



Notification of approval

Commercial Development of Lots 12 and 13 Lodge Drive, East Rockingham, WA (EPBC 2021/9069)

This decision is made under section 133(1) of the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act). Note that section 134(1A) of the EPBC Act applies to this approval. That provision 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 conditions.

Action

person to whom the approval is granted (approval holder)	The Trustee for Hamersley Sub Trust
ABN of approval holder	81 176 233 525
Action	To construct and operate a commercial site on Lots 12 and 13 Lodge Drive, East Rockingham, Western Australia (2021/9069) [See EPBC Act referral 2021/9069].

Approval decision

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 Provision	Decision
	Listed threatened species and communities (section 18 and section 18A)	Approved
period for which the approval has effect	This approval has effect until 30 April 2063.	
conditions of approval	The approval is subject to conditions under the EPBC Act as set out in Annexure A.	

Person authorised to make decision

name and position	Brendan Linton-Smith A/g Branch Head Environment Assessments West (WA, SA, NT) Branch
signature	
date of decision	17/4/2023

Annexure A

Note: Words appearing in **bold** have the meaning assigned to them at PART C – DEFINITIONS.

Part A – Conditions specific to the Action

- 1) To avoid and mitigate the impacts to **protected matters**, the approval holder must not:
 - a) **Clear** outside of the **development envelope**.
 - b) **Clear** more than 5.495 hectares (ha) of **Tuart Ecological Community**.
 - c) **Clear** more than 1.5ha of **Carnaby's Black Cockatoo foraging habitat**.
- 2) To mitigate impacts to the **protected matters**, the approval holder must implement the **Vegetation and Fauna Management Plan** during the construction period.
- 3) To compensate for the residual significant impacts of **clearing** on the **Tuart Ecological Community** and foraging habitat for the **Carnaby's Black Cockatoo** the approval holder must implement the **Offset Strategy** for the life of the approval.
- 4) Prior to **commencement of the action** and to compensate for the residual significant impact under condition 3, the approval holder must submit to the **department** for the **Minister's** approval a Revegetation Management Plan (RMP). The RMP must be included as part of the **Offset Strategy** under condition 3. The environmental outcome of implementing the RMP must be to recreate at least 3.5 ha of the **Tuart Ecological Community** within the Rockingham Lakes Regional Park, 7km south of **development envelope**, that meets the listing criteria for high quality **Tuart Ecological Community** and is self-sustaining by 30 April 2063. The RMP must be consistent with the **department's Environmental Management Plan Guidelines**, and include:
 - a) Details of the relevant **protected matter/s** and a reference to **EPBC Act** approval conditions to which the plan refers.
 - b) A table of commitments made in the plan to achieve the environmental outcomes, and a reference to exactly where these commitments are detailed in the plan.
 - c) Commitments capable of ensuring that the environmental outcomes are achieved. These commitments must include:

- i) To commence revegetation across at least 3.5ha within 2 years of **commencement of the action**.
 - ii) The species and their provenance, and the approximate numbers of individuals of each species to be planted and/or seeded and the approximate timing of planting/seeding and milestones and success criteria for revegetation.
 - iii) Measures, including for hygiene, ground preparation and weed and herbivore control, and the approximate timing of the measures, to be undertaken prior to, during and following planting/seeding to ensure the success of the revegetation.
 - d) Reporting and review mechanisms to ensure compliance with the commitments made in the plan.
 - e) An assessment of risks relating to achieving the environmental outcomes and risk management strategies and/or mitigation measures that will be applied to address identified risks.
 - f) Impact avoidance, mitigation and/or repair measures, and the timing of those measures.
 - g) A monitoring program, which must include:
 - i) measurable performance indicators and completion criteria, which must include:
 - I. survival 40 years after planting, of at least 1.6 **Tuart trees** per 100m²
 - II. at least 12 local native understorey species per 10 m x 10 m plot
 - III. native vegetation coverage of at least 80% of the total vegetation cover at least 40 years after planting/seeding
 - ii) trigger values for corrective actions.
 - iii) the timing and frequency of monitoring, ensuring monitoring is capable of detecting trigger values and changes in the performance indicators.
 - iv) proposed corrective actions if trigger values are reached.
 - v) the timing and methods of submitting **monitoring data** to the **department**.
 - h) Links to other relevant plans or conditions of approval (including state/local government approval conditions).
- 5) When submitting the RMP to the **department** for the **Minister's** approval, the approval holder must provide the **department** with written evidence from the Western Australian Department Biodiversity, Conservation and Attractions (DBCA) confirming that DBCA considers that the outcomes and goals specified in the Revegetation Management Plan are achievable using the methods and within the timeframes specified in the Revegetation Management Plan.
- 6) The approval holder must not **commence the action** until the **Minister** has approved the Revegetation Management Plan in writing. The approval holder must commence implementing the approved Revegetation Management Plan within 2 years of the **commencement of the action** and thereafter must continue to implement the RMP until the expiry of this approval.

REVISION OF ACTION MANAGEMENT PLANS

- 7) The approval holder may, at any time, apply to the **Minister** for a variation to an action management plan approved by the **Minister** 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 revised action management plan (RAMP) in place of the previous action management plan (RAMP).

- 8) The approval holder may choose to revise the **Vegetation and Fauna 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 revised **Vegetation and Fauna Management Plan** would not be likely to have a **new or increased impact**.
- 9) If the approval holder makes the choice under condition 15 to revise the **Vegetation and Fauna Management Plan** without submitting it for approval, the approval holder must:
 - a) Notify the **department** electronically that the approved **Vegetation and Fauna Management Plan** has been revised and provide the **department** with:
 - i) An electronic copy of the revised **Vegetation and Fauna Management Plan**.
 - ii) An electronic copy of the revised **Vegetation and Fauna Management Plan** marked up with track changes to show the differences between the approved action management plan and the revised **Vegetation and Fauna Management Plan**.
 - iii) An explanation of the differences between the approved **Vegetation and Fauna Management Plan** and the revised **Vegetation and Fauna Management Plan**.
 - iv) The reasons the approval holder considers that taking the Action in accordance with the revised **Vegetation and Fauna Management Plan** 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 revised **Vegetation and Fauna Management Plan** (revised **Vegetation and Fauna Management Plan** implementation date), being at least 20 **business days** after the date of providing notice of the revision of the **Vegetation and Fauna Management Plan**, or a date agreed to in writing with the **department**.
 - b) Subject to condition 15, implement the revised **Vegetation and Fauna Management Plan** from the revised **Vegetation and Fauna Management Plan** implementation date.
- 10) The approval holder may revoke its choice to implement a revised **Vegetation and Fauna Management Plan** under condition 15 at any time by giving written notice to the **department**. If the approval holder revokes the choice under condition 15, the approval holder must implement the **Vegetation and Fauna Management Plan** in force immediately prior to the revision undertaken under condition 15.
- 11) 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 revised **Vegetation and Fauna Management Plan** would be likely to have a **new or increased impact**, then:
 - a) Condition 15 does not apply, or ceases to apply, in relation to the revised **Vegetation and Fauna Management Plan**.
 - b) The approval holder must implement the **Vegetation and Fauna Management Plan** specified by the **Minister** in the notice.

- 12) At the time of giving the notice under condition 18, the **Minister** may also notify that for a specified period of time, condition 15 does not apply for one or more specified Action management plans.

Note: Conditions 15, 16, 17 and 18 are not intended to limit the operation of section 143A of the **EPBC Act** which allows the approval holder to submit a revised **Vegetation and Fauna Management Plan**, at any time, to the **Minister** for approval.

SUBMISSION AND PUBLICATION OF PLANS

- 13) The approval holder must submit all **plans** required by these conditions electronically to the **department**.
- 14) Unless otherwise agreed to in writing by the **Minister**, the approval holder must publish each **plan** on the **website** within 15 **business days** of the date:
- a) of this approval, if the version of the **plan** to be implemented is specified in these conditions; or
 - b) the **plan** is approved by the **Minister** in writing, if the **plan** requires the approval of the **Minister**; or
 - c) the **plan** is submitted to the **department** in accordance with a requirement of these conditions, if the **plan** does not require the approval of the **Minister**; or
 - d) the **plan** is approved by a state/territory government as required under a state/territory government condition which must be complied with in accordance with these **EPBC Act** conditions.
- 15) The approval holder must keep all published **plans** required by these conditions on the **website** until the expiry date of this approval.
- 16) The approval holder is required to exclude or redact **sensitive ecological data** from **plans** published on the **website** or otherwise provided to a member of the public.
- 17) If **sensitive ecological data** is excluded or redacted from a **plan** in accordance with condition 14, the approval holder must notify the **department** in writing what exclusions and redactions have been made in the version published on the **website**.

Part B – Administrative conditions

NOTIFICATION OF DATE OF COMMENCEMENT OF THE ACTION

- 18) The approval holder must notify the **department** electronically of the date of **commencement of the Action**, within 5 **business days** of **commencement of the Action**.
- 19) 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

- 20) The approval holder must maintain accurate and complete **compliance records**.
- 21) 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 by an independent auditor in accordance with section 458 of the **EPBC Act**, and/or be used to verify compliance with the conditions. Summaries of the results of an audit may be published on the **department's** website or through the general media.

- 22) The approval holder must ensure that any **monitoring data** (including **sensitive ecological data**), surveys, maps, and other spatial and metadata required under the conditions of this approval are prepared in accordance with the **department's** *Guidelines for biological survey and mapped data* (2018), or any subsequent official version or as otherwise specified by the **Minister** in writing.
- 23) The approval holder must ensure that any **monitoring data** (including **sensitive ecological data**), surveys, maps, and other spatial and metadata required under the conditions of this approval are prepared in accordance with the **department's** *Guide to providing maps and boundary data for EPBC Act projects* (2021), or any subsequent official version or as otherwise specified by the **Minister** in writing.
- 24) The approval holder must submit all **monitoring data** (including **sensitive ecological data**), surveys, maps, other spatial and metadata and all species occurrence record data (sightings and evidence of presence) electronically to the **department** in accordance with the requirements of the **Vegetation and Fauna Management Plan** and the Revegetation Management Plan.

ANNUAL COMPLIANCE REPORTING

- 25) The approval holder must prepare a **compliance report** for each 12-month period following the date of this approval, or as otherwise agreed to in writing by the **Minister**.
- 26) Each **compliance report** must be consistent with the **department's** *Annual Compliance Report Guidelines* (2014), or any subsequent official version.
- 27) Each **compliance report** must include:
 - a) Accurate and complete details of compliance and any non-compliance with the conditions and the **plans**, and any **incidents**.
 - b) One or more **shapefile** showing all **clearing** of any **protected matters**, and/or their habitat, undertaken within the 12-month period at the end of which that **compliance report** is prepared.
 - c) A schedule of all **plans** in existence in relation to these conditions and accurate and complete details of how each plan is being implemented.
- 28) The approval holder must:
 - a) Publish each **compliance report** on the website within 60 **business days** following the end of the 12-month period for which that **compliance report** is required.
 - b) Notify the **department** electronically, within 5 **business days** of the date of publication that a **compliance report** has been published on the **website**.
 - c) Provide the weblink for the **compliance report** in the notification to the **department**.
 - d) Keep all published **compliance reports** required by these conditions on the **website** until the expiry date of this approval.
 - e) Exclude or redact **sensitive ecological data** from **compliance reports** published on the **website** or otherwise provided to a member of the public.

- f) If **sensitive ecological data** is excluded or redacted from the published version, submit the full **compliance report** to the **department** within 5 **business days** of its publication on the **website** and notify the **department** in writing what exclusions and redactions have been made in the version published on the website.

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

REPORTING NON-COMPLIANCE

- 29) The approval holder must notify the **department** electronically, within 2 **business days** of becoming aware of any **incident** and/or potential non-compliance and/or actual non-compliance with the conditions or commitments made in a **plan**.
- 30) The approval holder must specify in the notification:
- a) Any condition or commitment made in a **plan** which has been or may have been breached.
 - b) A short description of the **incident** and/or potential non-compliance and/or actual non-compliance.
 - c) The location (including co-ordinates), date, and time of the **incident** and/or potential non-compliance and/or actual non-compliance.

Note: If the exact information cannot be provided, the approval holder must provide the best information available.

- 31) The approval holder must provide to the **department** in writing, within 12 **business days** of becoming aware of any **incident** and/or potential non-compliance and/or actual non-compliance, the details of that **incident** and/or potential non-compliance and/or actual non-compliance with the conditions or commitments made in a **plan**. The approval holder must specify:
- a) Any corrective action or investigation which the approval holder has already taken.
 - b) The potential impacts of the **incident** and/or non-compliance and/or non-compliance.
 - c) The method and timing of any corrective action that will be undertaken by the approval holder.

INDEPENDENT AUDIT

- 32) The approval holder must ensure that an **independent audit** of compliance with the conditions is conducted for every five-year period following the **commencement of the Action** until this approval expires, unless otherwise specified in writing by the **Minister**.
- 33) For each **independent audit**, the approval holder must:
- a) Provide the name and qualifications of the nominated **independent** auditor, the draft audit criteria, and proposed timeframe for submitting the **audit report** to the **department** prior to commencing the **independent audit**.
 - b) Only commence the **independent audit** once the nominated **independent** auditor, audit criteria and timeframe for submitting the **audit report** have been approved in writing by the **department**.
 - c) Submit the **audit report** to the **department** for approval within the timeframe specified and approved in writing by the **department**.

- d) Publish each **audit report** on the **website** within 15 **business days** of the date of the **department's** approval of the **audit report**.
 - e) Keep every **audit report** published on the **website** until this approval expires.
- 34) Each **audit report** must report for the five-year period preceding that audit report.
- 35) Each **audit report** must be completed to the satisfaction of the **Minister** and be consistent with the **department's** *Environment Protection and Biodiversity Conservation Act 1999 Independent Audit and Audit Report Guidelines* (2019), or any subsequent official version.

COMPLETION OF THE ACTION

- 36) The approval holder must notify the **department** electronically 60 **business days** prior to the expiry date of this approval, that the approval is due to expire.
- 37) Within 20 **business days** after the **completion of the Action**, and, in any event, before this approval expires, the approval holder must notify the **department** electronically of the date of **completion of the Action** and provide **completion data**.

Part C - Definitions

In these conditions any bolded use of a word or term refers to the below definition of that word or term:

Audit report means a written report of compliance and fulfilment of the conditions attached to this approval, objectively evaluated against the audit criteria approved by the **department**.

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

Carnaby's Black Cockatoo means the **EPBC Act** listed threatened species *Calyptorhynchus latirostris*.

Carnaby's Black Cockatoo foraging habitat means any area which provides foraging habitat for **Carnaby's Black Cockatoo**. **Carnaby's Black Cockatoo foraging habitat** includes, but is not limited to, Banksia woodland, Tuart forest, Jarrah woodland and mixed heathland. The location of identified **Carnaby's Black Cockatoo foraging habitat** within the **development envelope** includes the areas labelled 'Tuart Tree Canopy' in Attachment B.

Clear, cleared or clearing means the cutting down, felling, thinning, logging, removing, killing, destroying, poisoning, ringbarking, uprooting, or burning of vegetation.

Commence the Action or Commencement 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:

- a) Undertake pre-clearance surveys or monitoring programs.
- b) Install signage and /or temporary fencing to prevent unapproved use of the project area.
- c) Protect environmental and property assets from fire, weeds, and feral animals, including use of existing surface access tracks.

- d) Install temporary site facilities for persons undertaking pre-commencement activities so long as these are located where they have no impact on any **protected matter**.

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

Completion of the Action means the date on which all activities associated with this approval have permanently ceased and/or been completed.

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 means a written report of compliance with, and fulfilment of, the conditions attached to the approval.

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; any work which involves breaking of the ground (including pile driving) or bulk earthworks; 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 erection of signage and site facilities for persons undertaking pre-commencement of activities so long as there are located where they have no impact on protected matters.

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

Development envelope means the location of the action, represented in Attachment A by the zone enclosed by the red dashed line labelled 'Site Boundary'.

EPBC Act Environmental Offsets Policy means the *Environment Protection and Biodiversity Conservation Act 1999 Environmental Offsets Policy* (October 2012) including the Offsets Assessment Guide, or any subsequent official version.

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

EPBC Regulations means the *Environment Protection and Biodiversity Conservation Regulations 2000* (Cth).

Incident means any event which has the potential to, or does, impact on any **protected matter**.

Independent means a person or firm who does not have any individual, financial*, employment* or family affiliation or any conflicting interests with the project, the approval holder or the approval holder's staff, representatives, or associated persons.

*Other than for the purpose of undertaking the role for which an independent person is required

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

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 any direct or indirect increase in the impacts of an Action, an increase to the likelihood of an impact occurring, a reduction to the monitoring or mitigation measures for a **protected matter**, and/or a change to the nature or management of an environmental offset as outlined in the *Guidance on 'new or increased impact' relating to changes to approved management plans under EPBC Act environmental approvals* (2017), or any subsequent official version.

Offset Strategy means the offset information detailed in Section 5 of the *EPBC 2021/9069 Preliminary Documentation*, version 5, prepared by PGV Environmental for The Trustee for Hamersley Sub Trust, 17 January 2023.

Plan/s means any action management plan or strategy that the approval holder is required by these conditions to implement.

Protected matter/s 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 *Sensitive Ecological Data – Access and Management Policy V1.0* (2016), or any subsequent official version.

Shapefile(s) means location and attribute information about 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.

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.

Tuart trees means the native tree *Eucalyptus gomphocephala*.

Tuart Ecological Community means the **EPBC Act** listed **Tuart (*Eucalyptus gomphocephala*) Woodlands and Forests of the Swan Coastal Plain Ecological Community**. The area of **Tuart Ecological Community** specific to this Action is represented in Attachment B as the pale purple shaded zone labelled 'Tuart woodland TEC' where it occurs within the **development envelope**.

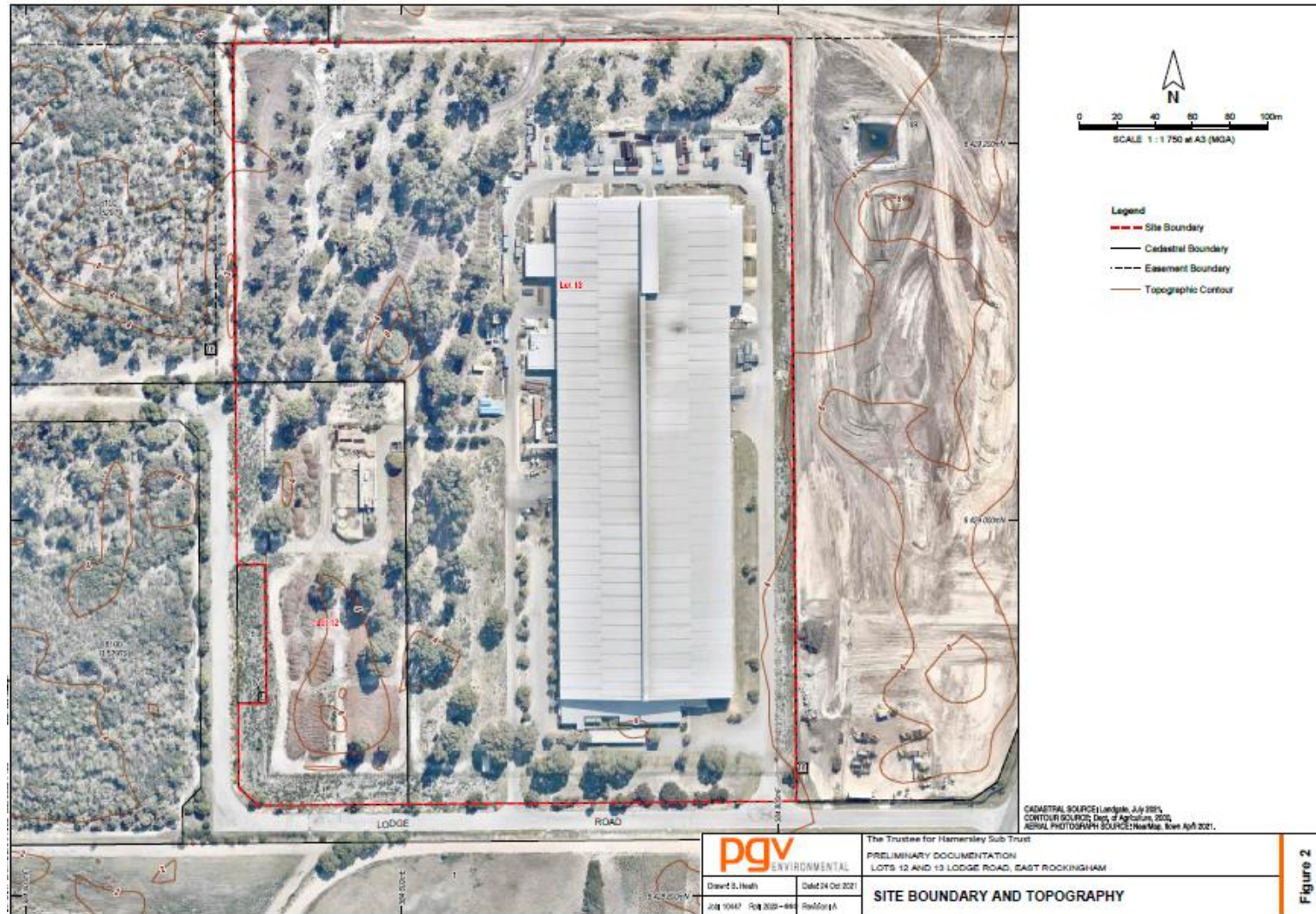
Vegetation and Fauna Management Plan means the *EPBC 2021/9069 Vegetation and Fauna Management Plan*, version 2, prepared by PGV Environmental for The Trustee for Hamersley Sub Trust, 28 July 2022 – Attachment 4 of the *EPBC 2021/9069 Preliminary Documentation*.

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 – Commercial Development, Lodge Drive East Rockingham
- 2) Attachment B – Carnaby's Black Cockatoo foraging habitat and the Tuart Woodlands Threatened Ecological Community within development envelope

Attachment A – Development Envelope – Commercial Development, Lodge Drive East Rockingham



Attachment B – Carnaby's Black Cockatoo foraging habitat and the Tuart Woodlands Threatened Ecological Community within development envelope

