement and completion), and information on construction, operation and maintenance activities;
- b) identification of the party responsible for the undertaking of each component and activity;
- c) the design parameters for those aspects of the structures or elements of the proposed action that may have relevant impacts, including:
 - i) the total volume of substrate to be removed through capital and maintenance dredging;
 - ii) the expected maximum life of the proposed action;
 - iii) the potential for staging delivery of the proposed action; and
 - iv) expected timeframes for all stages including construction, operation and maintenance.
- d) details of associated activities/works, such as vessel movement, waste disposal activities, transport requirements and access routes throughout different stages of development, operation of both onshore and offshore assets and infrastructure; and
- e) details of maintenance of the second main shipping channel, access channels and turning basins, including the likely outcomes, and principles for planning and implementation (noting that full details of activities are unlikely to be available).

The description of the proposed action should include the use of satellite imagery, aerial photographs, maps, figures and diagrams, where appropriate. A general location map and diagrams illustrating the dimensions of capital dredging and the position within the proposed action area should also be included. Reference should be made to detailed technical information in appendices where relevant.

The PER must include the location, boundaries and size (in hectares) of the likely disturbance footprint, and of any adjoining areas which may be indirectly impacted by the proposed action such that relevant impacts can be understood.

If the proponent chooses to adopt an approach to describing components of the proposed action in the form of design parameters based within a project envelope, the PER must also include:

- a) the components of the proposed action for which parameters will be defined;
- b) justification of the need for application of this approach and individual components; and
- c) demonstration of how parameters defined allow for likely impacts to be described during assessment.

The PER must fully detail parameters for components of the proposed action necessary to ensure that for the purposes of the assessment of relevant impacts on matters protected under Part 3 of the EPBC Act, all relevant parameters are assessed, and to ensure appropriate mitigations and safeguards are included.

3.3 Feasible alternatives

The PER must include a description of the concept and early design discussions and site selection process that includes information on the economic, environmental, and social considerations that were made to arrive at the current proposal. All feasible design and location alternatives to the proposed action should be discussed, to the extent reasonably practicable, including:

- a) the alternative of taking no action;
- b) a comparative description of the impacts of each alternative design or location on MNES protected by controlling provisions of Part 3 of the EPBC Act for the proposed action; and
- c) sufficient detail to make clear why any alternative is preferred to another from the perspective of minimising the ecological impact.

Short-, medium-, and long-term advantages and disadvantages of all identified options must also be discussed.

3.4 Description of the existing environment

The PER must include a description of the general environment of the proposed action area and the surrounding areas that may be affected by the proposed action, in the short-, medium- and long-term. Desktop analysis should be conducted to inform field investigations (where required) to describe the existing environment. At a minimum, this section must include details of the following information:

- a) estuarine and coastal environments, including mapping and condition of inshore coastal areas, vegetation, underwater ecological features, intertidal and subtidal habitats (including seagrass habitats);
- b) marine, surface and groundwater hydrology and quality within and surrounding the proposed action area;
- c) current marine oceanographic processes and modelled predictions of changes to these processes due to the implementation of the proposed infrastructure;
- d) native flora and fauna characterisation through terrestrial, aquatic and marine surveys;
- e) occurrences of marine and terrestrial feral and pest species, and weeds;
- f) important areas, recognised populations and habitat, aggregations of marine species, Biologically Important Areas (BIAs), and Key Ecological Features (KEFs);

- g) marine fauna species, including the key species that are listed values, which use the proposed action area as habitat for activities including but not limited to foraging, breeding and as migration pathways;
- h) current condition of the marine environment, including its values and sensitivities (e.g. measures of the current state of the environment with a focus on conditions that are expected to change as a result of the proposed action), and conservation values, including information placing these features into appropriate local, regional and national contexts (i.e. South-west Marine Bioregion);
- i) current condition of the seabed including presence of contaminants;
- j) cultural heritage values, people and communities and other relevant social considerations;
- k) historical anthropogenic uses of the proposed action area (if relevant) and existing condition of the overall environment within, adjacent to, downstream and/or upstream of the proposed action area; and
- l) existing anthropogenic uses of the proposed action area, including those related to commercial and recreational fisheries.

3.5 Description of the protected matters

This section of the PER will need to provide a suitable characterisation and description of each of the controlling provisions that have been identified in the controlled action decision, that are likely to be impacted by the proposed action, which include the following:

- Listed threatened species and communities (s18 & 18A)
- Listed migratory species (s20 & 20A)
- Commonwealth marine area (s23 & 24A)
- Commonwealth land (s26 & 27A)

A description of the Commonwealth marine area and Commonwealth land area relevant to the proposed action, including the water, seabed and airspace must be included. The whole of the environment must be considered in the assessment to consider the impacts of the proposed action on the Commonwealth marine area and Commonwealth land area, including social, economic and cultural aspects of the environment.

A full characterisation must be provided for each of the MNES that are likely to be within, adjacent to, upstream and/or downstream of the onshore and offshore components of the proposed action (and in surrounding areas that may be impacted by the proposed action), including the following information:

- a) a robust habitat assessment for each MNES, including natural values and ecological character of these MNES, within, surrounding, adjacent to, upstream and/or downstream of the proposed action area, including:

- i) the habitat area (in hectares), quality, location, specifications of known and potential suitable habitat including BIAs, KEFs, habitat critical to survival and potential suitable habitat;
 - ii) the value of suitable habitat present; and
 - iii) an assessment of specific habitat requirements (e.g. breeding, foraging, dispersal, migratory pathways, important habitat, roosting etc.) to inform the expected, likely and potential impacts of the proposed action.
- b) habitat (including subtidal) assessments must be informed by information obtained from:
 - i) desktop assessments of Commonwealth and state government databases;
 - ii) field surveys and vegetation assessments, or studies that are applicable;
 - iii) the Species Profile and Threats (SPRAT) Database;
 - iv) relevant DCCEEW documents (i.e. approved conservation advice, recovery plans, listing advices, draft referral guidelines etc.); and
 - v) published research and other relevant sources (where relevant).
- c) details of the scope, duration and timing (survey season/s), and scientifically robust methodology for studies or surveys used to provide information on species/community/habitat within and surrounding the proposed action area, including:
 - i) an analysis of the strengths, limitations and expected methodologies used; and
 - ii) key information gaps, further studies needed and any proposals to address critical information needs.
- d) how studies or species-specific surveys are consistent with (or a justification of divergence from) relevant departmental guidelines or policy statements, or are in accordance with best practice studies or surveys, and include a description of any uncertainties/limitations, including but not limited to timing, conditions and technology;
- e) usage of the proposed action area in a regional context including, but not limited to, migratory pathways, resting, calving, breeding and foraging behaviours;
- f) the predicted temporal and spatial variability of occurrence within the onshore or offshore proposed action area and in areas that may be impacted by the proposed action; and
- g) relevant identified threats to the survival, habitat utilisation, site fidelity and essential life functions, including calving, foraging, breeding or migratory behaviours, past and projected trends and existing threats to the condition of habitat.

Appropriate resources and published literature should be reviewed and cited throughout, including all relevant EPBC Act approved conservation advice, recovery plans and threat abatement plans, Commonwealth guidelines, Bioregional Plans and Conservation Agreements. Other relevant state and academic literature, industry standards, guidelines and ecological studies could also be used where available.

It is the proponent's responsibility to ensure that any MNES at the time of the controlled action decision, which will or are likely to be impacted by the proposed action, are assessed for the Minister's consideration. Under section 158A of the EPBC Act, a decision under section 75, of

whether an action is a controlled action and whether a provision of Part 3 is a controlling provision for an action, any listing events (e.g. the listing of a species or ecological community, or the uplisting of a species or ecological community) that occur after the controlled action decision (26 September 2024) do not affect the assessment and approval process.

The PER must identify and describe known historical records of MNES in the broader region (this will also need to include records outside of the proposed action area). All known records must be supported by an appropriate source (i.e. Marine Mammal Observer (MMO) data, Commonwealth and state databases, published research, publicly available survey reports, etc.), the year of the record and a brief description of the habitat.

Please note that additional MNES may need to be considered based on further surveys and assessments, which are found to be likely to be present within and surrounding the proposed action area.

Specific content required in the PER for each of these controlling provisions have been outlined in the sections below.

3.5.1 Listed threatened species and communities (s18 & 18A)

A description of Listed threatened species and communities (EPBC Act sections 18 & 18A) that are likely to be present in the vicinity of the onshore or offshore components of the proposed action.

At the time of the controlled action decision, the following Listed threatened species and communities were known or likely to be impacted by the proposed action:

- Tuart Woodlands of the Swan Coastal Plain ecological community – Critically Endangered
- Honeymyrtle shrubland on limestone ridges of the Swan Coastal Plain Bioregion – Critically Endangered
- Australasian Bittern (*Botaurus poiciloptilus*) - Endangered
- Australian Fairy Tern (*Sternula nereis nereis*) - Vulnerable
- Australian Lesser Noddy (*Anous tenuirostris melanops*) - Vulnerable, Marine
- Australian Painted Snipe (*Rostratula australis* listed as *Rostratula benghalensis (sensu lato)*) - Endangered, Marine
- Australian Sea Lion (*Neophoca cinerea*) – Endangered, Marine
- Amsterdam Albatross (*Diomedea amsterdamensis*) – Endangered, Migratory, Marine
- Black-browed Albatross (*Thalassarche melanophris*) - Vulnerable, Migratory, Marine
- Black-tailed Godwit (*Limosa limosa*) - Endangered, Migratory, Marine
- Blue Petrel (*Halobaena caerulea*) - Vulnerable, Marine
- Campbell Albatross (*Thalassarche impavida*) - Vulnerable, Migratory, Marine
- Carnaby's Black Cockatoo (*Zanda latirostris* listed as *Calyptorhynchus latirostris*) - Endangered
- Common Greenshank (*Tringa nebularia*) - Endangered, Migratory, Marine
- Curlew Sandpiper (*Calidris ferruginea*) – Critically Endangered, Migratory, Marine
- Eastern Curlew (*Numenius madagascariensis*) – Critically Endangered, Migratory, Marine

- Fairy Prion (southern) (*Pachyptila turtur subantarctica*) - Vulnerable
- Flatback Turtle (*Natator depressus*) - Vulnerable, Migratory, Marine
- Freshwater Sawfish (*Pristis pristis*) – Vulnerable, Migratory
- Forest Red-tailed Black Cockatoo (*Calyptorhynchus banksii naso*) - Vulnerable
- Great Knot (*Calidris tenuirostris*) - Vulnerable, Migratory, Marine
- Greater Sand Plover (*Charadrius leschenaultia*) - Vulnerable, Migratory, Marine
- Green Turtle (*Chelonia mydas*) - Vulnerable, Migratory, Marine
- Grey Nurse Shark (west coast population) (*Carcharias taurus (west coast population)*) - Vulnerable, Migratory
- Grey Plover (*Pluvialis squatarola*) - Vulnerable, Migratory, Marine
- Indian Yellow-nosed Albatross (*Thalassarche carteri*) - Vulnerable, Migratory, Marine
- Leatherback Turtle (*Dermochelys coriacea*) - Endangered, Migratory, Marine
- Lesser Sand Plover (*Charadrius mongolus*) - Endangered, Migratory, Marine
- Loggerhead Turtle (*Caretta caretta*) - Endangered, Migratory, Marine
- Northern Giant Petrel (*Macronectes halli*) - Vulnerable, Migratory, Marine
- Northern Royal Albatross (*Diomedea sanfordi*) - Endangered, Migratory, Marine
- Northern Siberian Bar-tailed Godwit (*Limosa lapponica menzbieri*) - Endangered
- Red Knot (*Calidris canutus*) - Vulnerable, Migratory, Marine
- Red-tailed Tropicbird (Indian Ocean) (*Phaethon rubricauda westralis*) - Endangered
- Ruddy Turnstone (*Arenaria interpres*) - Vulnerable, Migratory, Marine
- Sharp-tailed Sandpiper (*Calidris acuminata*) - Vulnerable, Migratory, Marine
- Shy Albatross (*Thalassarche cauta*) - Endangered, Migratory, Marine
- Slender Andersonia (*Andersonia gracilis*) - Endangered
- Soft-plumaged Petrel (*Pterodroma mollis*) - Vulnerable, Marine
- Sooty Albatross (*Phoebastria fusca*) - Vulnerable, Migratory, Marine
- Sooty Shearwater (*Ardenna grisea*) - Vulnerable, Migratory, Marine
- Southern Giant-Petrel (*Macronectes giganteus*) - Endangered, Migratory, Marine
- Southern Right Whale (*Eubalaena australis* listed as *Balaena glacialis australis*) - Endangered, Migratory, Cetacean
- Southern Royal Albatross (*Diomedea epomophora*) - Vulnerable, Migratory, Marine
- Terek Sandpiper (*Xenus cinereus*) - Vulnerable, Migratory, Marine
- Tristan Albatross (*Diomedea dabbenena*) - Endangered, Migratory, Marine
- Wandering Albatross (*Diomedea exulans*) - Vulnerable, Migratory, Marine
- Whale Shark (*Rhincodon typus*) - Vulnerable, Migratory
- White-capped Albatross (*Thalassarche steadi*) - Vulnerable, Migratory, Marine
- White Shark (*Carcharodon carcharias*) - Vulnerable, Migratory

3.5.2 Listed migratory species (s20 & 20A), in addition to the threatened migratory species identified above

A description of Listed migratory species (EPBC Act sections 20 & 20A) that are likely to be present in the vicinity of the onshore or offshore components of the proposed action.

At the time of the controlled action decision, the following Listed migratory species, in addition to the threatened migratory species identified above, were known or likely to be impacted by the proposed action:

- Bar-tailed Godwit (*Limosa lapponica*) - Marine
- Bridled Tern (*Onychoprion anaethetus*) - Marine
- Broad-billed Sandpiper (*Limicola falcinellus*) - Marine
- Caspian Tern (*Hydroprogne caspia* listed as *Sterna caspia*) - Marine
- Common Noddy (*Anous stolidus*) - Marine
- Common Redshank (*Tringa totanus*) - Marine
- Common Sandpiper (*Actitis hypoleucos*) - Marine
- Common Tern (*Sterna hirundo*) - Marine
- Double-banded Plover (*Charadrius bicinctus*) - Marine
- Flesh-footed Shearwater (*Ardenna carneipes* listed as *Puffinus carneipes*) - Marine
- Giant Manta Ray (*Mobula birostris* listed as *Manta birostris*)
- Greater Crested Tern (*Thalasseus bergii*) - Marine
- Grey Wagtail (*Motacilla cinerea*) - Marine
- Grey-tailed Tattler (*Tringa brevipes*) – Marine
- Gull-billed Tern (*Gelochelidon nilotica*)- Marine
- Humpback Whale (*Megaptera novaeangliae*) - Whales and other cetaceans
- Little Tern (*Sternula albifrons*) - Marine
- Mackerel Shark (*Lamna nasus*)
- Marsh Sandpiper (*Tringa stagnatilis*) - Marine
- Oceanic Whitetip Shark (*Carcharhinus longimanus*)
- Oriental Pratincole (*Glareola maldivarum*) - Marine
- Osprey (*Pandion haliaetus*) - Marine
- Pacific Golden Plover (*Pluvialis fulva*) - Marine
- Pectoral Sandpiper (*Calidris melanotos*) - Marine
- Red-necked Phalarope (*Phalaropus lobatus*) - Marine
- Red-necked Stint (*Calidris ruficollis*) - Marine
- Reef Manta Ray (*Mobula alfredi* listed as *Manta alfredi*)
- Roseate Tern (*Sterna dougallii*) - Marine
- Sanderling (*Calidris alba*) - Marine
- Wedge-tailed Shearwater (*Ardenna pacifica*) - Marine
- Whimbrel (*Numenius phaeopus*) – Marine

3.5.3 Commonwealth marine area (s23 & 24A)

The description of the Commonwealth marine area within this section must describe the environment of the Commonwealth marine area and its values relevant to the proposed action.

The ‘Commonwealth marine area’ is defined in section 24 of the EPBC Act as any part of the waters inside the seaward boundary of Australia’s Exclusive Economic Zone (EEZ) and any waters over the continental shelf of Australia, including the seabed under, and any airspace over those waters, that is not within the limits of a State or the Northern Territory.

The proposed action is located wholly within state-controlled Coastal Waters, however it is approximately 5 km (2.7 nm) from the Commonwealth-controlled waters boundary. An action requires approval if it is taken outside of a Commonwealth marine area but within Australian

jurisdiction and the action has, will have, or is likely to have a significant impact on the environment and values within a Commonwealth marine area.

At the time of the controlled action decision, the Commonwealth marine area known or likely to be impacted by the proposed action occurs within the South-west Marine Region (2012).

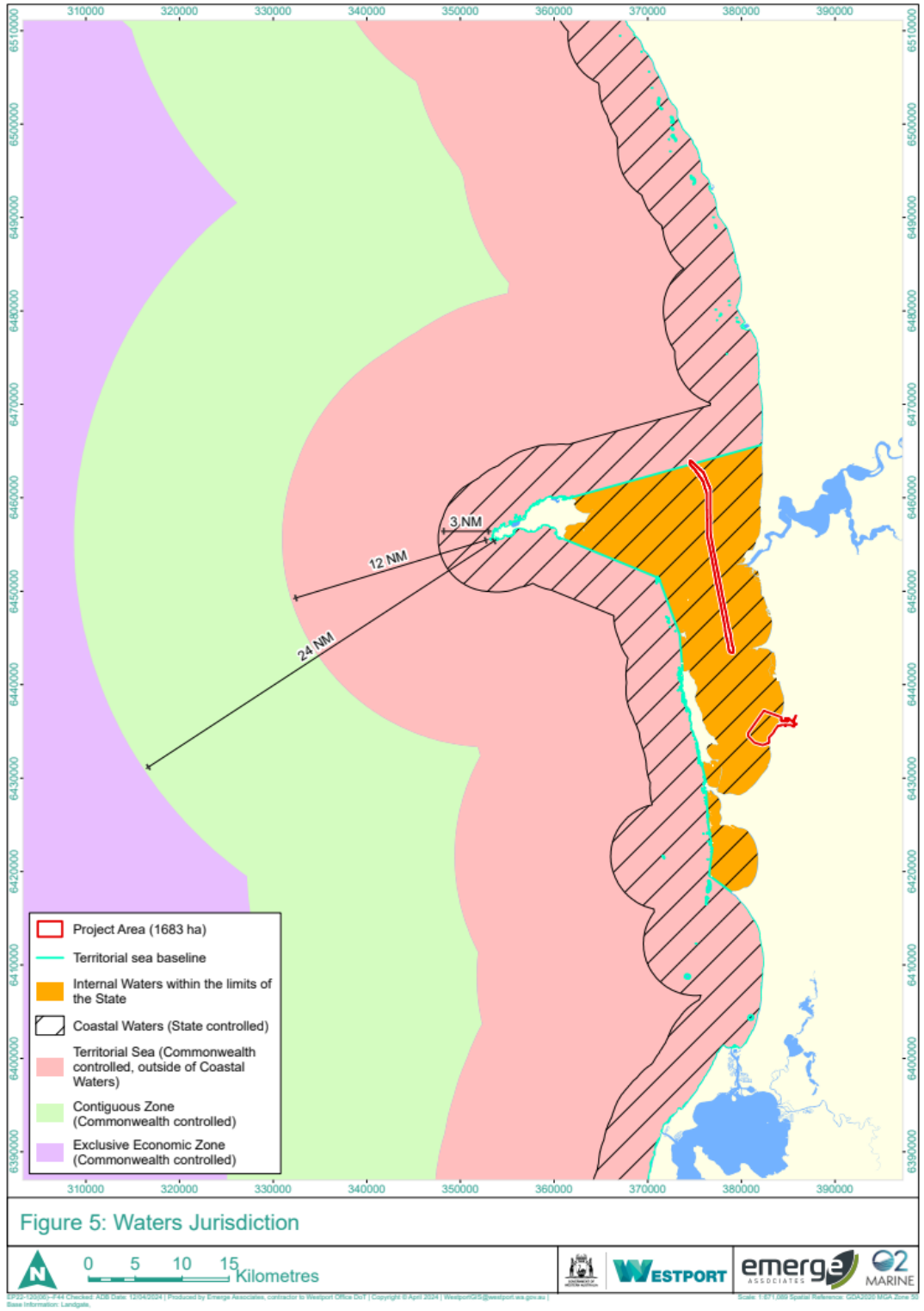


Figure 3. Waters jurisdiction boundaries in relation to the proposed action area of Outer Harbour Port Development, Kwinana (EPBC 2024/09859)

In accordance with the definition of the environment in section 528 of the EPBC Act, the PER must describe the following:

- a) ecosystems and their constituent parts, including people and communities;
- b) natural and physical resources;
- c) the qualities and characteristics of locations, places and areas, including BIAs and KEFs (identified in the South-West marine region profile (2012)), and Australian marine parks (see Australian Marine Parks (parksaustralia.gov.au)), addressing:
 - i) distance from the proposed action;
 - ii) conservation values;
 - iii) status, condition and the threats to identified values that are relevant to the proposed action; and
 - iv) relevant management arrangements (e.g. management plans) and strategies and any separate approval requirements for activities within or which may affect Australian marine parks.
- d) heritage values of places, including:
 - i) locations and descriptions of underwater cultural heritage sites and artefacts must be determined using an appropriate survey method such as desktop assessment. If detailed assessment is required, it should be undertaken by a suitably qualified expert with a background in Australian underwater cultural heritage expertise, in consultation and agreement with, relevant First Nations groups and key First Nations Traditional Owners.
- e) the social, economic and cultural aspects, of a thing mentioned in paragraph a), b), c) or d), including as they relate to the relevant First Nations peoples and other First Nations stakeholders.

First Nations heritage values are the place that is of significance to First Nations persons in accordance with their practices.

At the time of the controlled action decision, the following Listed marine species and whales and other cetaceans, in addition to the threatened migratory marine, whales and other cetacean species identified above, were MNES relevant to the Commonwealth marine area and known or likely to be impacted by the proposed action:

Listed marine species, in addition to the threatened migratory species above

- Australasian Gannet (*Morus serrator*)
- Australian Pelican (*Pelacanus conspicillatus*)
- Australian Smooth Pipefish (*Lissocampus caudalis*)
- Bonyhead Pipefish (*Nannocampus subosseus*)
- Brown Skua (*Stercorarius antarcticus* listed as *Catharacta skua*)
- Cattle Egret (*Bubulcus ibis* listed as *Ardea ibis*)
- Common Seadragon, Weedy Seadragon (*Phyllopteryx taeniolatus*)
- Fairy Tern (*Sternula nereis* listed as *Sterna nereis*)

- Gale's Pipefish (*Campichthys galei*)
- Gunther's Pipehorse (*Solegnathus lettiensis*)
- Hairy Pipefish (*Urocampus carinirostris*)
- Hooded Plover (*Thinornis cucullatus* listed as *Thinornis rubricollis*)
- Javelin Pipefish (*Lissocampus runa*)
- Leafy Seadragon (*Phycodurus eques*)
- Little Penguin (*Eudyptula minor*)
- Little Shearwater (*Puffinus assimilis*)
- Longsnout Pipefish (*Vanacampus poecilolaemus*)
- Mother-of-pearl Pipefish (*Vanacampus margaritifer*)
- New Zealand Fur-seal (*Arctocephalus forsteri*)
- Pacific Gull (*Larus pacificus*)
- Pacific Reef Heron (*Egretta sacra sacra*) listed at species level as Eastern Reef Egret (*Egretta sacra*)
- Pied Stilt (*Himantopus himantopus*)
- Port Phillip Pipefish (*Vanacampus phillipi*)
- Prophet's Pipefish (*Lissocampus fatiloquus*)
- Pugnose Pipefish (*Pugnaso curtirostris*)
- Rainbow Bee-eater (*Merops ornatus*)
- Red-capped Plover (*Charadrius ruficapillus*)
- Red-necked Avocet (*Recurvirostra novaehollandiae*)
- Rhino Pipefish (*Histiogamphelus cristatus*)
- Sawtooth Pipefish (*Maroubra perserrata*)
- Short-head Seahorse (*Hippocampus breviceps*)
- Silver Gull (*Chroicocephalus novaehollandiae* listed as *Larus novaehollandiae*)
- Sooty Tern (*Onychoprion fuscatus* listed as *Sterna fuscata*)
- Southern Pygmy Pipehorse (*Acentronura australe*)
- Spectacled Sea Snake (*Hydrophis kingii* listed as *Disteira kingii*)
- Spotted Pipefish (*Stigmatopora argus*)
- Upside-down Pipefish (*Heraldia nocturna*)
- West Australian Seahorse (*Hippocampus subelongatus*)
- Western Crested Pipefish (*Mitotichthys meraculus*)
- Western Spiny Seahorse (*Hippocampus angustus*)
- White-bellied Sea-Eagle (*Haliaeetus leucogaster*)
- Widebody Pipefish (*Stigmatopora nigra*)

Whales and other cetaceans, in addition to the threatened migratory marine species above

- Bottlenose Dolphin (*Tursiops truncatus*)
- Common Dolphin (*Delphinus delphis*)
- Indian Ocean Bottlenose Dolphin (*Tursiops aduncus*)
- Minke Whale (*Balaenoptera acutorostrata*)
- Pygmy Blue Whale (*Balaenoptera musculus breviceuda*) listed at species level as Blue Whale (*Balaenoptera musculus*)
- Risso's Dolphin (*Grampus griseus*)
- Spotted Dolphin (*Stenella attenuata*)

The above listed species are to be addressed in relation to their occurrence within the environment of a Commonwealth marine area, that the proposed action has, will have, or is likely to have a significant impact upon, including the values within a Commonwealth marine area.

3.5.4 Commonwealth land (s26 & 27A)

The PER must include a description of the Commonwealth land environment and its values relevant to the proposed action.

‘Commonwealth land’ is defined as land owned or leased by the Commonwealth or Commonwealth agency.

The proposed action is not located on Commonwealth land, however it is approximately 3.5 km from Commonwealth land. An action requires approval if it is taken by any person outside of Commonwealth land, that is likely to have a significant impact on the environment on Commonwealth land.

At the time of the controlled action decision, the following Commonwealth land was known or likely to be impacted by the proposed action, within approximately 3.5 km of the proposed action area:

- Garden Island, WA

In accordance with the definition of the environment in section 528 of the EPBC Act, the PER must describe the following:

- a) ecosystems and their constituent parts, including people and communities;
- b) natural and physical resources;
- c) the qualities and characteristics of locations, places and areas including natural and historic values, and ecological character, addressing:
 - i) distance from the proposed action;
 - ii) conservation values; and
 - iii) status, condition and the threats to identified values that are relevant to the proposed action.
- d) heritage values of places; and
 - i) specific heritage values for Garden Island, WA are outlined in the Australian Heritage Database listing (Place ID 105274).
- e) the social, economic and cultural aspects, of a thing mentioned in paragraph a), b), c) or d), including as they relate to the relevant First Nations people and other First Nations stakeholders.

The above components of the environment are to be addressed in relation to the environment of the Commonwealth land of Garden Island, WA, that the proposed action has, will have, or is likely to have a significant impact upon.

4. RELEVANT IMPACTS

4.1 General impacts

The PER must discuss the impact of the proposed action across the life of the proposed Outer Harbour Port Development, Kwinana and include a description of all of the relevant impacts arising from the proposed action. Relevant impacts are impacts that the proposed action will have or is likely to have on a matter protected by the following controlling provisions:

- Listed threatened species and ecological communities (sections 18 and 18A);
- Listed migratory species (sections 20 and 20A);
- Commonwealth marine area (sections 23 and 24A); and
- Commonwealth land (sections 26 and 27A).

Likely impacts, including direct, indirect, facilitated, and cumulative, to be addressed in the PER must include but should not be limited to the impacts listed in sections 4.2.1 to 4.2.13.

Impacts during the construction, operation and maintenance phases of the proposed action should be addressed, and the following information provided:

- a) a detailed assessment of the nature and extent of the likely short-term and long-term relevant impacts;
 - i) a statement on whether any relevant impacts are likely to be unknown, unpredictable or irreversible;
 - ii) the expected geographic extent of impacts and the length of the impact period;
 - iii) analysis of the significance of the relevant impacts; and
 - iv) an assessment of the likelihood and total quantum (in hectares) of the impact of the proposed action on the ecological functions, populations, habitat (including critical and supporting), species behaviours (foraging, migration and breeding) and known threats of any MNES, including natural values and ecological character of these MNES, within and surrounding the proposed action area.
- b) an assessment of the likelihood of the impact of the proposed action to impede the recovery of any MNES, including natural values and ecological character of these MNES, within and surrounding the proposed action area;
- c) technical data and other information used or needed to make a detailed assessment of the relevant impacts including, but not limited to:
 - i) baseline studies, characterising the disturbance footprint (desktop and field surveys) presented with sufficient detail to allow a quantified comparison between the pre-development state of the environment and changes to the environment attributable to the proposed action;
 - ii) modelling studies, projecting the expected future extent of impacts using existing hydrodynamic conditions (e.g. marine water currents, wave climate) and knock-on consequences for coastal processes (e.g. the extent and severity of any change in coastal geomorphology and its effect on tidal regimes);
 - iii) details of the results of modelling studies;

- iv) evidence of all assumptions, calibration, validation, and related uncertainty of any model predictions using site specific forcing and input data; and
- v) characterisation studies, which discuss risk levels (e.g. possible changes to the quality of waters, sediments and biota, or to the behaviour of Listed species, or the barrier effects of the physical presence of onshore and offshore infrastructure).
- d) avoidance and/or mitigation measures applied to address these impacts must be addressed as outlined in section 5 of these guidelines; and
- e) details of any expected residual impacts to MNES, including natural values and ecological character of these MNES, within and surrounding the proposed action area. The management of these impacts must be addressed as outlined in sections 5 and 6 of these guidelines.

All sources of potential impacts into the receiving environment should be identified and described (including but not limited to):

- a) habitat clearing, fragmentation and dust from landside development;
- b) capital and maintenance dredging;
- c) seabed disturbance and the impact to benthic communities, including seagrass habitats;
- d) physical effects of sediment mobilisation (i.e. turbidity and suspended sediment) including the effects of low light and the chemical effect of nutrient over- or under-abundance;
- e) increased light pollution (please see *National Light Pollution Guidelines for Wildlife, 2023*);
- f) avifauna and marine mammal collision including increased vessel movement post-completion of the proposed action;
- g) underwater noise and vibration;
- h) routine vessel discharges and unplanned spills;
- i) potential introduction of invasive marine species;
- j) marine debris, pollution (i.e. emissions, refuse, effluent), contaminated substances and hazardous waste (if any); and
- k) impacts which may arise through the transportation, storage and use of dangerous goods (if any), fuels (i.e. turbine hydraulic fuel) and chemicals, such as accidental spills.

In discussing general impacts, identify the cumulative short term and long-term impacts on ecosystem resilience, including the effect of climate change, and consider how the interaction of extreme environmental events and related safety responses may impact on the environment. Comment should also be made on whether the impacts are likely to be known, unpredictable or irreversible.

The PER should identify and address cumulative impacts, where potential impacts of the proposed action are in addition to existing impacts of other activities (including known potential future expansions or developments by the proponent and other proponents in the region and vicinity). The PER should also address the potential cumulative impact of the proposal on ecosystem resilience and make an evaluation of the likely short-term and long-term cumulative impacts on the general environment and ecosystem function where relevant to MNES.

A risk assessment must be conducted and documented.

The risk assessment must:

- a) describe the expected, likely and potential impacts of the proposed action on MNES during the construction, operation and maintenance phases; and
- b) set out conclusions on the acceptability of impacts on MNES.

In assessing the impacts, including when defining acceptable levels of impact, consideration must be given to:

- EPBC Act Policy Statement – Significant Impact Guidelines 1.1 – Matters of National Environmental Significance (2013)
- Approved Conservation Advice (incorporating listing advice) for the Tuart (*Eucalyptus gomphocephala*) woodlands and forests of the Swan Coastal Plain ecological community (2019)
- EPA Technical Guidance – Flora and Vegetation Surveys for Environmental Impact Assessments (2016)
- Draft survey guidelines for Australia’s threatened orchids (2013)
- Approved Conservation Advice (incorporating listing advice) for the Banksia Woodlands of the Swan Coastal Plain ecological community (2016)
- Approved Conservation Advice for Honeymyrtle shrubland on limestone ridges of the Swan Coastal Plain Bioregion (2023)
- Referral guideline for 3 WA threatened black cockatoo species (2022)
- Carnaby’s Cockatoo (*Calyptorhynchus latirostris*) Recovery Plan (2013)
- Approved Conservation Advice for *Calyptorhynchus banksii naso* (Forest Red-tailed Black Cockatoo) (2009)
- Commonwealth Listing Advice on *Calyptorhynchus banksii naso* (Forest Red-tailed Black Cockatoo) (2009)
- Forest Black Cockatoo (Baudin’s Cockatoo *Calyptorhynchus baudinii* and Forest Red-tailed Black Cockatoo *Calyptorhynchus banksii naso*) Recovery Plan (2008)
- Survey guidelines for Australia’s threatened birds (2010)
- National Recovery Plan for the Southern Right Whale (*Eubalaena australis*) (2024)
- National Guidelines for the Survey of Cetaceans, Marine Turtles and the Dugong (2024)
- Species group report card – cetaceans (2012)
- Marine Bioregional Plan for the South-west Marine Region (2012)
- EPBC Act Policy Statement – Significant Impact Guidelines 1.2 - Actions on, or impacting upon, Commonwealth land and Actions by Commonwealth Agencies (2013)
- Conservation Advice *Neophoca cinerea* Australian Sea Lion (2020)
- Recovery Plan for the Australian Sea Lion (*Neophoca cinerea*) (2013)
- Issues paper for the Australian Sea Lion (*Neophoca cinerea*) (2013)
- Threat Abatement Plan for the impacts of marine debris on the vertebrate wildlife of Australia’s coasts and oceans (2018)
- Species group report card – pinnipeds (2012)
- Recovery Plan for Marine Turtles in Australia (2017)
- Approved Conservation Advice for *Dermochelys coriacea* (Leatherback Turtle) (2008)

- Commonwealth Listing Advice on *Dermochelys coriacea* (2009)
- National Light Pollution Guidelines for Wildlife (2023)
- Species group report card – marine reptiles (2012)
- Recovery Plan for the White Shark (*Carcharodon carcharias*) (2013)
- Species group report card – sharks (2012)
- EPBC Act Policy Statement 3.21: Industry guidelines for avoiding, assessing and mitigating impacts on EPBC Act listed migratory shorebird species (2015)
- Wildlife Conservation Plan for Migratory Shorebirds (2015)
- Species group report card – seabirds (2012)
- Commonwealth marine environment report card (2012)
- The Australian Marine Spatial Information System (AMSIS) Advanced Map Viewer
- National Assessment Guidelines for Dredging (2009)
- EPBC Act Regulations Part 8 – Interacting with cetaceans and whale watching (2000)
- EPBC Act Environmental Offsets Policy (2012)
- Bonn Convention
- Japan-Australia Migratory Bird Agreement (JAMBA) (1981)
- China-Australia Migratory Bird Agreement (CAMBA) (1988)
- Republic of Korea-Australia Migratory Bird Agreement (ROKAMBA) (2007)
- Agreement on the Conservation of Albatrosses and Petrels (ACAP) (2001)
- Marine Pest Plan 2018-2023: The national strategic plan for marine pest biosecurity (2018)
- EPBC Act Guidance: How to use the Offsets assessment guide
- Underwater Cultural Heritage Guidance for Offshore Developments (2019)
- Sea Country: An Indigenous Perspective (2002)
- A Guide to the Protected Zones Declared Under the Underwater Cultural Heritage Act
- National Strategy for Reducing Vessel Strike on Cetaceans and other Marine Megafauna (2017)
- Australian National Whale and Dolphin Watching Guidelines (2017)
- Interim - Engaging with First Nations People and Communities on Assessments and Approvals under the Environment Protection and Biodiversity Conservation Act 1999 (Commonwealth of Australia 2023)
- Dhawura Ngilan: A vision for Aboriginal and Torres Strait Islander heritage in Australia and the Best Practice Standards in Indigenous cultural heritage management and legislation (2021)
- National Acid Sulfate Soils Guidance: Guidelines for the dredging of acid sulfate soil sediments and associated dredge spoil management (2018)
- National Water Quality Management Strategy Charter (2018)
- Underwater Cultural Heritage Act (2018)
- PFAS National Environmental Management Plan (2020)

4.2 Specific Impacts

4.2.1 Habitat clearing and fragmentation

The PER must include an assessment of the impact as a result of land clearing, fragmentation and degradation associated with construction, operation and maintenance of the proposed action.

The following will need to be characterised:

- a) the clearing footprint within the proposed action area; and
- b) the percentage of each of fauna habitat type expected to be cleared within and surrounding the proposed action area.

4.2.2 Noise and vibration

The PER must include an assessment of the potential impacts of noise and vibration as a result of the proposed action (e.g. vehicle traffic).

The following will need to be characterised:

- a) the measured background noise level, prior to commencement of the proposed action; and
- b) the source, magnitude, timing, duration, and frequency of noise and vibration emissions of the proposed action.

4.2.3 Dust

The PER must include an assessment of the potential impacts of dust emissions as a result of the proposed action.

4.2.4 Disturbance of underwater cultural heritage

The PER must include an assessment of the potential impacts to any underwater cultural heritage areas as a result of the proposed action. The assessment must be consistent with the Underwater Cultural Heritage Act (2018) (UCH Act).

The following will need to be characterised:

- a) description of the potential impact to remains of shipwrecks, submerged aircraft and their associated articles which have been in Commonwealth waters for 75 years or more, and other sites/protected zones declared under the UCH Act which contains articles of heritage significance.

4.2.5 Seabed disturbance

The PER must include an assessment of the potential impacts (including to prey species) arising from seabed disturbance which includes impacts to important benthic communities and habitats as a result of the proposed action.

The following will be required to be characterised:

- a) details of the benthic communities and seabed habitat within the proposal area including their presence and potential future spatial extent;
- b) consideration must be given to the following impacts:
 - i) the reduction in quality and quantity of light reaching seabed associated with increased turbidity; and
 - ii) excavation, burial, smothering or overtopping of benthic habitat.

4.2.6 Dredging

The PER must include an assessment of the potential impacts arising from the dredging as a result of the proposed action. The assessment must be consistent with the National Assessment Guidelines for Dredging (2009). A conceptual site model should be included to describe impact pathways and linkages.

The following will be required to be characterised:

- a) details of the capital and maintenance dredging to be undertaken during all stages of the proposed action (construction, operation and maintenance, where possible), including:
 - i) the magnitude, volume, parameters, spatial and temporal extent.
- b) an environmental baseline assessment related to substrate, bathymetry and hydrodynamics to inform and ensure appropriate dredge spoil modelling;
- c) baseline assessment of sediments at and near the loading and disposal sites as well as nearby sensitive elements of the marine environment and a consideration of other uses of the area;
- d) location of sites within and surrounding the proposed action area sensitive to dredging impacts must be identified on a map at a suitable scale;
- e) details of land reclamation and excavation associated with the construction, operation and maintenance activities of the proposed action;
- f) details of any marine placement of dredge material, including:
 - i) prediction of turbidity plume characteristics and suspended solids concentrations during and after disposal, relative to existing sediment levels and hydrodynamics. The processed condition of any sediments, that is, after dredging, should be tested and accounted for in any modelling; and
 - ii) disposal alternatives and waste minimisation, alternatives and prevention.
- g) details of the removal of existing marine infrastructure and construction of marine infrastructure;
- h) details of the sediment quality at the loading and disposal sites;
- i) assessment of dredge spoil contamination;
- j) assessment of acid sulfate soils, consistent with the *National Acid Sulfate Soils Guidance: Guidelines for the dredging of acid sulfate soil sediments and associated dredge spoil management (2018)*, including:
 - i) assessment of the presence of acid sulfate soils (ASS);
 - ii) details of water contamination including disturbance and spread; and
 - iii) consideration of cumulative levels of ASS due to other projects within and surrounding the proposed action area.
- k) assessment of per- and poly-fluoroalkyl substances (PFAS), consistent with the *PFAS National Environmental Management Plan (2020)*, including:
 - i) assessment of the presence of PFAS;
 - ii) details of water contamination including disturbance and spread; and
 - iii) consideration of cumulative levels of PFAS due to other projects within and surrounding the proposed action area.
- l) environmental and human exposure to existing contaminants within soils including from disturbance of existing contaminated sites if relevant.

4.2.7 Light pollution

The PER must include an assessment of the potential impacts arising from light pollution as a result of the proposed action. The assessment must be consistent with the *National Light Pollution Guidelines for Wildlife (2023)*.

The following will be required to be characterised:

- a) details of the lighting to be used during all stages of the proposed action (including night operations, maintenance and increased vehicle/vessel traffic).

4.2.8 Avifauna and marine mammal collision

The PER must include a collision risk assessment, to understand the potential impacts to avifauna and marine mammal species, which must be in accordance with:

- *EPBC Act Policy Statement 2.1 - Interaction between offshore exploration and whales: Industry guidelines;*
- *EPBC Act Regulations Part 8 - Interacting with cetaceans and whale watching;*
- *National Strategy for Reducing Vessel Strike on Cetaceans and other Marine Megafauna;*
- *Australian National Whale and Dolphin Watching Guidelines;* and
- *Industry Guidelines for avoiding, assessing, and mitigating impacts on EPBC Act Listed migratory shorebird species.*

The following will be required to be characterised:

- a) the determination of key factors (where applicable) that affect collision risk such as morphology, sensorial perception, behaviour, abundance, habitat specialisation, migratory pathways, foraging and breeding behaviours flight paths, flight manoeuvrability, flight heights under varied wind conditions, food availability and weather conditions relevant to the proposed action area.

4.2.9 Underwater disturbance (noise and vibrations)

The PER must include an assessment of the potential impacts (including prey species), arising from underwater noise and vibrations by the proposed action.

The following will be required to be characterised:

- a) details of the noise and vibrations fields to be generated during all stages of the proposed action (construction, operation and maintenance) including:
 - i) the intensity, duration, frequency, and extent of underwater noise generated from all relevant activities associated with the proposed action, including cumulative impacts from all noise generating activities; and
 - ii) characterising whether the impact is impulsive or continuous.
- b) the location of sites sensitive to noise disturbance must be identified on a map at a suitable scale.

4.2.10 Routine vessel discharges and unplanned spills

The PER must identify and evaluate the potential impact of routine vessel and dredging discharges and unplanned spills. A conceptual site model should be included to describe impact pathways and linkages.

4.2.11 Introduction of invasive species

The PER must explore the risks and impacts of introduced invasive species such as feral animals, invasive marine species (IMS), weeds, diseases, and pathogens as a result of the proposed action. This assessment will need to align with the relevant statutory documentation. The following will be required to be characterised:

- a) details of biosecurity and marine pest management of vessels and equipment used during the construction, operation and maintenance;
- b) the project-associated vectors for introduction of IMS; and
- c) the effectiveness of the suite of control measures which will be implemented to ensure significant impacts to MNES, as a result of introduced IMS, are either avoided or reduced to an acceptable level.

4.2.12 Waste

The PER must describe and assess the potential impacts of all wastes to be generated by the proposed action including potential indirect impacts from poor water quality, spills, feral animal attraction, and marine debris introduction, which will need to include details of each waste in terms of:

- a) operational handling and fate of all wastes including storage and disposal;
- b) on-site treatment methods proposed for the wastes (including grey-waste);
- c) methods of disposal (including the need to transport wastes off-site for disposal) proposed to be used for any trade wastes, liquid wastes, solid wastes and dredge spoil;
- d) proposed discharge/disposal criteria for liquid and solid wastes and dredge spoil;
- e) methods to minimise marine debris introduction in alignment with the *Threat abatement plan for the impacts of marine debris on the vertebrate wildlife of Australia's coasts and oceans* (2018); and
- f) processes of waste minimisation techniques proposed.

4.2.13 Consequential and facilitated impacts

The PER must provide a detailed assessment of any potential impacts that the proposed action may facilitate at the local, regional, state or national scale. Assessment of consequential and facilitated impacts must include consideration of:

- a) any other known development proposals which may be facilitated or impacted (either positively or negatively) by the proposed action;
- b) whether the proposed action will result in an intensification of development or proposals in the region, or an increase in workforce, or in local and regional community changes; and

- c) any requirements for further proposals of major regional infrastructure to allow the proposed action to proceed.

4.3 Cumulative impacts

Cumulative impacts should be considered in terms of the potential overall consequence or magnitude, reversibility and duration of impacts. The assessment of cumulative impacts should include:

- a) defined cumulative impact thresholds for each impacted matter and address how the project's management actions consider these thresholds to minimise the risk to the environment;
- b) where there are environmental quality thresholds from management and framework guideline documents, such as the ones listed in section 4.1, these must be referenced and discussed including a justification that the level of expected impact is below or within these thresholds;
- c) a review and analysis of residual impacts of the proposed action, and of other known proposals, where there may be a spatial or temporal overlap;
- d) consideration of the potential for cumulative impacts to the values and ecological character of the Commonwealth marine area and Commonwealth land environment, resilience of any important populations of Listed marine species, migratory species, threatened species and on overall habitat quality and availability; and
- e) a discussion of the potential for existing pressures and threats to be exacerbated by the proposed action.

Where potential existing pressures and threats exist or will occur in the near future, such as by nearby developments, outline the impact, location and the timing of the impact, and consider how the project can avoid or mitigate the risk of cumulative impacts.

4.4 The environment of a Commonwealth marine area

The whole of the environment must be considered in the assessment of the impacts of the proposed action on the Commonwealth marine area, including social, economic and cultural aspects of the environment. For a full list of environmental impacts to be addressed in a whole of environment assessment please refer to the Significant impact guidelines 1.2 - Actions on, or impacting upon, Commonwealth land and Actions by Commonwealth Agencies – DCCEEW.

Direct and indirect impacts from the proposed action on the listed values of the Commonwealth marine area must be considered in relation to their effect on social, economic and cultural aspects, including First Nations heritage values of a place that is of significance to First Nations peoples in accordance with their practices.

For components of the proposed action that may impact upon the environment of a Commonwealth marine area, the PER will need to characterise impacts to the environment as described at Section 528 of the EPBC Act at Attachment 3. The following also needs to be included:

- a) Considerations of the characterised visual impact of the proposed action.

The PER must provide evidence of consultation and consideration of impacts to First Nations cultural heritage (if any) as a result of the proposed action. The PER should give due consideration to First Nations cultural values associated with the flora and fauna of the region to establish that potential impacts to First Nations cultural heritage have been considered holistically.

With regard to marine benthic habitats, the PER must include predictions of how construction, operation and maintenance phases of the proposed action will impact on existing marine benthic habitats and the biota they support. The PER must evaluate these impacts in the context of the effect they may have on marine ecological integrity and functioning, and the quality of water, sediment and biota.

4.5 The environment of a Commonwealth land area

The whole of the environment must be considered in the assessment of the impacts of the proposed action on the Commonwealth land area, including social, economic and cultural aspects of the environment. For a full list of environmental impacts to be addressed in a whole of environment assessment please refer to the Significant impact guidelines 1.2 - Actions on, or impacting upon, Commonwealth land and Actions by Commonwealth Agencies – DCCEEW.

Direct and indirect impacts from the proposed action on the listed values of the Commonwealth land of Garden Island must be considered in relation to their effect on social, economic and cultural aspects, including First Nations heritage values of a place that is of significance to First Nations persons in accordance with their practices.

For components of the proposed action that may impact upon the environment of a Commonwealth land area, the PER will need to characterise impacts to the environment as described at Section 528 of the EPBC Act at Attachment 3.

5. PROPOSED AVOIDANCE AND MITIGATION MEASURES

Avoidance and mitigation measures must be implemented to reduce the level of impact and risk to an acceptable level in accordance with the EPBC Act and supporting policies and guidelines. Avoidance and mitigation measures include any practices that will reduce the impacts and risks in order to meet an environmental outcome, performance criteria, any relevant legal requirements (related specifically to the impact/risk), internal company requirements, and any requirements that are identified through the stakeholder consultation process.

Avoidance of Listed threatened, migratory and marine critical habitats, BIAs, KEFs, values and ecological characteristics of the Commonwealth marine area, and values and ecological characteristics of the Commonwealth land area, must be applied as the first step in the mitigation hierarchy and will need to be identified and discussed in the PER.

In accordance with the environmental risk and impact assessment guidance above, where a risk is assessed to be low, this risk will be deemed acceptable, and no further management is required. Where the risk level is greater than low, additional management and mitigation measures are required to be considered and implemented.

Committed language (e.g. 'will') rather than non-committal language (e.g. 'may', 'where possible', 'if required') must be used.

The PER must provide specific and detailed information on proposed avoidance and mitigation measures to deal with the relevant impacts of the proposed action, and must include the following elements:

- a) A description of the environmental outcomes the measures are expected to achieve, including details of:
 - i) any baseline data, environmental indicators or proposed monitoring to demonstrate progress towards achieving these outcomes;
 - ii) management strategies that will be implemented if mitigation and management measures are insufficient and/or ineffective;
 - iii) adequate monitoring regimes and defined trigger levels that will prompt further management and/or remediation actions to prevent unacceptable impacts to MNES occurring;
 - iv) adaptive management practices that will iteratively and regularly review monitoring and management strategies from the outcomes of the implementation of the plans and to align with advancements in industry standards; and
 - v) who will be responsible for such measures and the extent of their responsibility.
- b) an assessment of the expected or predicted effectiveness and achievability of each proposed avoidance or mitigation measures in protecting MNES at the regional landscape and seascape scale, including timeframes for achieving and maintain effectiveness. Measures should be substantiated by referencing relevant guidelines, literature, and case-studies;
- c) a description of the measures proposed to be undertaken by the proponent that have been requested by local or state governments;
- d) any statutory or policy basis for the avoidance and mitigation measures;
- e) the cost of the measures; and
- f) an evaluation of whether residual impacts (following the application of mitigation measures) are consistent with the defined acceptable levels of impact relevant to the proposed action.

Please note the SPRAT Database may provide some relevant mitigation measures for relevant MNES. Any specific action management plans to be implemented should be listed here.

The PER must consider the environmental outcomes that will be achieved by the proposed action. This must include consideration of the department's outcomes-based conditions policy and guidance document, Outcomes-based conditions policy and guidance - DCCEEW available at <https://www.dcceew.gov.au/environment/epbc/publications/outcomes-based-conditions-policy-guidance>.

The PER must demonstrate how a conservation gain will be achieved for the MNES through the implementation of avoidance, mitigation and offset measures in a timely, transparent and scientifically robust manner. This may include actions which will maintain the ecological character of the environment, improve existing habitat for, created new habitat for, reduce threats to habitat for, and avert the loss of habitat for MNES under threat by the proposed action.

The PER must include an analysis of how the mitigation measures are not inconsistent with any statutory or policy requirements, including but not limited to the documents listed in section 4.1.

5.1 Management plans

The PER must include a detailed outline of any management plans that set out the framework for management, mitigation and monitoring of relevant impacts of the proposed action, including any provisions for independent environmental auditing¹.

The management plans need to address the proposed action phases (construction, operation and maintenance) separately and any staging of each phase. Each management plan must state the environmental objectives, performance criteria, monitoring, reporting, corrective action, responsibility and timing for each environmental issue.

The management plans must also describe contingencies for events such as accidental vessel or machinery spills, heavy or prolonged rainfall, storms, or saltwater intrusion into ground water.

The name of the agency responsible for endorsing or approving each mitigation measure or monitoring program must also be provided.

All management plans must be developed in accordance with the *Department's Environmental Management Plan Guidelines*, available at:

<http://www.environment.gov.au/epbc/publications/environmental-management-plan-guidelines>, and take account of all requirements relevant to the proposed action and its impacts, including but not limited to, Schedule 7A of the EPBC Regulations for Commonwealth Heritage places.

6. OFFSETS

Environmental offsets are broadly understood to mean actions taken outside of a development site that compensate for the residual significant impacts of that development. Offsets are not intended to replace avoidance and mitigation measures which are expected to be the primary

¹Proposed action proponents must consult with the department on the purpose of the management plan and whether it is the most effective regulatory tool for management of impacts on Matters of National Environmental Significance. In some circumstances, it may be more appropriate to apply outcome-based conditions to manage environmental risk.

strategies for managing the potential impacts of development proposals. The PER must provide details of:

- a) residual significant impacts on MNES that are likely to occur after the proposed activities to avoid and mitigate all impacts are taken into account; and
- b) where residual significant impacts are likely to occur, the reasons for why the avoidance or mitigation of these significant impacts is not expected to be achieved need to be discussed.

The PER must include an offset strategy (as an appendix) proposed to be implemented to compensate for the residual significant impacts of the proposed action if these are determined likely, as well as an analysis about how the offset(s) meet the requirements in the department's EPBC Act Offsets Policy.

The offsets strategy must include:

- a) quantity of impacts which are being offset and details of the environmental offset(s) (in hectares) for residual significant impacts of the proposed action on relevant MNES, and/or their habitat;
- b) the availability and suitability of offsets and evidence that the relevant MNES, and/or their habitat, is present in the potential offset area(s);
- c) information about how the proposed offset area(s) provides a conservation benefit for the protected matter;
- d) specific environmental outcomes to be achieved through the offset, and reasoning for these in reference to relevant statutory recovery plans, conservation advice and threat abatement plans;
- e) details of the proposed mechanism to legally secure the environmental offset(s) (under WA legislation or equivalent) to provide protection for the offset area(s) against development incompatible with conservation;
- f) how any proposed staging of the overall development will impact the delivery of offsets;
- g) auditing and review mechanisms; and
- h) an analysis of how the offset package meets the requirements of the EPBC Act Offsets Policy.

Offsets must directly contribute to the ongoing viability of the MNES impacted by the proposed action, be based on scientifically robust information and deliver an overall conservation outcome that improves or maintains the viability of the MNES as compared to what is likely to have occurred under the status quo, that is, if neither the proposed action nor the offset(s) had taken place.

The outcomes of the offset strategy need to be specific, measurable, achievable, based on robust baseline data and demonstrate with a high degree of certainty that predicted outcomes will be achieved.

6.1 Adaptive management: addressing uncertainty and managing risk

The PER must identify key adaptive management measures addressing uncertainties and inherent risks. Uncertainties could, for example, include limitations of predictions or assumptions, knowledge gaps in scientific understanding and baseline status of the

environment, and the timing, effectiveness, or capacity to implement, operate, maintain and enforce management measures.

The PER must describe how the adaptive management strategies will be implemented to ensure MNES are effectively protected over the life of the proposed action. This includes:

- a) how monitoring of MNES will occur, including monitoring of progress in achieving the desired environmental outcomes identified in the PER, how the monitoring will be analysed throughout the life of the proposed action, and how the results of the monitoring will influence the proposed action;
- b) an explanation of how monitoring and adaptive management will be effective in detecting and managing potential impacts on MNES throughout the life of the proposed action;
- c) how new industry standards and guidelines will be used to adapt monitoring and management throughout the life of the proposed action; and
- d) new information relating to MNES or the PER is to be assessed and accounted for in management of the area affected by the proposed action.

7. OTHER APPROVALS AND CONDITIONS

7.1 Commonwealth, state and local government approvals

The PER must set out as far as practical at this stage of the proposed action, the scope and likely schedule of applications and assessment requirements and whether the proposed action is in accordance with the various Commonwealth, state and local government statutory processes.

7.2 Other requirements

The PER must include information on any other requirements for approval or conditions that apply, or that the proponent reasonably believes are likely to apply, to the proposed action. This must include:

- a) details of any local, Commonwealth or state government planning scheme, or plan or policy under any local or state government planning system that deals with the proposed action, including:
 - i) what environmental assessment of the proposed action has been, or is being, carried out under the scheme, plan or policy; and
 - ii) how the scheme provides for the prevention, minimisation and management of any relevant impacts.
- b) a description of any approval that has been obtained from a state, territory or Commonwealth agency or authority (other than an approval under the Act), including any conditions that apply to the proposed action;
- c) a statement identifying any additional approval that is required;
- d) identify how the mitigation measures and offsets proposed in the PER are in addition to and in alignment with existing laws and schemes; and
- e) a description of the monitoring, enforcement and review procedures that apply, or are proposed to apply, to the proposed action.

Relevant legislation under which additional approval (to the EPBC Act) may be required includes, but is not limited to:

- *WA Environmental Protection Act 1986;*
- *Aboriginal Heritage Act 1972;*
- *Planning and Development Act 2005;*
- *Main Roads Act 1930;*
- *Contaminated Sites Act 2003;*
- *Government Railways Act 1903;*
- *Rail Freight System Act 2000;*
- *Public Works Act 1902;*
- *Rights in Water and Irrigation Act 1914;*
- *Biodiversity Conservation Act 2016;*
- *Dangerous Goods Safety Act 2004;*
- *Port Authorities Act 1999;*
- *Fish Resource Management Act 1994;*
- *Environment Protection (Sea Dumping) Act 1981;*
- *Underwater Cultural Heritage Act 2018;*
- *Marine and Harbours Act 1981;* and
- *Western Australian Marine Act 1972.*

8. AUDITING AND REPORTING

The PER must set out:

- a) a program of baseline and control site monitoring and reporting on the current status/condition within and surrounding the proposed action area environment;
- b) a program of operational monitoring and reporting for best practice site management and continuous improvement;
- c) a program of monitoring, public reporting and independent or third-party auditing to be undertaken during all phases of the proposed actions' lifecycle;
- d) a process that will incorporate these findings into ongoing management;
- e) who is responsible for overseeing and taking these actions; and
- f) record keeping and review processes under the approval.

9. REVIEW, MODIFICATION OR ABANDONMENT

The PER must identify and analyse the likely circumstances and procedures that may result in the review, modification or abandonment of the proposed action. This is to include a discussion of how many commitments under the PER will continue to be met.

10. ECONOMIC AND SOCIAL MATTERS

The economic and social impacts of the proposed action, both positive and negative, must be analysed. Matters of interest may include:

- a) details of any public consultation activities undertaken, and their outcomes;

- b) short and long-term impacts and opportunities on the local and regional communities from implementation of the proposed action. This includes:
 - i) an analysis of the effect of the proposed action on recreational fishing, including impacts on access, safety, and changes to fishing experiences of the community and how this will be managed through the stages of the mitigation hierarchy;
 - ii) any potential future plans for recreational fishing zones within and surrounding the proposed port infrastructure; and
 - iii) impacts to fish breeding areas, such as the snapper breeding ground in Cockburn Sound.
- c) projected economic costs and benefits of the proposed action, including the basis for their estimation through cost/benefit analysis or similar studies; and
- d) employment opportunities expected to be generated by the proposed action at all phases, consideration of minimum target of employment for minority groups and First Nations Australians, engaging First Nations Australians for training and/or enterprise opportunities, and engaging First Nations Australians through any supply chains used in undertaking the proposed action.

Economic and social impacts should be considered at the local, regional and national levels. Details of the relevant cost and benefits of alternative options to the proposed action, as identified in section 3 above, should also be included.

11. CONSULTATION

The PER must include details of any consultation undertaken in relation to the environmental, social and economic impacts of the proposed action, including:

- a) any consultation that has already taken place;
- b) proposed consultation with persons, groups, or organisations that may be directly or indirectly affected by relevant impacts of the proposed action;
- c) if there has been consultation about the proposed action, identification of any objections or claims about the proposed action and a documented response to, or result of, the consultation;
- d) identification of affected parties, including a statement mentioning any communities that may be affected and describing their views; and
- e) a summary of how and when stakeholders will be notified of the commencement of the key phases of the proposed action and how any ongoing consultation after approval will be undertaken.

The Minister must be provided with a report on the public submissions received on the draft PER, together with proposed final drafts of the PER, incorporating any revisions made in response to public comments. A response document will need to be created to demonstrate how each of the public submissions have been addressed in the revised PER.

First Nations consultation

The PER must include information on engagement with First Nations people whose rights, interests, cultural heritage and aspirations may be affected by the proposed action, and include:

- a) identification of the relevant Traditional Owners and other relevant First Nations people and organisations, taking account of any cultural sensitivities expressed by First Nations people;
- b) details of engagement with Traditional Owners and other relevant First Nations people and organisations, and a description of how that engagement was conducted in a culturally appropriate manner and in accordance with First Nations people's preferences;
- c) information on the rights, interests, views, aspirations and other concerns expressed by the Traditional Owners and other First Nations people and organisations in relation to the project, including Native Title settlements and any other land and water rights and interests, land and water management arrangements, cultural heritage, and social and economic matters;
- d) a description of any state government requirements or conditions that apply to the proposed action in relation to First Nations people;
- e) information on how First Nations people's rights, interests, views and concerns will be addressed in design, construction and operation of the proposed action, and whether Traditional Owners and other relevant First Nations people are satisfied that they have been adequately consulted and that their project-related feedback and concerns have been addressed;
- f) information on any project-related agreements, plans, partnerships and benefit-sharing arrangements entered into with Traditional Owners and other relevant First Nations people; and
- g) a description of future planned First Nations communication and consultation arrangements to be conducted throughout the life of the project.

Engagement with First Nations people should apply principles set out in *Interim Engaging with First Nations People and Communities on Assessments and Approvals under the Environment Protection and Biodiversity Conservation Act 1999* (Commonwealth of Australia 2023) or any First Nations engagement standard (if one is in force); and *Dhawura Ngilan: A vision for Aboriginal and Torres Strait Islander heritage in Australia and the Best Practice Standards in Indigenous cultural heritage management and legislation* (Commonwealth of Australia 2021).

12. EPBC ACT OBLIGATIONS

The PER must set out how the proposed action meets the objectives of the EPBC Act. In determining whether to approve the proposed action, the Minister will apply, and comply with, the relevant parts of the EPBC Act, and have regard to the extent to which the proposed action meets the Objects of the EPBC Act, including how the proposed action:

- a) protects the environment, especially MNES;

- b) promotes ecologically sustainable development by aligning with the following principles to demonstrate:
- i) how the long-term and short-term economic, environmental, social and equitable considerations have been integrated into decision-making processes;
 - ii) where the precautionary principle should be used due to a lack of full scientific certainty in adequately defining elements of the environment that may be affected by the infrastructure and activities associated with the proposed action, and on identifying the significance, risks and consequences of any impacts that may result from the proposed action at a local, regional and national scale, especially if there are threats of serious or irreversible environmental damage;
 - iii) how the principle of inter-generational equity has been met by ensuring that the proposed action would maintain and enhance the health, diversity and productivity of the environment for the benefit of future generations;
 - iv) how the proposed action will be constructed and operated in a sustainable way to protect the environment for future generations, considering the conservation of biological diversity and ecological integrity; and
 - v) promotion of improved valuation, pricing and incentive mechanisms through the consideration of economic costs, benefits and impacts on the proposed action.
- c) has integrated and considered the relevant bioregional plans;
- d) promotes a cooperative approach to the protection and management of biodiversity and MNES;
- e) will not be inconsistent with relevant recovery plan, conservation advice and threat abatement plan for each Listed threatened species and communities, Listed migratory species, Listed marine species, and whales and other cetaceans, under the EPBC Act; and
- f) assists in the co-operative implementation of Australia's international obligations under each of the international agreements relevant to the conservation of MNES, which includes:
- i) for Listed threatened species protected under Sections 18 and 18A of the EPBC Act, to consider:
 - Convention on Biological Diversity (the Biodiversity Convention) to ensure the proposed action aligns with objectives of the convention to be pursued in accordance with its relevant provisions, 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;
 - 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) to ensure that the proposed action aligns with the objective of the convention that international trade in specimens of wild animals and plants does not threaten their survival.
- ii) for Listed migratory species protected under Sections 20 and 20A of the EPBC Act to consider:
- the Bonn Convention to ensure that the proposed action aligns with objectives of the convention to conserve terrestrial, aquatic and avian migratory species throughout their range.
 - China-Australia Migratory Bird Agreement (CAMBA) to ensure that the proposed action aligns with objectives of the agreement to protect migratory birds by limiting the circumstances under which migratory birds are taken or traded; protecting and conserving important habitats; exchanging information; and building cooperative relationships between Australia and China.
 - Japan- Australia Migratory Bird Agreement (JAMBA) to ensure that the proposed action aligns with objectives of the agreement to protect migratory birds by limiting the circumstances under which migratory birds are taken or traded; protecting and conserving important habitats; exchanging information; and building cooperative relationships between Australia and Japan.
 - Republic of Korea on the Protection of Migratory Birds (ROKAMBA) to ensure that the proposed action aligns with objectives of the agreement to protect migratory birds by limiting the circumstances under which migratory birds are taken or traded; protecting and conserving important habitats; exchanging information; and building cooperative relationships between Australia and Korea.
 - Agreement on the Conservation of Albatrosses and Petrels (ACAP) to ensure that the proposed action aligns with the objectives of the agreement to conserve albatrosses and petrels.

13. ENVIRONMENTAL RECORD OF PERSON(S) PROPOSING TO TAKE THE ACTION

The information provided in the PER must include details of any proceedings under a Commonwealth, state or territory law for the protection of the environment or the conservation and sustainable use of natural resources against:

- a) the person proposing to take the action; and
- b) for an action for which a person has applied for a permit, the person making the application.

If the person proposing to take the action is a corporation, details of the corporation's environmental policy and planning framework must also be included.

In accordance with section 132 of the EPBC Act, you must provide up-to-date information on the following to inform the Minister's decision on whether to approve the action:

- a) the environmental history of the Department of Transport (Westport Project Office), and of its executive officers;
- b) the environmental history of the Department of Transport (Westport Project Office) parent body or parent bodies; that is, anybody or bodies of which the Department of Transport (Westport Project Office) is a subsidiary; and
- c) the environmental history of the executive officers of the Department of Transport (Westport Project Office) parent body or parent bodies.

14. INFORMATION SOURCES PROVIDED IN THE PUBLIC ENVIRONMENT REPORT

For information given in a draft PER, the draft must state:

- a) the source of the information;
- b) how recent the information is;
- c) how the reliability of the information was tested; and
- d) what uncertainties (if any) are in the information.

15. CONCLUSION

An overall conclusion as to the environmental acceptability of the proposal should be provided, including discussion on compliance with principles of ecologically sustainable development and the objects and requirements of the EPBC Act. Reasons justifying undertaking the proposal in the manner proposed should also be outlined.

Measures proposed or required by way of offset for any unavoidable impacts to MNES, and the relative degree of compensation, should be restated here.

ATTACHMENT 1 - THE OBJECTS AND PRINCIPLES OF THE ENVIRONMENT PROTECTION AND BIODIVERSITY CONSERVATION ACT 1999 (SECTIONS 3 AND 3A)

3 Objects of the Act

The following are objects of the EPBC Act:

- a) to provide for the protection of the environment, especially those aspects of the environment that are matters of national environmental significance;
- b) to promote ecologically sustainable development through the conservation and ecologically sustainable use of natural resources;
- c) to promote the conservation of biodiversity;
- d) to promote a co-operative approach to the protection and management of the environment involving governments, the community, land-holders and First Nations peoples;
- e) to assist in the co-operative implementation of Australia's international environmental responsibilities;
- f) to recognise the role of First Nations people in the conservation and ecologically sustainable use of Australia's biodiversity; and
- g) to promote the use of First Nations peoples' knowledge of biodiversity with the involvement of, and in co-operation with, the owners of the knowledge.

3A Principles of Ecologically Sustainable Development

The following principles are principles of ecologically sustainable development:

- 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.

ATTACHMENT 2 - MATTERS THAT MUST BE ADDRESSED IN A PUBLIC ENVIRONMENT REPORT (SCHEDULE 4 OF THE EPBC REGULATIONS 2000)

1 General information

1.01 The background of the action including:

- a) the title of the action;
- b) the full name and postal address of the designated Proponent;
- c) a clear outline of the objective of the action;
- d) the location of the action;
- e) the background to the development of the action;
- f) how the action relates to any other actions (of which the Proponent should reasonably be aware) that have been, or are being, taken or that have been approved in the region affected by the action;
- g) the current status of the action; and
- h) the consequences of not proceeding with the action.

2 Description

2.01 A description of the action, including:

- a) all the components of the action;
- b) the precise location of any works to be undertaken, structures to be built or elements of the action that may have relevant impacts;
- c) how the works are to be undertaken and design parameters for those aspects of the structures or elements of the action that may have relevant impacts;
- d) relevant impacts of the action;
- e) proposed safeguards and mitigation measures to deal with relevant impacts of the action;
- f) any other requirements for approval or conditions that apply, or that the Proponent reasonably believes are likely to apply, to the proposed action;
- g) to the extent reasonably practicable, any feasible alternatives to the action, including:
 - i) if relevant, the alternative of taking no action;
 - ii) a comparative description of the impacts of each alternative on the matters protected by the controlling provisions for the action; and

- iii) sufficient detail to make clear why any alternative is preferred to another;
- h) any consultation about the action, including:
 - i) any consultation that has already taken place;
 - ii) proposed consultation about relevant impacts of the action; and
 - iii) if there has been consultation about the proposed action — any documented response to, or result of, the consultation; and
 - iv) identification of affected parties, including a statement mentioning any communities that may be affected and describing their views.

3 Relevant impacts

3.01 Information given under paragraph 2.01(d) must include:

- a) a description of the relevant impacts of the action;
- b) a detailed assessment of the nature and extent of the likely short term and long term relevant impacts;
- c) a statement whether any relevant impacts are likely to be unknown, unpredictable or irreversible;
- d) analysis of the significance of the relevant impacts; and
- e) any technical data and other information used or needed to make a detailed assessment of the relevant impacts.

4 Proposed safeguards and mitigation measures

4.01 Information given under paragraph 2.01(e) must include:

- a) a description, and an assessment of the expected or predicted effectiveness of, the mitigation measures;
- b) any statutory or policy basis for the mitigation measures;
- c) the cost of the mitigation measures;
- d) an outline of an environmental management plan that sets out the framework for continuing management, mitigation and monitoring programs for the relevant impacts of the action, including any provisions for independent environmental auditing;
- e) the name of the agency responsible for endorsing or approving each mitigation measure or monitoring program; and
- f) a consolidated list of mitigation measures proposed to be undertaken to prevent, minimise or compensate for the relevant impacts of the action,

including mitigation measures proposed to be taken by State governments, local governments or the Proponent.

5 Other approvals and conditions

5.01 Information given under paragraph 2.01(f) must include:

- a) details of any local or state government planning scheme, or plan or policy under any local or state government planning system that deals with the proposed action, including:
 - i) what environmental assessment of the proposed action has been, or is being carried out under the scheme, plan or policy; and
 - ii) how the scheme provides for the prevention, minimisation and management of any relevant impacts;
- b) a description of any approval that has been obtained from a state, territory or Commonwealth agency or authority (other than an approval under the Act), including any conditions that apply to the action;
- c) a statement identifying any additional approval that is required; and
- d) a description of the monitoring, enforcement and review procedures that apply, or are proposed to apply, to the action.

6 Environmental record of person proposing to take the action

6.01 Details of any proceedings under a Commonwealth, state or territory law for the protection of the environment or the conservation and sustainable use of natural resources against:

- a) the person proposing to take the action; and
- b) for an action for which a person has applied for a permit, the person making the application.

6.02 If the person proposing to take the action is a corporation — details of the corporation's environmental policy and planning framework.

7 Information sources

7.01 For information given the PER must state:

- a) the source of the information; and
- b) how recent the information is; and
- c) how the reliability of the information was tested; and
- d) what uncertainties (if any) are in the information.

ATTACHMENT 3 – THE DEFINITION OF ENVIRONMENT UNDER THE ENVIRONMENT PROTECTION AND BIODIVERSITY CONSERVATION ACT 1999 (SECTION 528)

environment includes:

(a) ecosystems and their constituent parts, including people and communities;
and

(b) natural and physical resources; and

(c) the qualities and characteristics of locations, places and areas; and

(d) heritage values of places; and

(e) the social, economic and cultural aspects of a thing mentioned in paragraph (a), (b), (c) or (d).