



Variation to Conditions Attached to Approval

Terrestrial Port Development, Oakajee Deepwater Port Facility, WA (EPBC 2011/5797)

This decision to vary a condition of approval is made under section 143 of the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act).

Approved action

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| person to whom the approval is granted | Chief Executive, Oakajee Port and Rail Pty Ltd |
| proponent's ABN (if applicable) | 25 117 240 007 |
| proposed action | To construct the terrestrial port facilities, including the internal port rail system, operations desalination plant, power station and related infrastructure for the Oakajee Port and Rail Project, located within the Oakajee Industrial Estate, approximately 25 km north of Geraldton, Western Australia [see EPBC Act referral number 2011/5797]. |

Variation

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| Variation of conditions of approval | The variation is: Revoke conditions 1-9 attached to the approval and add conditions 1-12 specified below. Revoke all definitions attached to the approval, and add the definitions specified below. Add the Attachment A specified below. |
| Date of effect | This variation has effect on the date the instrument is signed. |

Person authorised to make decision

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|-------------------|--|
| name and position | Declan O'Connor-Cox Acting Assistant Secretary Environmental Assessments (Vic & Tas) and Post Approvals Branch |
| signature | |
| date of decision | 25/9/ 2020 |

1. The approval holder must not **clear** more than 60 hectares of habitat for Carnaby's Black Cockatoo (*Calyptorhynchus latirostris*). The approval holder must not **clear** outside the area marked as 'Proposed Action (EPBC 2011/5797)' in the map at Attachment A to this decision.
2. The approval holder must submit an Offset Management Strategy (OMS) for the long-term protection of Carnaby's Black Cockatoo (*Calyptorhynchus latirostris*) to the **Minister** for approval. The OMS must be consistent with the **Department's EPBC Act Environmental Offsets Policy (2012)** or any successor policy, and must propose protection of the following areas of offset:
 - a. at least 330 hectares of high quality habitat for Carnaby's Black Cockatoo; and
 - b. at least 10 hectares of Carnaby's Black Cockatoo habitat along the Oakajee River.

The OMS must:

- c. detail the location, tenure and conservation management arrangements for the proposed offset areas;
- d. specify the mechanism proposed to **legally secure** the offset area/s;
- e. include written agreement from the **DBCA** that the offset area(s) proposed in relation to 2(a) is suitable for inclusion in the Western Australian Government's conservation estate; and
- f. detail a research project or projects, to be conducted in collaboration with the **DBCA**, that will enhance knowledge on and about Carnaby's Black Cockatoos. The approval holder must contribute at least \$50,000 to the project. The minimum value of the contribution(s) must be increased by the amount of the **CPI**, calculated from a start date 30 June 2011. The details must include, though should not be limited to:
 - i. the person or persons who will undertake the project, and their relevant qualifications;
 - ii. the ethical clearance and approval process (if any) that will govern the undertaking of the research;
 - iii. whether any harm to any **EPBC Act** listed threatened species will, may, or is likely to result from the research; and
 - iv. the anticipated outcomes of the research; and
 - v. how the Carnaby's Black Cockatoo, as a species, will benefit from the research.

The approval holder must not **commence** the action until the OMS has been approved by the **Minister** in writing. The approval holder must implement the approved OMS.

3. The approval holder must submit to the **Minister** for approval an Offset Management Plan (OMP) for the rehabilitation of Carnaby's Black Cockatoo (*Calyptorhynchus latirostris*) habitat in the offset areas specified in the approved OMS. The OMP must be consistent with:
 - a. the approved OMS;
 - b. the **Department's EPBC Act Environmental Offsets Policy (2012)**, or any successor document as in effect from time to time;
 - c. the **Department's EPBC Act Environmental Management Plan Guidelines (2014)**, or any successor document as in effect from time to time; and

the OMP must:

- d. specify measures to rehabilitate Carnaby's Black Cockatoo habitat, including to:
 - i. control noxious/invasive weeds;
 - ii. control feral animals;
 - iii. manage bush fire risk;
 - iv. prevent and control erosion;
 - v. exclude stock through fencing; and
 - vi. remove rubbish and dumped material;
- e. specify the location, species and density of rehabilitation plantings;
- f. define timelines, quantifiable performance indicators, offset completion criteria, and outcomes for rehabilitation and management;
- g. specify seed harvesting and topsoil management for the offset area required under 2(b); and
- h. specify implementation schedules and monitoring of offset rehabilitation measures and outcomes.

The approval holder must not **commence** the action until the OMP has been approved by the **Minister** in writing. The approval holder must implement the approved OMP.

4. For the protection of **EPBC Act** listed threatened species and communities in the marine environment, the approval holder must ensure that the action is taken in accordance with the *Oakajee Port and Rail Desalination Discharge Environmental Management Plan (Revision 3 – Report No. 861_001/1)*, or subsequent revised versions as approved by the Chief Executive Officer of the Western Australian Office of the Environmental Protection Authority (or a successor agency).
5. Within 30 days after the **commencement** of the action, the approval holder must advise the **Department** in writing of the actual date of **commencement**.
6. The approval holder must maintain accurate records substantiating all activities associated with or relevant to the conditions of approval, including measures taken to implement any and all management plans and strategies (however described) required by this approval, and make them available upon request to the **Department**. Such records may be subject to audit by the **Department** or an independent auditor in accordance with section 458 of the **EPBC Act**, or used to verify compliance with the conditions of approval. Summaries of audits will be posted to the **Department's** website. The results of audits may also be publicised through the general media.
7. Within three months of every 12 month anniversary of **commencement** of the action, the approval holder must publish a report on its website addressing compliance with each of the conditions of this approval, including implementation of any and all management plans and strategies (however described) as specified in the conditions. Documentary evidence providing proof of the date of publication and non-compliance with any of the conditions of this approval must be provided to the **Department** at the same time as the compliance report is published.
8. Upon direction of the **Minister**, the approval holder must ensure that an independent audit of compliance with the conditions of approval is conducted and a report submitted to the **Minister**. The independent auditor and audit criteria must be approved by the **Minister** prior to the commencement of the audit. The audit report must address the criteria to the satisfaction of the **Minister**.

9. If the **Minister** believes that it is necessary or convenient for the better protection of **EPBC Act** listed threatened species and communities to do so, the **Minister** may request that the approval holder make specified revisions to any plan or strategy specified in these conditions of approval and submit the revised plan or strategy for the **Minister's** written approval. The approval holder must comply with any such request, within **60 days**. The approval holder must implement the approved revised plan or strategy. Unless the **Minister** has approved the revised plan or strategy, then the approval holder must continue to implement the plan or strategy most recently approved, as specified in the conditions.
10. If, at any time after 30 June 2025, the approval holder has not **commenced** the action, then the approval holder must provide written notice to the **Minister** by 15 July 2025 that the action has not **commenced**. The notice to the **Minister** must state the reasons for the action not having **commenced**, and whether the approval holder intends to **commence** the action by 30 June 2026.
11. If, at any time after 30 June 2026, the approval holder has not **commenced** the action, then the **Minister** may provide written notice to the approval holder that the **Minister** is no longer satisfied that the project should proceed. If the **Minister** provides such a notice, the project may not **commence** unless the **Minister** has provided a further written notice consenting to the action **commencing**.
12. Unless otherwise agreed to in writing by the **Minister**, the approval holder must publish all management plans, reports, and strategies referred to in these conditions of approval on their website. Each management plan, report, and strategy must be published on the website within one month of being approved by the **Minister** and remain published on the website for the period of this approval.

Definitions

Commencement is the first instance of any **construction**.

Construction means all physical works associated with the proposed action, including any preparatory works required to be undertaken, such as **clearing**; erection of fences, signage, and on-site temporary structures; or the use of construction or excavation equipment on site for the purpose of breaking ground for buildings or infrastructure.

Clearing means the cutting down, felling, thinning, logging, removing, killing, destroying, poisoning, ringbarking, uprooting or burning of any native vegetation (but not including weeds – see the *Australian weeds strategy 2017 to 2027* available from <http://www.agriculture.gov.au/pests-diseases-weeds/pest-animals-and-weeds/review-aus-pest-animal-weed-strategy/aus-weeds-strategy> for further guidance).

CPI means the Consumer Price Index for the city of Perth, as measured by the Australian Bureau of Statistics (or its successor agency, if applicable).

DBCA means the Western Australian Department of Biodiversity, Conservation and Attractions, and includes successor agencies agreed to in writing by the **Department** as being appropriate for the purposes of this approval.

Department means the Commonwealth Agency administering the **EPBC Act** from time to time.

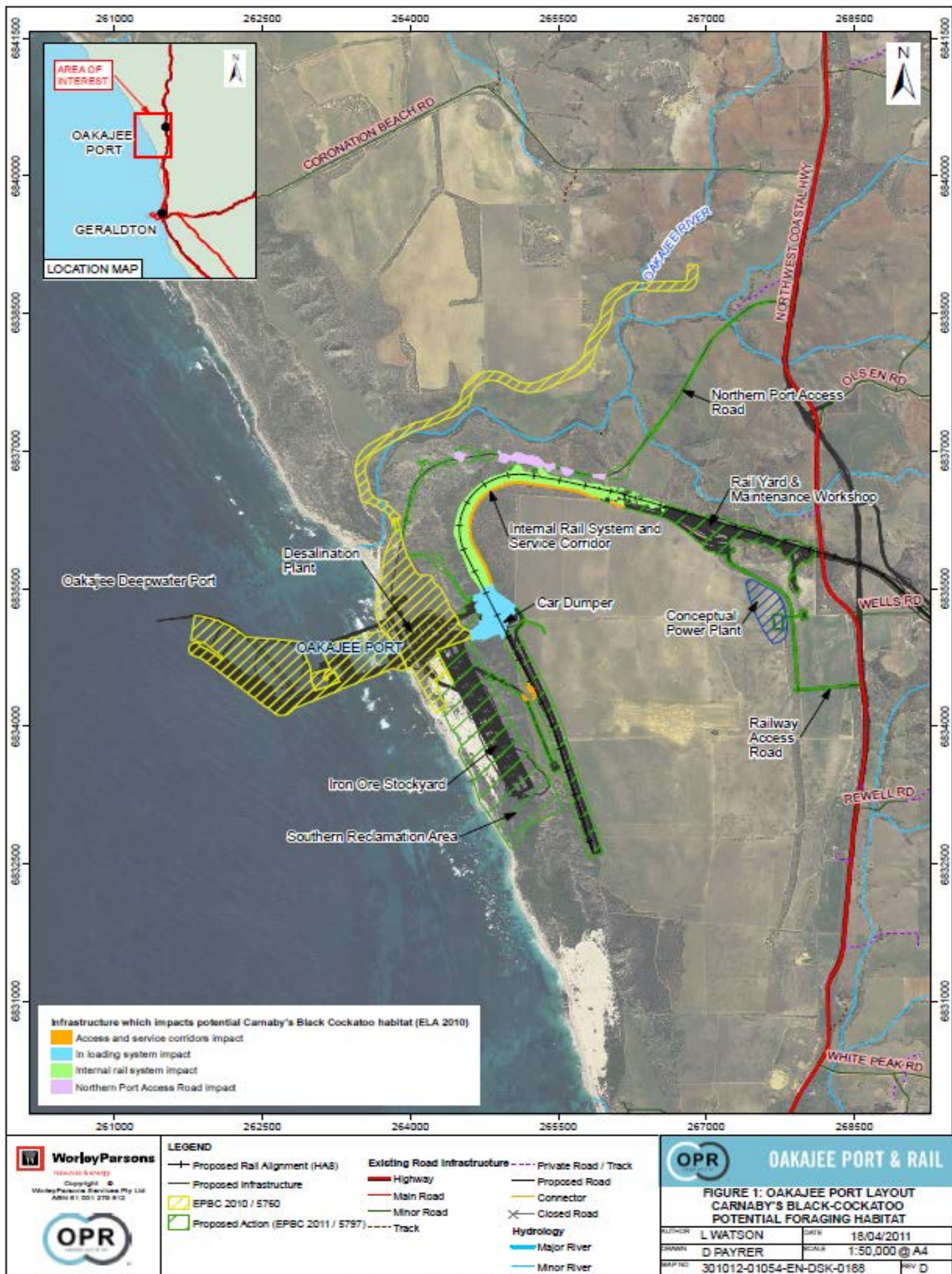
EPBC Act means the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999*.

Legally secure means to establish, to the satisfaction of the **Department**, permanent protection of a site or sites, through:

- a legally-enforceable conservation agreement under state or Commonwealth law; or
- incorporation into a state conservation estate (or similar state government land-holding scheme with the express purpose of promoting environmental conservation and protection); or
- another mechanism approved by the **Department**.

Minister means the Minister administering the **EPBC Act** and includes a delegate of the Minister.

Attachments A:



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