

APPROVAL

Yorkeys Knob Boating Infrastructure Project, near Cairns, Queensland (EPBC 2020/8692)

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)	Department of Transport and Main Roads
ACN or ABN of approval holder	39407690291
Action	To construct and operate a new boating facility at Yorkeys Knob, Queensland, including a six-lane boat ramp, two floating walkways, a queuing beach, breakwaters, dredged basin, reclaimed carpark, access road and fencing [See EPBC Act referral 2020/8692].

Approval decision

My decisions on whether or not to approve the taking of the action for the purposes of each controlling provision for the action are as follows.

Controlling Provisions

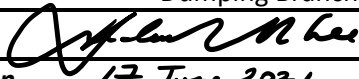
World Heritage	
Section 12	Approve
Section 15A	Approve
National Heritage values of a National heritage place	
Section 15B	Approve
Section 15C	Approve
Listed Threatened Species and Communities	
Section 18	Approve
Section 18A	Approve
Listed migratory species	
Section 20	Approve
Section 20A	Approve

Period for which the approval has effect

This approval has effect until 17 June 2051

Decision-maker***Name and position***

Andrew McNee
Assistant Secretary, Environment Assessments Queensland and Sea
Dumping Branch

Signature***Date of decision***

17 June 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

Maximum clearance limits

1. To minimise **impacts** on the **Ant Plant** (*Myrmecodia beccarii*), the approval holder must not **clear** more than 1.8 hectares (ha) of **Ant Plant habitat** within the **project area**.
2. The approval holder must not **clear** outside the **project area** as part of the action.

Pre-clearance surveys

3. To minimise **impacts** on the **Ant Plant** the approval holder must, at least two months prior to the **commencement the action**, undertake **pre-clearance surveys** of all **Ant Plant habitat** within the **project area** that is proposed to be **cleared**. **Pre-clearance surveys** must be undertaken by an **independent** and **suitably qualified field ecologist**.

Environmental offsets

4. If any **Ant Plant** individuals are identified during the **pre-clearance surveys** for which it is not possible to avoid **clearing**, the approval holder must provide an environmental offset in accordance with the principles of the **Environmental Offsets Policy** to compensate for the removal of any individual/s by **clearing** and the **clearing** of 1.8 ha of **Ant Plant habitat**.
5. If an environmental offset is required in accordance with condition 4, the approval holder must submit an Offset Area Management Plan (OAMP) prepared by an **independent** and **suitably qualified field ecologist** for the written approval of the **Minister**. The approval holder must not **commence the action** until the OAMP has been approved in writing by the **Minister**. The approval holder must implement the approved OAMP.
6. The OAMP must include:
 - a. a description of the environmental offset, including location, size, condition, environmental values present and surrounding land uses;
 - b. baseline data, including results from field validation surveys, and quantifiable ecological data on habitat quality, and other supporting evidence, that documents the presence of the Ant Plant and the quality of habitat for the **Ant Plant** within the environmental offset;
 - c. an assessment of **site habitat quality**;
 - d. details of how the environmental offset will provide connectivity with other habitats and biodiversity corridors and/or will contribute to a larger strategic offset for the Ant Plant;
 - e. maps and **shapefiles** to clearly define the location and boundaries of the environmental offset, accompanied by **offset attributes**;
 - f. specific offset completion criteria derived from the **site habitat quality** to demonstrate the improvement in the quality of habitat for the Ant Plant in the environmental offset over the period of effect of this approval;
 - g. details of the management actions, and timeframes for implementation, to be undertaken to achieve the offset completion criteria, including but not limited to:
 - i. translocation of **Ant Plant** individuals from the impact site to the offset site;
 - h. interim milestones that set targets at 5-yearly intervals for progress towards achieving the offset completion criteria;

- i. details of the nature, timing and frequency of monitoring to inform progress against achieving the 5-yearly interim milestones and maintaining improvements of habitat quality (the frequency of monitoring must be sufficient to track progress towards each set of milestones, and sufficient to determine whether the environmental offset is likely to achieve those milestones in adequate time to implement all necessary corrective actions);
 - j. timing for the submission of internal monitoring reports which provide evidence demonstrating whether the interim milestones and offset completion criteria are likely to be, and/or have been, achieved;
 - k. timing for the implementation of corrective actions if monitoring activities indicate the interim milestones will not be, or have not been, achieved;
 - l. a risk analysis and a risk management and mitigation strategy for all risks to the successful implementation of the OAMP and timely achievement of the offset completion criteria, including a rating of all initial and post-mitigation residual risks in accordance with the **risk assessment matrix**;
 - m. evidence of how the management actions and corrective actions take into account relevant **approved conservation advices** and are consistent with relevant **recovery plans** and **threat abatement plans**; and
 - n. details of the legal mechanism for **legally securing** the environmental offset, such that legal security remains in force over the environmental offset for at least the period of effect of this approval.
7. The approval holder must **legally secure** the environmental offset within 1 year from the date that the OAMP is approved in writing by the **Minister**. The approved OAMP must be attached to the legal mechanism used to **legally secure** the environmental offset area.
 8. The approval holder must notify the **department** within 5 **business days** of the mechanism to **legally secure** the environmental offset having been executed.

Part B – Standard administrative conditions

Notification of date of commencement of the action

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

Compliance records

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

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

Submission and publication of plans

13. The approval holder must:

- a. submit **plans** electronically to the **department**;
- b. publish each **plan** on the **website** within 20 **business days** of the date that the **plan** was approved by the **Minister** in writing;
- 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; and
- d. keep **plans** published on the **website**, or alternative mechanism approved by the Minister, for the period this approval has effect.

14. 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, 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 each annual **compliance report** required under condition 20.

Annual compliance reporting

15. The approval holder must prepare a **compliance report** for each 12 month period following the date of **commencement of the action**, or otherwise as 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

16. The approval holder must notify the **department** in writing of any: **incident**; non-compliance with the conditions; or non-compliance with the commitments made in **plans**. The notification must be given as soon as practicable, and no later than 2 **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.

17. The approval holder must provide to the **department** the details of any **incident** or non-compliance with the conditions or commitments made in **plans** as soon as practicable and no later than 10 **business days** after becoming aware of the **incident** or non-compliance, specifying:

- a. any corrective action or investigation which the approval holder has already taken or intends to take in the immediate future

- b. the potential **impacts** of the **incident** or non-compliance
- c. the method and timing of any remedial action that will be undertaken by the approval holder.

Independent audit

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

Completion of the action

21. Within 20 **business days** after whichever is the earlier of:
 - a. the **completion of the action**; or
 - b. 60 **business days** before the end date of the period for which this approval has effect;
 the approval holder must notify the **department** in writing of the date of the **completion of the action** and submit all **completion data** to the **department**.
22. Within 20 **business days** after the completion of the construction phase of the action the approval holder must notify the **department** in writing of the date of the **completion of the construction phase of the action** and submit all **completion data** to the **department**.

Part C - Definitions

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

Ant Plant means individuals of the species *Myrmecodia beccarii*, listed as Vulnerable under the **EPBC Act** (http://www.environment.gov.au/cgi-bin/sprat/public/publicspecies.pl?taxon_id=11852). This definition also includes any changes in listing status under the **EPBC Act**.

Ant Plant habitat means the area designated as 'known/likely Ant Plant habitat', 'habitat unlikely to contain Ant Plant based on survey' and 'habitat unlikely to contain Ant Plant based on quality and condition' in Appendix B.

Approved conservation advice/s means a conservation advice approved by the **Minister** under section 266B(2) of the **EPBC Act**.

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

Clear/cleared/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).

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:

- i. undertake **pre-clearance surveys** or monitoring programs
- ii. install signage and /or temporary fencing to prevent unapproved use of the **project area**
- iii. install temporary site facilities for persons undertaking pre-commencement activities so long as these are located where they have no **impact** on the **protected matters**

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**. This includes, but is not limited to the:

- a) area of each **listed threatened species and community** habitat **cleared**; and
- b) quality of each **listed threatened species and community** habitat in the offset area at the end date of this approval.

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

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

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

Compliance reports means written reports:

- i. providing accurate and complete details of compliance, **incidents**, and non-compliance with the conditions and the **plans**
- ii. consistent with the **department's** *Annual Compliance Report Guidelines* (2014)
- iii. include a **shapefile** of any clearance of any **protected matters**, or their habitat, undertaken within the relevant 12 month period
- iv. 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.

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

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

Environmental Offsets Policy means the **EPBC Act** *Environmental Offsets Policy* (2012), or subsequent revision, including the **Offset Assessment Guide**.

Impact/s (noun) means any measurable direct or indirect disturbance or harmful change as a result of any activity associated with the action.

Incident 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.

Independent means a person(s) that does not have an individual or by employment or family affiliation, any conflicting or competing interest with the approval holder; the approval holder's staff,

representatives or associated persons; or the project, including any personal, financial, business or employment relationship, other than receiving payment for undertaking the role for which the condition requires an independent person.

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).

Legally secure/securing means to secure a legal agreement under relevant Queensland legislation, in relation to a site, to provide enduring protection for the site against development incompatible with conservation.

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.

Offset Assessment Guide means the guidance document titled *How to use the Offsets assessment guide*, which includes the requirements for **site habitat quality** provided by the **department** to assist users of the **Environmental Offsets Policy**.

Offset attributes means an '.xls' file capturing relevant attributes of the environmental offset, including:

- a. **EPBC Act** reference number;
- b. physical address of the environmental offset;
- c. coordinates of the boundary points in decimal degrees;
- d. **protected matters** that the environmental offset compensates for;
- e. any additional **protected matters** that are benefiting from the environmental offset; and
- f. size of the offset in hectares.

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

Pre-clearance surveys means targeted surveys undertaken prior to **commencement of the action** for the purposes of identifying and quantifying **Ant Plant** individuals in the **project area**.

Project area means the area where the construction and operation of the action will be undertaken, designated 'Project footprint' in [Appendix A](#).

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

Recovery plan means a recovery plan made or adopted by the **Minister** under the **EPBC Act**.

Risk assessment matrix means the risk assessment matrix at [Appendix C](#).

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

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

Site habitat quality is a score on a scale of 0 to 10 representing a site's utility for the **Ant Plant**, where zero ('0') represents a site of no value to the species, and '10' represents ideal habitat. Unless agreed otherwise by the **Department**, site quality must be comprised of 3 points for site condition, 3 points

for site context, and 4 points for species stocking rate. These scores must be derived in accordance with the Queensland *Guide to determining terrestrial habitat quality: A toolkit for assessing land based offsets under the Queensland Environmental Offsets Policy* (Version 1.2, April 2017), or subsequent published revision.

Suitably qualified field ecologist means a person who has professional qualifications and at least three (3) years of work experience designing and implementing surveys for, and managing or studying and preparing prescriptions for the management of, the **Ant Plant** (*Myrmecodia beccarii*), and can give an authoritative assessment and advice on the presence of and conservation management requirements of the **Ant Plant** (*Myrmecodia beccarii*) using relevant protocols, standards, methods and/or literature. If the person does not have appropriate professional qualifications, the person must have at least five (5) years of work experience designing and implementing surveys for the **Ant Plant** (*Myrmecodia beccarii*)

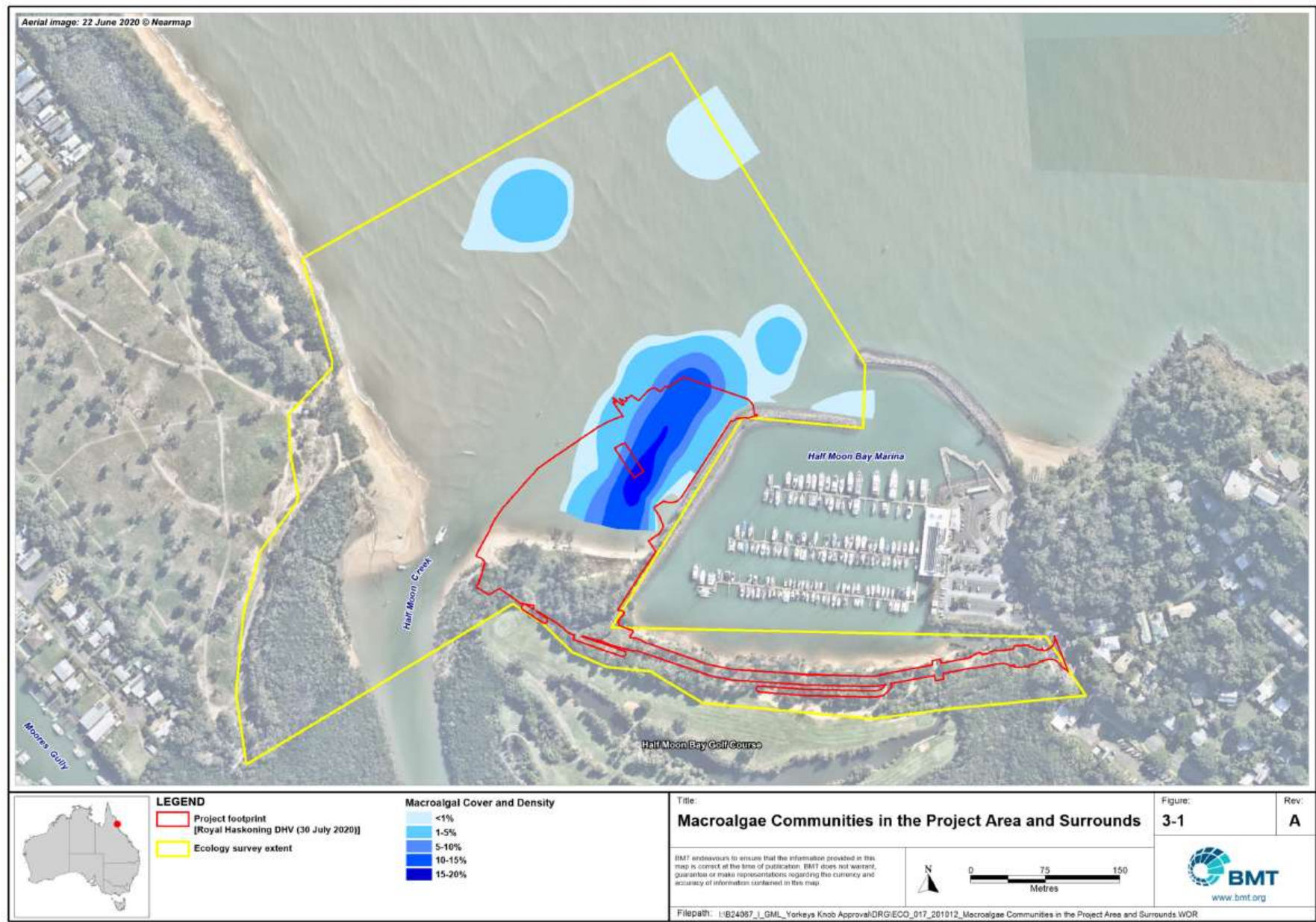
Suitably qualified person means a person who has professional qualifications, training, skills and/or experience related to the nominated subject matter and can give authoritative independent assessment, advice and analysis on performance relative to the subject matter using the relevant protocols, standards,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

Threat abatement plans means a threat abatement plan made or adopted by the **Minister** under the **EPBC Act**.

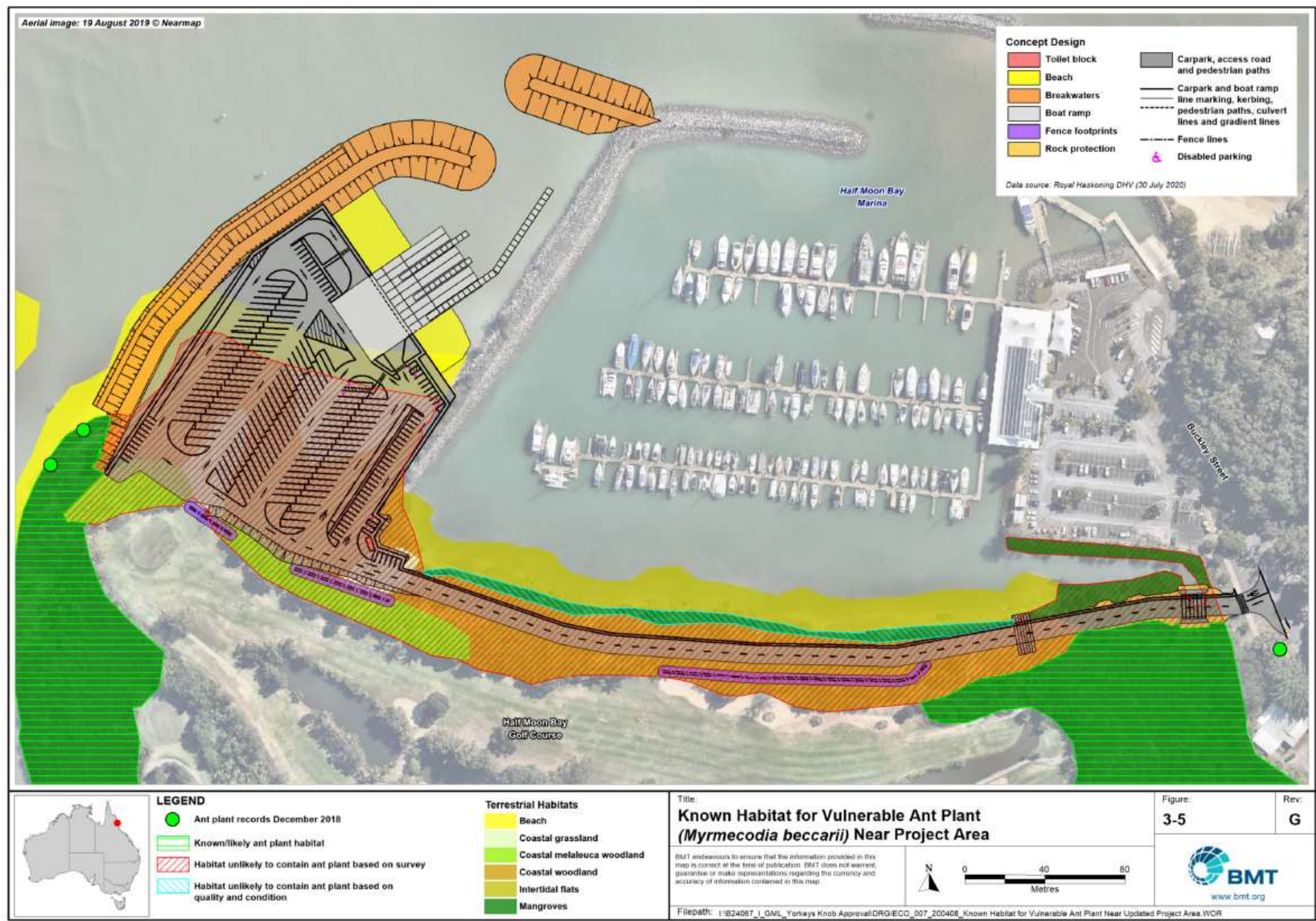
Website means a set of related web pages located under a single domain name attributed to the approval holder and available to the public.

APPENDICES

Appendix A: Project area



Appendix B: Ant Plant habitat



Appendix C: Risk Assessment Matrix

RISK MATRIX						
Qualitative measure of likelihood (how likely is it that this event/circumstances will occur after management activities are implemented)						
Highly likely	Is expected to occur in most circumstances					
Likely	Will probably occur during the life of the project					
Possible	Might occur during the life of the project					
Unlikely	Could occur but considered unlikely or doubtful					
Rare	May occur in exceptional circumstances					
Qualitative measure of consequences (what will be the consequence/result if the issue does occur)						
Minor	Minor incident of environmental damage that can be reversed (e.g. short-term delays to achieving plan objectives, implementing low-cost, well-characterised corrective actions)					
Moderate	Isolated but substantial instances of environmental damage that could be reversed with intensive efforts (e.g. short term delays to achieving plan objectives, implementing well-characterised, high-cost/effort corrective actions)					
High	Substantial instances of environmental damage that could be reversed with intensive efforts (e.g. medium-long term delays to achieving objectives, implementing uncertain, high-cost/effort corrective actions)					
Major	Major loss of environmental amenity and real danger of continuing (e.g. plan objectives are unlikely to be achieved, with significant legislative, technical, ecological and/or administrative barriers to attainment that have no evidenced mitigation strategies)					
Critical	Severe widespread loss of environmental amenity and irrecoverable environmental damage (e.g. plan objectives are unable to be achieved, with no evidenced mitigation strategies)					
		Consequence				
2: Likelihood		Minor	Moderate	High	Major	Critical
	Highly Likely	Medium	High	High	Severe	Severe
	Likely	Low	Medium	High	High	Severe
	Possible	Low	Medium	Medium	High	Severe
	Unlikely	Low	Low	Medium	High	High
	Rare	Low	Low	Low	Medium	High