

Annual Compliance Report 2018

Catalina residential development, Marmion Avenue, Clarkson, WA

Prepared for
Tamala Park Regional Council

20 December 2018



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Abbreviations

ABBREVIATION	DESCRIPTION
BCA	Biodiversity Conservation Area
DEC	Department of Environment and Conservation
DotEE	Department of the Environment and Energy
CAMP	Conservation Area Management Plan
CRMP	Clearing Revegetation Management Plan
ELA	Eco Logical Australia
EPBC	Environment Protection and Biodiversity Conservation Act 1999
ha	Hectare
POS	Public Open Space
TPRC	Tamala Park Regional Council

1 Introduction

1.1 PROJECT BACKGROUND

The residential development of Catalina (Lot 9504, 1700 Marmion Avenue, Clarkson) is situated 34 km north of Perth. The development involves the construction of residential housing, commercial and mixed-use precincts, school site and dedicated areas for Conservation and Public Open Space (POS).

Vegetation clearing is required as part of the development for the residential area. The site holds habitat for the listed Threatened Species; Carnaby's Black-Cockatoo (*Calyptrorhynchus latirostris*). Implementation of the *Mitigation and Offsets Management Plan* (ELA 2010) is required to address the impacts of the vegetation clearing. The plan incorporates conservation/retention and rehabilitation of land that is known as Carnaby's Black-Cockatoo habitat both on and adjacent to the site. Mitigation measures also include monetary contribution to the then Western Australia Department of Environment and Conservation (DEC) for the purpose of offsetting (land acquisition) for conservation purposes.

The 180 ha parcel of land to be developed is crossed by Connolly Drive and Marmion Avenue in a north-south direction that subsequently divides the development site into three *Cells*; the western, central and eastern cell.

Eco Logical Australia has prepared this Compliance Report for the Commonwealth Department of the Environment and Energy (DotEE) on behalf of Tamala Park Regional Council (TPRC) to assess compliance with the conditions set out in Catalina residential development *Environment Protection and Biodiversity Conservation Act 1999* (EPBC) approval (the Approval) (EPBC 2010/5785) signed 10 August 2011.

1.2 PROJECT STATUS

Works have continued through the central and western cells, however have slowed considerably in response to decreasing demand in recent times. The most recent on-ground works are associated with the western cell (Catalina Beach) and relate to bulk earthworks, lot production, infrastructure provision such as roads and utilities and POS landscaping.

1.3 REASON FOR THIS REPORT

This report has been prepared in compliance with condition 7 of the Catalina EPBC Approval which states:

*Within three months of every 12 month anniversary of the commencement of the action, the person taking the action must publish a report on their website addressing compliance with each of the conditions of this approval, including implementation of any management plans 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.*

2 Project Amendments

Since the project Approval on the 10th August 2011 there have been six minor project variation applications to Approval sought through section 143 of the EPBC Act.

2.1 VARIATION 1

Minor variation to the Approval was lodged in September 2011 to amend the Biodiversity Conservation Areas (BCAs) boundaries to allow for a realignment of the entry road to the east of Marmion Avenue. The realignment was required due to engineering and planning constraints. The realignment altered the footprint of the BCAs (areas '2' and '3') however there was no net loss of habitat of the Carnaby's Black Cockatoo. There was a resulting increase of 1.15 ha of land to BCA (2) and a decrease of 1.15 ha of land to BCA (3). The variation was approved as per **Figure 1** (attached).

2.2 SUPPLEMENTARY VARIATION REQUEST (DECISION NOT DETERMINED)

A supplementary variation to the Approval was lodged in January 2012. The variation aimed to redefine the boundary of the western cell which included Carnaby's Black-Cockatoo's habitat. As the south-east corner of the western cell contains cleared land that is not habitat for the Carnaby's Black-Cockatoo, Tamala Park Regional Council proposed to exclude this land from the boundary constrained by Condition 5 and 6 of the Approval. The land was then to be used as the location of a site office, given that at the time there was no other practical location. Tamala Park Regional Council liaised with DotE and consequently prepared a request to amend the approval under s143 of the Act.

However, no formal/final determination was issued for the variation request and accordingly an alternative location for the site office was ultimately secured.

2.3 VARIATION 2

A second variation to the Approval was lodged in August 2013. The variation sought to enable the clearing of three small, isolated patches of POS containing Carnaby's Black Cockatoo habitat within the eastern cell of the development. This impact was compensated by an increase in the area of POS containing Carnaby's Black Cockatoo habitat that had been previously identified for retention and protection in the south of the eastern cell. The increase in habitat represented slightly more than a 1:1 exchange with regard to the 1.08 ha that was removed, ensuring a no net loss outcome. Moreover, the enhanced area of POS also delivered greater condition habitat and increased direct connectivity corridors with the Neerabup National Park, which is immediately adjacent to the development. The variation also sought to remove conditions that specifically related to the de-listed Graceful Sun Moth.

This variation was approved in October 2013 and required that condition 3 be amended to reflect the approved variation and associated conditions.

2.4 VARIATION 3

A third variation to the Approval was lodged in October 2014. The variation sought changes to condition 3 of the approval to enable the clearance of a small 'to be retained' area of Carnaby's Black Cockatoo habitat (0.03 ha) remaining in the Western Cell. This small area of habitat should have been addressed in 'Variation 3'. The small patch of habitat is isolated, presents a very small patch size (0.03 ha) and is accordingly subject to considerable edge effects, being in essence surrounded on all sides by future urban

pressures. This component of the variation was approved 1 February 2015 with the final clearance and retention areas now conditions as per **Figure 2**.

2.5 VARIATION 4

The fourth variation lodged in February 2015 sought to enable management activities to be undertaken within the Biodiversity Conservation Areas (BCAs) associated with the re-establishment of access pathways. This variation was approved 20 May 2015 as depicted in **Figure 3**.

2.6 VARIATION 5

A fifth variation request was lodged in November 2017. This variation sought to clear a partially degraded area containing habitat for Carnaby's Black Cockatoo identified for retention as POS and replacing it with a larger area of better quality Carnaby's Black Cockatoo habitat. This variation was approved on 1 December 2017.

2.7 VARIATION 6

A sixth variation request was lodged in July 2018. This variation sought to alter the number of plants constituting foraging habitat for Carnaby's Black-Cockatoo required to be planted in street-scaping and other public areas within the estate as a result of landscaping constraints and providing an improved safety outcome for Carnaby's Black-Cockatoo. This variation was approved on 5 October 2018.

2.8 UPDATES: CLEARING AND REVEGETATION MANAGEMENT PLAN

Version 2 of the Clearing and Revegetation Management Plan (CRMP) was resubmitted for approval due to the update in variations three and four sought through section 143 of the EPBC Act. The CRMP purpose, scope and outcomes did not change. The changes relate to the approved section 143 variations and the de-listing of the Graceful Sun Moth. All changes were reviewed through the section 143 process as outlined above, and therefore the edits have only been undertaken to ensure consistency between the current varied/approved conditions and the CRMP. Version 2 of the CRMP was approved by DotEE on 16 November 2015.

Version 3 of the CRMP was resubmitted for approval in accordance with condition (8) of the EPBC Act approval due to the update in variation 5 sought through section 143 of the EPBC Act. Similar to version 2 of the CRMP, the purpose, scope and outcomes of the plan did not change. On 18 January 2018, DotEE determined that the amendments to the revised plan are not likely to constitute a 'new or increased impact' on any EPBC Act matter protected by the controlling provisions for the action. On this basis, officers of the Department chose not to submit the revised plan to the Minister for decision.

Version 4 of the CRMP was also resubmitted for approval in accordance with condition (8) of the EPBC Act approval due to updates required in response to the most recent Variation 6. The CRMP has been updated to reflect Variation 6, Condition 3(f), approved on 5 October 2018. The changes relate to the outcomes of the Landscape and Streetscape planting revegetation plan. Under Condition 8 of the approval, the revised plan does not need to be submitted for approval under Section 143A as the revised plan is not likely to have new or increased impact.

3 Compliance Reporting

Table 1: Approval conditions (EPBC 2010/5785) compliance table

CONDITION NUMBER	CONDITION	COMPLIANCE Y/N	DATE DUE	DETAILS
1	Within 30 days after the commencement of the action, the person taking the action must advise the Department in writing of the actual date of commencement.	Y	30 days following commencement	DotEE (then SEWPaC) were advised by letter from the TPRC dated 15 September 2011
2	The person taking the action must maintain accurate records substantiating all activities associated with or relevant to the conditions of approval, including measures taken to implement the management plan required by this approval, and must 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 on the Department's website. The results of audits may also be publicised through the general media.	Y	Ongoing	Ongoing records kept as per standard site record keeping
3	To protect habitat for listed threatened species , the person taking the action must ensure that:	N/A	-	-
3a	no more than 72.5 ha of foraging habitat and 11 ha of potential breeding habitat for Carnaby's Black Cockatoo (<i>Calyptorhynchus latirostris</i>) is cleared ;	Y	Life of project	Clearing of vegetation for the project is being undertaken according to approval(s)

CONDITION NUMBER	CONDITION	COMPLIANCE Y/N	DATE DUE	DETAILS
3b	no clearing of native vegetation is undertaken in the areas marked with the numbers '2' and '3' in Attachment A (Figure 2), except for maintenance of necessary management or formalisation of passive use pathways within the Northern and Southern Biodiversity Conservation Areas (BCAs). These areas are to be maintained as natural bushland as per the Northern and Southern Conservation Area Management Plans (CAMPs);	Y	Life of project	Fencing for northern BCA area undertaken. CAMPs completed for both areas
3c	all previously cleared or disturbed land in areas marked with the numbers '2' and '3' in Attachment A (Figure 2), and at least 50% of the previously cleared land in the area marked with number '1' in Attachment A (Figure 2) are revegetated ;	Y	Prior to project completion	Clearing and Revegetation Management Plan approved February 2013. Revegetation works in Northern BCA is complete; Southern BCA revegetation are anticipated to commence in June 2019. Regarding Area 1 in Figure 2, Attachment A, it is unlikely that this portion of the site will be developed in the near future due to the occurrence of a buffer associated with the neighbouring landfill site located directly to the south. The proposed retention and revegetation Area 1 is fenced and is currently inaccessible to the public.
3d	no clearing of native vegetation that is potential foraging or breeding habitat for Carnaby's Black Cockatoo is undertaken within the areas marked in dark blue in Attachment B (Figure 1); except for maintenance or formalisation of necessary management or passive use pathways within the Northern and Southern Biodiversity Conservation Areas (BCAs). These areas are to be maintained as natural bushland per the Northern and Southern CAMPs;	Y	Ongoing	All works on site undertaken according to approval. The retention Area 1, discussed above and the larger retention area located in the south eastern corner are currently located in areas of the site that have not yet been developed. Fencing is in place to restrict unauthorised access until such time that the

CONDITION NUMBER	CONDITION	COMPLIANCE Y/N	DATE DUE	DETAILS
				development progresses to both portions of the site.
3e	within 2 years of the commencement of the action, the areas marked with the numbers '2' and '3' in Attachment A (Figure 2) must be protected in perpetuity under an irrevocable conservation covenant: and:	Y	Sep 2013	<p>Area 2 was vested as a Reserve for Conservation on 15 September 2014.</p> <p>Area 3 has been fenced, With revegetation works anticipated to be undertaken in June 2019.</p> <p>Formalising of tracks and revegetation is being undertaken. Following completion of these works Area 3 will be vested as a Reserve for Conservation at the end of 2019.</p>

CONDITION NUMBER	CONDITION	COMPLIANCE Y/N	DATE DUE	DETAILS
3f	plantings of trees and shrubs in street-scaping and other public areas (excluding the areas described in condition 3.c) include a minimum of 1,600 trees (including <i>Xanthorrhoea preissii</i>) and 20,000 shrubs that are primary feeding plants for Carnaby's Black Cockatoo.	Y	Ongoing	Landscaping of public areas and street-scapes are being planted to comply with this condition.
4	To offset the loss of habitat for Carnaby's Black Cockatoo, the person taking the action must:	N/A	-	
4a	within 6 months after the commencement of the action, provide funds to the DEC for the acquisition of the offset as described on pages 6 - 8 of the Eco Logical Australia report <i>Catalina Residential Development Assessment Documentation – Further Information</i> dated March 2011, and the offset as described on page 3 of a letter by Tamala Park Regional Council dated 23 June 2011; or	Y	March 2012	Process completed/approved with final transfer of funds June 2013.
4b	if the abovementioned offsets cannot be acquired, the person taking the action must provide details of an alternative offset package to the Department . Any alternative offset package must include one or more land parcels that contain a total of at least 420 ha of Carnaby's Black Cockatoo foraging habitat and 66 ha of Carnaby's Black Cockatoo potential breeding habitat . If the Department considers that an alternative offset package does not provide sufficient Carnaby's Black Cockatoo habitat to compensate for the impacts of the action, then the person taking the action must provide details of further alternative offset package to the Department . Once the written approval of the Department has been obtained for an alternative offset package, the person taking the action must provide sufficient funds to DEC to acquire the land parcel(s) in the offset package within 6 months of the Department's written approval.	Y	N/A	See 4a above

CONDITION NUMBER	CONDITION	COMPLIANCE Y/N	DATE DUE	DETAILS
5	<p>The person taking the action must prepare and submit a <i>Clearing and Revegetation Management Plan</i> for the Minister's approval to demonstrate how the impact of clearing of habitat for listed threatened species will be minimised. The plan must detail how:</p> <ul style="list-style-type: none"> - on-site revegetation will be undertaken; - seed from native vegetation will be collected from the area contained within the red lines marked in Attachment C (Figure 4); - topsoil obtained from the clearing of native vegetation on the proposal site within the red lines marked in Attachment C (Figure 4) will be used for revegetation on-site or stored and made available for the DEC or other conservation agencies for the purpose of revegetation elsewhere; and - the DEC, or other conservation agencies, have been consulted in the development of the plan to determine the optimal time for clearing and provision of seed or soil for revegetation. <p>If the Minister approves the plan then the approved plan must be implemented</p> 	Y	Prior to undertaking any works as per condition 6 below	<p>Clearing and Revegetation Management Plan approved February 2013</p> <p>Seed collection was undertaken in 2012, 2014 and most recently in March 2018 in Catalina Beach and Catalina Grove (western and eastern cells).</p> <p>A revised Clearing and Revegetation Management Plan (CRMP) has been resubmitted to DotEE as it now includes updates based on s143 variations. The CRMP was approved by DotEE on 18 January 2018.</p>
6	<p>The person taking the action must not undertake any clearing in the area within the red lines marked in Attachment C (Figure 4) unless:</p> <ul style="list-style-type: none"> - the <i>Clearing and Revegetation Management Plan</i> described in condition 5 has been approved by the Minister; and - evidence has been provided to the Department confirming that the purchase(s) of the land parcels required for offsets under condition 4a or condition 4b has been completed. 	Y	N/A	<p>Plan approved (See 5 above)</p> <p>Offsets secured (See 4a above)</p>
7	<p>Within three months of every 12 month anniversary of the commencement of the action, the person taking the action must publish a report on their website addressing compliance with each of the conditions of this approval, including implementation of any management plans 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.</p>	Y	Ongoing	<p>Subject of this report.</p> <p>Previous report supplied and made available from March 2018.</p>

CONDITION NUMBER	CONDITION	COMPLIANCE Y/N	DATE DUE	DETAILS
8	<p>The person taking the action may choose to revise a Plan approved by the Minister under condition 5 without submitting it for approval under section 143A of the EPBC Act, if the taking of the action in accordance with the revised Plan would not be likely to have a new or increased impact. If the person taking the action makes this choice they must:</p> <p>a) Notify the Department in writing that the approved Plan has been revised and provide the Department with an electronic copy of the revised Plan;</p> <p>b) Implement the revised Plan from the date that the Plan is submitted to the Department; and</p> <p>c) For the life of this approval, maintain a record of the reasons the person taking the action considers that taking the action in accordance with the revised Plan would not be likely to have a new or increased impact.</p>	Y	Ongoing	No plans revised
8a	<p>The person taking the action may revoke their choice under condition 8 at any time by notice to the Department. If the person taking the action revokes the choice to implement a revised Plan, without approval under section 143A of the EPBC Act, the Plan approved by the Minister must be implemented.</p>	Y	Ongoing	No plans revised
8b	<p>If the Minister gives a notice to the person taking the action that the Minister is satisfied that the taking of the action in accordance with the revised Plan would be likely to have a new or increased impact, then:</p> <p>a) condition 8 does not apply, or ceases to apply, in relation to the revised Plan; and</p> <p>c) the person taking the action must implement the Plan approved by the Minister.</p> <p>To avoid any doubt, this condition does not affect any operation of conditions 8 and 8A in the period before the day the notice is given. At the time of giving the notice the Minister may also notify that, for a specified period of time, condition 8 does not apply for one or more specified Plans required under the approval.</p>	Y	Ongoing	No plans revised

CONDITION NUMBER	CONDITION	COMPLIANCE Y/N	DATE DUE	DETAILS
8c	Conditions 8, 8A and 8B are not intended to limit the operation of section 143A of the EPBC Act which allows the person taking the action to submit a revised Plan to the Minister for approval.	Y	Ongoing	No plans revised
9	If the Minister believes that it is necessary or convenient for the better protection of listed threatened species to do so, the Minister may request that the person taking the action make specified revisions to the management plan specified in the conditions and submit the revised management plan for the Minister's written approval. The person taking the action must comply with any such request. The revised approved management plan must be implemented. Unless the Minister has approved the revised management plan, then the person taking the action must continue to implement the management plan originally approved, as specified in the conditions.	Y	Ongoing	No Ministerial requests made
10	Unless otherwise agreed to in writing by the Minister , the person taking the action must publish the management plan referred to in these conditions of approval on their website. The management plan must be published on the website within 30 calendar days of being approved.	Y	30 days following approval of Condition 5	Plan approved and available on website. The revised CRMP will be available on website following its approval.
11	If, at any time after 5 years from the date of this approval, the person taking the action has not commenced the action, then the person taking the action must not commence the action without the written agreement of the Minister .	Y	10 August 2016	Project has commenced

*Purple text denotes changes to the approved conditions.

4 Conclusion

Eco Logical Australia, on behalf of Tamala Park Regional Council, has prepared this Compliance Report to fulfil condition 7 of the project Approval (EPBC 2010/5785).

Since the granting of the project Approval there have been seven variation applications made by TPRC, six of which have been approved.

Following the endorsement of the *Clearing and Revegetation Management Plan Version 3* (ELA 2018) and the securing of the offset lands by the DEC, revegetation and clearing works within the site have progressed in accordance with the plan and conditions have been progressively implemented, consistent with the Commonwealth approval (EPBC 2010/5785). Works to date have been in compliance with version three of the *Clearing and Revegetation Management Plan Version 3* (ELA 2018).

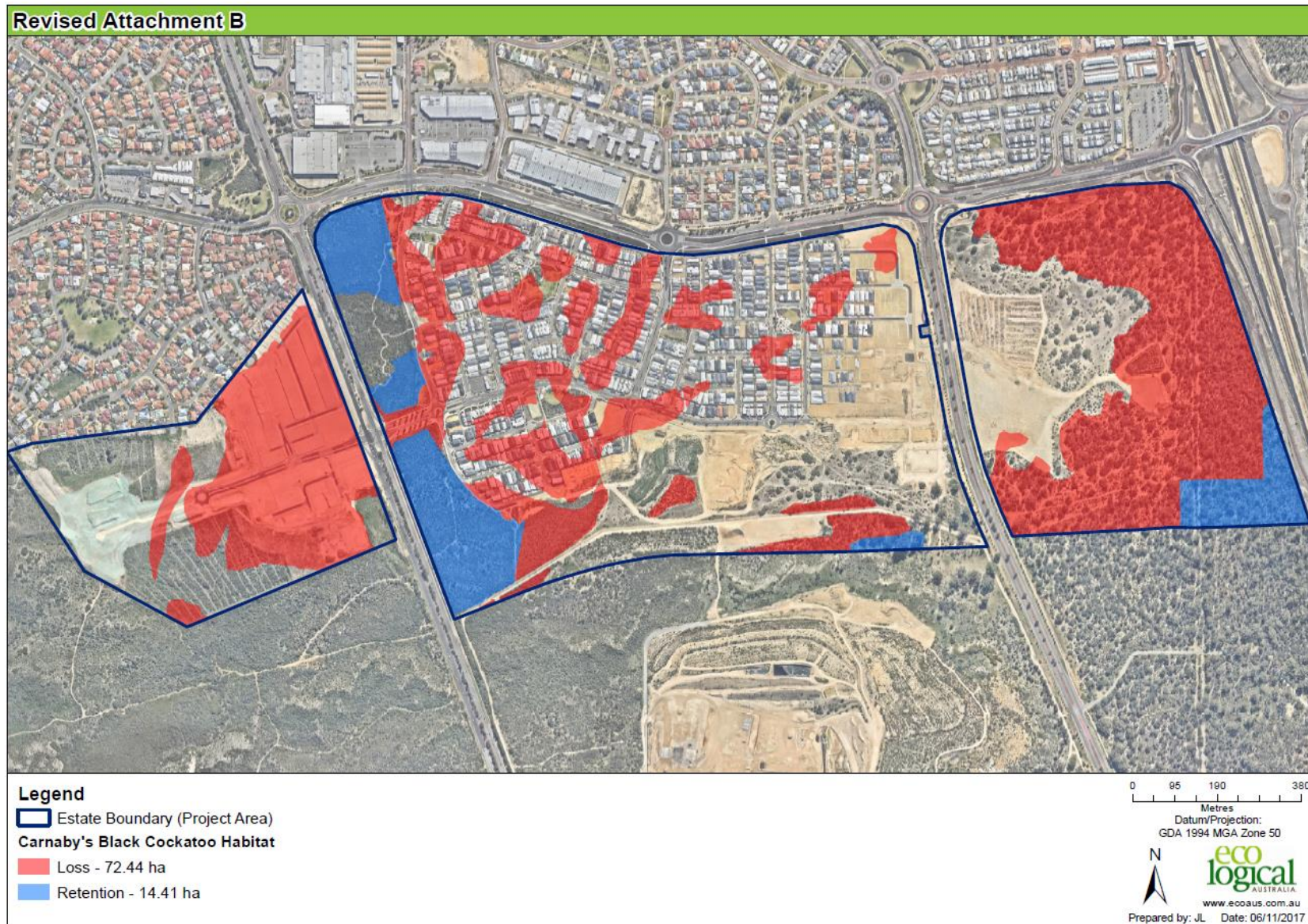


Figure 1: Attachment B; Approved variation to EPBC Approval mapping



Figure 2: Attachment A; Approved variation to EPBC Approval mapping

Figure 2 Site plan

Legend

- Proposed Entry Point
- Proposed Path
- Proposed fencing
- Biodiversity conservation area
- Non-conservation-public open space
- Cadastral Parcel

Scale: 0 20 40 60 80 100 metres

1:3,000 of A4

Coordinate System: GDA 1984 MGA 56 Zone 50
 Date: 10/11/2011
 Author: [illegible]

Source: 2010 aerial photography sourced from G.P. and [illegible]
 Note: Final positions may vary due to [illegible]



Figure 4: Attachment D; Native vegetation areas subject to conditions 5 and 6 (shown in red).

5 References

Eco Logical Australia (2010) *Catalina Residential Development, Mitigation and Offsets Management Plan*.

Eco Logical Australia (2018) *Clearing and Revegetation Management Plan, Catalina Residential Development*. Prepared for Tamala Park Regional Council.



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