



APPROVAL

Tonkin Highway Grade Separated Interchanges, Wattle Grove, WA, (EPBC 2019/8529)

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

Details

Person to whom the approval is granted (approval holder)	Main Roads
ABN of approval holder	50 860 676 021
Action	To construct a single fly over and grade-separated interchange at the existing intersections of Tonkin Highway and Hale Road in Forrestfield, and Tonkin Highway and Welshpool Road in Wattle Grove, Western Australia subject to the variation of the action accepted by the Minister under section 156B on 3 November 2020 (See EPBC Act referral 2019/8529).

Proposed Approval decision

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

Controlling Provisions

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

Period for which the approval has effect

This approval has effect until 1 August 2056

Decision-maker

<i>Name and position</i>	Kylie Calhoun Assistant Secretary Environment Assessments West (WA, SA, NT) Branch
<i>Signature</i>	
<i>Date of decision</i>	14 July 2021

Conditions of approval

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

ANNEXURE A – CONDITIONS OF APPROVAL

Part A – Conditions specific to the action

Avoidance and mitigation

1. For the protection of **listed threatened species and ecological communities**, when undertaking the action, the approval holder must not:
 - a. **clear** more than 19.1 ha of foraging habitat for **Black cockatoos**
 - b. **clear** more than 141 **potential breeding trees** for **Black cockatoos**
 - c. **clear** more than 3.99 ha of **Banksia TEC**
 - d. **clear** more than 11 individuals of **Slender Andersonia**
 - e. **clear** more than 62 individuals of **Wavy leaved smokebush**
 - f. **clear** more than 7.45 ha of habitat for the **Wavy leaved smokebush**
 - g. **clear** more than 3 individuals of **Summer honeypot**

Clearing activity must only occur within the **development envelope**.

2. For the protection of **listed threatened species and ecological communities**, the approval holder must implement all avoidance, mitigation and management measures identified in tables 7 and 12 of the **Action Management Plan** for the **life of the approval**.
3. To avoid and mitigate the impacts of the spread of **dieback**, the approval holder must obtain and submit to the department, up-to-date **dieback** mapping of the **development envelope**. The approval holder must **commence the action** within 12 months of the submission of the most recent dieback mapping submitted to the Department. The approval holder must use the most recent **dieback** mapping of the **development envelope** to inform the dieback-related measures described in table 12 of the **Action Management Plan**.

Offsets

4. To compensate for the residual significant impact on **listed threatened species and ecological communities**, the approval holder must submit an Offset Strategy for approval by the **Minister** within 12 months of the **commencement of the action**. The Offset Strategy must:
 - a. Identify a suitable environmental offset(s) for the impacts on **listed threatened species and ecological communities**, that satisfies the requirements of the **Environmental Offsets Policy**;
 - b. Include summary information on the impacted areas and detailed baseline information on the proposed offset(s) and achievable goals for the proposed habitat condition and quality scores demonstrating how the proposed offset(s) will meet the requirements of the **Environmental Offsets Policy**;
 - c. Specify goals and approximate timeframes for achieving the proposed condition and quality of habitat at the proposed offset(s);
 - d. Specify how and at what frequency management and monitoring results will be reported to the **department** and the public;
 - e. Include details of how the offset(s) will be protected in perpetuity.

Offset Management Plan

5. The approval holder must submit for the **Minister's** approval, within 18 months of the date of approval of the Offset Strategy, an Offset Management Plan for each of the offset sites specified in the approved Offset Strategy. Each Offset Management Plan must be consistent

with the **department's Environmental Management Plan Guidelines**, and must include the following:

- a. A summary of the residual impacts to **protected matters** that will be compensated for by the offset. This summary must include the area(s) of habitat for **protected matters** and its condition and quality at all impact sites which the particular offset is to address.
- b. The environmental objectives, relevant **protected matters** and a reference to the **EPBC Act** approval conditions to which the particular Offset Management Plan refers.
- c. A table of commitments made in the Offset Management Plan to achieve the environmental objectives, and a reference to where the commitments are detailed in the Offset Management Plan.
- d. Reporting and review mechanisms, and documentation standards to demonstrate compliance with the commitments in the Offset Management Plan.
- e. An assessment of risks to achieving environmental objectives and risk management strategies that will be applied.
- f. A monitoring program, which must include:
 - i. measurable performance indicators
 - ii. the timing and frequency of monitoring to detect trigger values and changes in the performance indicators
 - iii. trigger values for corrective actions.
- g. proposed corrective actions, if trigger values are reached.
- h. Links to referenced plans and applicable conditions of approval (including State approval conditions).

Each Offset Management Plan, as approved by the **Minister** in writing, must be implemented following approval by the **Minister**.

Note: A single Offset Management Plan providing the above in respect of all offset sites specified in the approved Offset Strategy may be submitted in place of separate Offset Management Plans.

6. If the Offset Management Plan for each of the offset sites specified in the Offset Strategy has not been approved by the **Minister** in writing within 24 months of the approval of the Offset Strategy, and the **Minister** notifies the approval holder that one or more submitted Offset Management Plans are not suitable for approval, the **Minister** may, at least two months after so notifying the approval holder, approve a version of the Offset Management Plan revised by the **department**. The approval holder must implement each approved Offset Management Plan for the remainder of the life of the approval.

Part B – Standard administrative conditions

Notification of date of commencement of the action

7. The approval holder must notify the **department** in writing of the date of **commencement of the action** within 10 **business days** after the date of **commencement of the action**.
8. If the **commencement of the action** does not occur within 5 years from the date of this approval, then the approval holder must not **commence the action** without the prior written agreement of the **Minister**.

Compliance records

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

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

Submission and publication of plans

11. The approval holder must:
 - a. submit **plans** electronically to the **department**
 - b. unless otherwise agreed to in writing by the **Minister**, publish each **plan** on the **website** within 20 **business days** of the date:
 - i. of this approval, if the version of the **plan** to be implemented is specified in these conditions
 - ii. that the **plan** was approved by the **Minister** in writing, if the **plan** requires the approval of the **Minister**, or
 - iii. that a revised **plan** is submitted to the Minister or the Department, unless otherwise agreed to in writing by the **Minister**
 - c. exclude or redact **sensitive ecological data** from **plans** that are to be published on the **website** or provided to a member of the public
 - d. keep **plans** published on the **website** for the **life of the approval**.
12. The approval holder must ensure that any **monitoring data** (including **sensitive ecological data**), surveys, maps, and other spatial and metadata required under a **plan** or conditions of this approval, is prepared in accordance with the **department's Guidelines for biological survey and mapped data** (2018) and submitted electronically to the **department** in accordance with the requirements of the **plan** or the conditions of this approval.

Annual compliance reporting

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

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

Reporting non-compliance

14. The approval holder must notify the **Department** in writing of any: **incident**; non-compliance with the conditions; or non-compliance with the commitments made in **plans**. The notification must be given as soon as practicable, and no later than 5 **business days** after becoming aware of the **incident** or non-compliance. The notification must specify:
 - a. any condition which is or may be in breach
 - b. a short description of the **incident** and/or non-compliance
 - c. the location (including co-ordinates), date, and time of the **incident** and/or non-compliance. In the event the exact information cannot be provided, provide the best information available.
15. The approval holder must provide to the **Department** the details of any **incident** or non-compliance with the conditions or commitments made in **plans** as soon as practicable and no later than 15 **business days** after becoming aware of the **incident** or non-compliance, specifying:
 - a. any corrective action or investigation which the approval holder has already taken or intends to take in the immediate future
 - b. the potential impacts of the **incident** or non-compliance
 - c. the method and timing of any remedial action that will be undertaken by the approval holder.

Independent audit

16. The approval holder must ensure that **independent audits** of compliance with the conditions are conducted as requested in writing by the **Minister**.
17. For each **independent audit**, the approval holder must:
 - a. provide the name and qualifications of the independent auditor and the draft audit criteria to the **Department**
 - b. only commence the **independent audit** once the audit criteria have been approved in writing by the **Department**
 - c. submit an audit report to the **Department** within the timeframe specified in the approved audit criteria.
18. The approval holder must publish the audit report on the **website** within 10 **business days** of receiving the **Department's** approval of the audit report and keep the audit report published on the **website** until the end date of this approval.

Revision of action management plans

19. The approval holder may, at any time, apply to the **Minister** for a variation to an action management plan or offset management plan approved by the **Minister** under condition 2 or condition 5, or as subsequently revised in accordance with these conditions, by submitting an application in accordance with the requirements of section 143A of the **EPBC Act**. If the **Minister** approves a revised action management plan (RAMP) then, from the date specified, the approval holder must implement the RAMP in place of the previous action management plan.
20. The approval holder may choose to revise an action management plan approved by the **Minister** under condition 2, or as subsequently revised in accordance with these conditions, without submitting it for approval under section 143A of the **EPBC Act**, if the taking of the action in accordance with the RAMP would not be likely to have a **new or increased impact**.

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

Note: conditions 20, 21, 22 and 23 are not intended to limit the operation of section 143A of the **EPBC Act** which allows the approval holder to submit a revised action management plan, at any time, to the **Minister** for approval.

Completion of the action

25. Within 30 days after the **completion of the action**, the approval holder must notify the **Department** in writing and provide **completion data**.

Part C - Definitions

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

Action Management Plan means the *Main Roads Western Australia Tonkin Highway Grade Separated Interchanges, Hale Road and Welshpool Road Action Management Plan (February 2021)*, prepared for Main Roads by GHD, or a subsequent revised version approved by the **Minister** in writing or in accordance with conditions 19 – 24.

Banksia TEC means the **EPBC Act** listed Banksia Woodlands of the Swan Coastal Plain Threatened Ecological Community.

Black cockatoo/s means the **EPBC Act** listed threatened species:

- Carnaby's Black Cockatoo (*Calyptorhynchus latirostris*),

- Forest Red-tailed Black Cockatoo (*Calyptorhynchus banksii naso*) and
- Baudin's Black Cockatoo (*Calyptorhynchus baudinii*).

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

Clear or Clearing means the cutting down, felling, thinning, logging, removing, killing, destroying, poisoning, ringbarking, uprooting or burning of vegetation (but not including weeds – see the *Australian weeds strategy 2017 to 2027* for further guidance).

Commence/ment of the action means the first instance of any specified activity associated with the action including **clearing** and **construction**. **Commencement of the action** does not include minor physical disturbance necessary to:

- undertake pre-clearance surveys or monitoring programs
- install signage and /or temporary fencing to prevent unapproved use of the **development envelope**
- protect environmental and property assets from fire, weeds and pests, including installation of temporary fencing, and use of existing surface access tracks
- install temporary site facilities for persons undertaking pre-commencement activities so long as these are located where they have no impact on the **listed threatened species and ecological communities**.

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

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

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

Compliance report/s means written reports:

- providing accurate and complete details of compliance, **incidents**, and non-compliance with the conditions and the **plans**
- consistent with the **Department's Annual Compliance Report Guidelines (2014)** found at <https://www.environment.gov.au/epbc/publications/annual-compliance-report-guidelines>
- include a **shapefile** of any clearance of any **protected matters**, or their habitat, undertaken within the relevant 12 month period
- annexing a schedule of all **plans** prepared and in existence in relation to the conditions during the relevant 12 month period.

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

Construction does not include the exceptions listed under the **commencement of the action** definition, above.

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

Development envelope means the area outlined in red and labelled “Development Envelope” on the map at [Attachment A](#).

Dieback means the key threatening process listed under the **EPBC Act** as ‘Dieback caused by the root-rot fungus (*Phytophthora cinnamomi*)’.

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

Environmental Management Plan Guidelines means Australian Government Department of Environment (2014) *Environment Management Plan Guidelines*: available from <https://www.environment.gov.au/epbc/publications/environmental-management-plan-guidelines>.

Environmental Offsets Policy means the Australian Government Department of Sustainability, Environment, Water and Communities (2012) *EPBC Act environmental offsets policy*: available from <https://www.environment.gov.au/epbc/publications/epbc-act-environmental-offsets-policy>.

Incident/s means any event which has the potential to, or does, impact on one or more **protected matter(s)** other than as authorised by this approval. **Incident** includes death or injury of any **black cockatoo** as a result of the action.

Independent audit/s means an audit conducted by an independent and **suitably qualified person** as detailed in the *Environment Protection and Biodiversity Conservation Act 1999 Independent Audit and Audit Report Guidelines* (2019)): available from <http://www.environment.gov.au/epbc/publications/independent-audit-report-guidelines>.

Life of the approval means the period for which this approval has effect.

Listed threatened species and ecological communities means the following threatened species and ecological communities listed under sections 18 and 18A of Part 3 of the **EPBC Act**:

- **Banksia TEC**
- **Black cockatoos**
- **Slender Andersonia**
- **Summer honeypot**
- **Wavy leaved smokebush**

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

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

New or increased impact means a new or increased environmental impact or risk relating to any **protected matter**, when compared to the likely impact of implementing the action management plan that has been approved by the **Minister** under condition 3, including any subsequent revisions approved by the **Minister**, as outlined in the *Guidance on ‘New or Increased Impact’ relating to changes to approved management plans under EPBC Act environmental approvals* (2017)./: available from <http://www.environment.gov.au/epbc/publications/new-increased-impact-guidance>

Potential breeding trees means Tuart (*Eucalyptus gomphocephala*), Jarrah (*Eucalyptus marginata*), Marri (*Corymbia calophylla*) and Flooded Gum (*Eucalyptus rudis*) with a diameter at breast height (DBH) of at least 500 mm.

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

Protected matter/s means means a matter protected under a controlling provision in Part 3 of the **EPBC Act** for which this approval has effect.

Sensitive ecological data means data as defined in the Australian Government Department of the Environment (2016) *Sensitive Ecological Data – Access and Management Policy V1.0*. available from <http://www.environment.gov.au/about-us/environmental-information-data/information-policy/sensitive-ecological-data-access-and-management-policy>.

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

Slender Andersonia means the **EPBC Act** listed threatened species *Andersonia gracilis*.

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

Summer honeypot means the **EPBC Act** listed threatened species *Banksia mimica*.

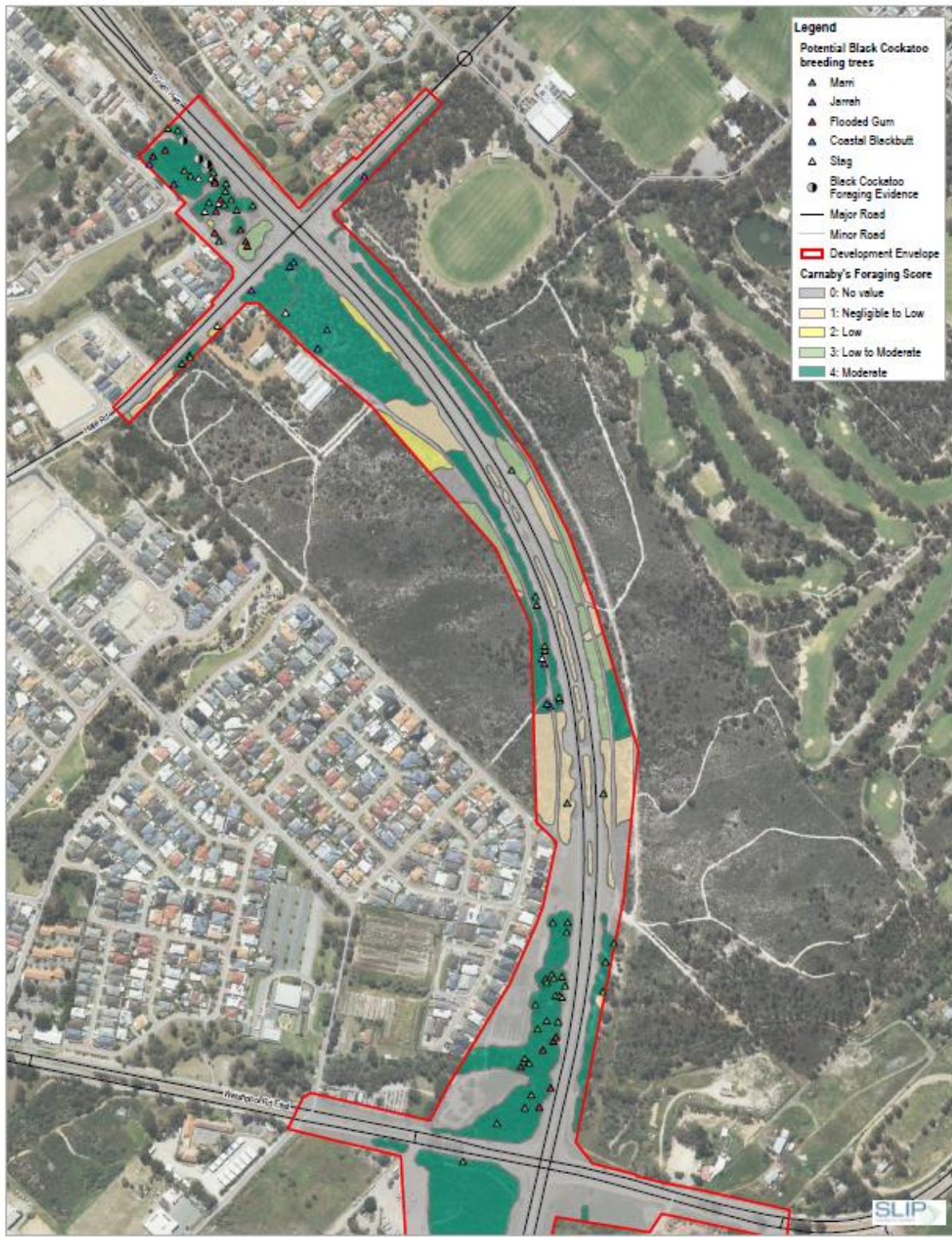
Wavy leaved smokebush means the **EPBC Act** listed threatened species *Conospermum undulatum*.

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

ATTACHMENTS

1. Attachment A – Development envelope for EPBC 2019/8529

Attachment A – Development envelope for EPBC 2019/8529



Scale: 1:5000
 0 50 100 150 200
 METRES



Main Roads
 Torlink Grade Separated Interchanges
 Carnaby's Cockatoo Foraging
 and Breeding Habitat

Project No. 12523571
 Revision No. 0
 Date 21/02/2021

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FIGURE 5

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